

Kristen Chevrier proposes the following substitute bill:

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Tobacco and Electronic Cigarette Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions related to tobacco and electronic cigarettes.

Highlighted Provisions:

This bill:

- amends provisions related to electronic cigarette product searches;
- creates repeal dates with legislative review for certain provisions related to retail tobacco specialty businesses and electronic cigarette sales;
- includes a coordination clause with H.B. 21, Criminal Code Recodification and Cross References, to ensure the policy changes made in this bill are accurately reflected if both bills pass; and
- includes a coordination clause with S.B. 46, Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program Sunset Extension, to update a cross-reference.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

- 10-8-41.6 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024, Chapter 470
- 17-50-333 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024, Chapter 470
- 26A-1-131 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024, Chapter 470

29 **59-14-810** [~~Effective 07/01/24~~] (**Effective upon governor's approval**), as enacted by Laws
30 of Utah 2024, Chapter 470

31 **63I-1-210** (**Effective upon governor's approval**), as last amended by Laws of Utah 2024,
32 Third Special Session, Chapter 5

33 **63I-1-217** (**Effective upon governor's approval**) (**Superseded 07/01/25**), as last amended
34 by Laws of Utah 2024, Third Special Session, Chapter 5

35 **63I-1-217** (**Effective 07/01/25**), as last amended by Laws of Utah 2024, Third Special
36 Session, Chapter 5

37 **63I-1-226** (**Effective upon governor's approval**), as last amended by Laws of Utah 2024,
38 Third Special Session, Chapter 5

39 **63I-1-259** (**Effective upon governor's approval**), as last amended by Laws of Utah 2024,
40 Third Special Session, Chapter 5

41 **63I-1-276** (**Effective upon governor's approval**), as last amended by Laws of Utah 2024,
42 Third Special Session, Chapter 5

43 **Utah Code Sections affected by Coordination Clause:**

44

45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **10-8-41.6** is amended to read:

47 **10-8-41.6** (**Effective upon governor's approval**). **Regulation of retail tobacco**
48 **specialty business.**

49 (1) As used in this section:

50 (a) "Community location" means:

51 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

52 (ii) a licensed child-care facility or preschool;

53 (iii) a trade or technical school;

54 (iv) a church;

55 (v) a public library;

56 (vi) a public playground;

57 (vii) a public park;

58 (viii) a youth center or other space used primarily for youth oriented activities;

59 (ix) a public recreational facility;

60 (x) a public arcade; or

61 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

62 (b) "Department" means the Department of Health and Human Services created in

63 Section 26B-1-201.

64 (c) "Electronic cigarette product" means the same as that term is defined in Section
65 76-10-101.

66 (d) "Flavored electronic cigarette product" means the same as that term is defined in
67 Section 76-10-101.

68 [~~(d)~~] (e) "Licensee" means a person licensed under this section to conduct business as a
69 retail tobacco specialty business.

70 [~~(e)~~] (f) "Local health department" means the same as that term is defined in Section
71 26A-1-102.

72 [~~(f)~~] (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

73 [~~(g)~~] (h) "Retail tobacco specialty business" means a commercial establishment in which:

74 (i) sales of tobacco products, electronic cigarette products, and nicotine products
75 account for more than 35% of the total quarterly gross receipts for the
76 establishment;

77 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
78 storage of tobacco products, electronic cigarette products, or nicotine products;

79 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
80 of tobacco products, electronic cigarette products, or nicotine products;

81 (iv) the commercial establishment:

82 (A) holds itself out as a retail tobacco specialty business; and

83 (B) causes a reasonable person to believe the commercial establishment is a retail
84 tobacco specialty business; or

85 (v) the retail space features a self-service display for tobacco products, electronic
86 cigarette products, or nicotine products.

87 [~~(h)~~] (i) "Self-service display" means the same as that term is defined in Section
88 76-10-105.1.

89 [~~(i)~~] (j) "Tobacco product" means:

90 (i) a tobacco product as defined in Section 76-10-101; or

91 (ii) tobacco paraphernalia as defined in Section 76-10-101.

92 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
93 of the state by the state or by delegation of the state's police powers to other
94 governmental entities.

95 (3)(a) A person may not operate a retail tobacco specialty business in a municipality
96 unless the person obtains a license from the municipality in which the retail tobacco

97 specialty business is located.

98 (b) A municipality may only issue a retail tobacco specialty business license to a person
99 if the person complies with the provisions of Subsections (4) and (5).

100 (4)(a) Except as provided in Subsection (7), a municipality may not issue a license for a
101 person to conduct business as a retail tobacco specialty business if the retail tobacco
102 specialty business is located within:

103 (i) 1,000 feet of a community location;

104 (ii) 600 feet of another retail tobacco specialty business; or

105 (iii) 600 feet from property used or zoned for:

106 (A) agriculture use; or

107 (B) residential use.

108 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
109 straight line from the nearest entrance of the retail tobacco specialty business to the
110 nearest property boundary of a location described in Subsections (4)(a)(i) through
111 (iii), without regard to intervening structures or zoning districts.

112 (5) A municipality may not issue or renew a license for a person to conduct business as a
113 retail tobacco specialty business until the person provides the municipality with proof
114 that the retail tobacco specialty business has:

115 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
116 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
117 local health department having jurisdiction over the area in which the retail tobacco
118 specialty business is located; and

119 (b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
120 Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco
121 product; and

122 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
123 license issued by the State Tax Commission in accordance with Section 59-14-803
124 to sell an electronic cigarette product or a nicotine product.

125 (6)(a) Nothing in this section:

126 (i) requires a municipality to issue a retail tobacco specialty business license; or

127 (ii) prohibits a municipality from adopting more restrictive requirements on a person
128 seeking a license or renewal of a license to conduct business as a retail tobacco
129 specialty business.

130 (b) A municipality may suspend or revoke a retail tobacco specialty business license

- 131 issued under this section:
- 132 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
133 Part 16, Pattern of Unlawful Activity Act;
- 134 (ii) if a licensee violates federal law or federal regulations restricting the sale and
135 distribution of tobacco products or electronic cigarette products to protect children
136 and adolescents;
- 137 (iii) upon the recommendation of the department or a local health department under
138 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
139 Nicotine Products; or
- 140 (iv) under any other provision of state law or local ordinance.
- 141 (7)(a) A retail tobacco specialty business is exempt from Subsection (4) if:
- 142 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
143 license to conduct business as a retail tobacco specialty business;
- 144 (ii) the retail tobacco specialty business is operating in a municipality in accordance
145 with all applicable laws except for the requirement in Subsection (4); and
- 146 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
147 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
148 high school.
- 149 (b) A retail tobacco specialty business may maintain an exemption under Subsection
150 (7)(a) if:
- 151 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
152 or permanent revocation;
- 153 (ii) the retail tobacco specialty business does not close for business or otherwise
154 suspend the sale of tobacco products, electronic cigarette products, or nicotine
155 products for more than 60 consecutive days;
- 156 (iii) the retail tobacco specialty business does not substantially change the business
157 premises or business operation; and
- 158 (iv) the retail tobacco specialty business maintains the right to operate under the
159 terms of other applicable laws, including:
- 160 (A) Section 26B-7-503;
- 161 (B) zoning ordinances;
- 162 (C) building codes; and
- 163 (D) the requirements of the license described in Subsection (7)(a)(i).
- 164 (c) A retail tobacco specialty business that does not qualify for an exemption under

- 165 Subsection (7)(a) is exempt from Subsection (4) if:
- 166 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
167 general tobacco retailer permit or a retail tobacco specialty business permit under
168 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
169 Nicotine Products, by the local health department having jurisdiction over the area
170 in which the retail tobacco specialty business is located;
- 171 (ii) the retail tobacco specialty business is operating in the municipality in accordance
172 with all applicable laws except for the requirement in Subsection (4); and
- 173 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
174 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
175 high school.
- 176 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
177 maintain an exemption under Subsection (7)(c) if:
- 178 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
179 retail tobacco specialty business permit from the local health department having
180 jurisdiction over the area in which the retail tobacco specialty business is located;
- 181 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without
182 lapse or permanent revocation;
- 183 (iii) the retail tobacco specialty business does not close for business or otherwise
184 suspend the sale of tobacco products, electronic cigarette products, or nicotine
185 products for more than 60 consecutive days;
- 186 (iv) the retail tobacco specialty business does not substantially change the business
187 premises or business operation as the business existed when the retail tobacco
188 specialty business received a permit under Subsection (7)(d)(i); and
- 189 (v) the retail tobacco specialty business maintains the right to operate under the terms
190 of other applicable laws, including:
- 191 (A) Section 26B-7-503;
- 192 (B) zoning ordinances;
- 193 (C) building codes; and
- 194 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 195 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
196 located within 1,000 feet of a public or private kindergarten, elementary, middle,
197 junior high, or high school before July 1, 2022, is exempt from Subsection
198 (4)(a)(iii)(B) if the retail tobacco specialty business:

- 199 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
 200 use and located within a group of architecturally unified commercial
 201 establishments built on a site that is planned, developed, owned, and managed as
 202 an operating unit; and
 203 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
 204 directly related to the relocation described in this Subsection (7)(e).

205 (8) Notwithstanding any other provision of law a retail tobacco specialty business may not
 206 sell a flavored electronic cigarette product.

207 Section 2. Section **17-50-333** is amended to read:

208 **17-50-333 (Effective upon governor's approval). Regulation of retail tobacco**
 209 **specialty business.**

210 (1) As used in this section:

211 (a) "Community location" means:

- 212 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
 213 (ii) a licensed child-care facility or preschool;
 214 (iii) a trade or technical school;
 215 (iv) a church;
 216 (v) a public library;
 217 (vi) a public playground;
 218 (vii) a public park;
 219 (viii) a youth center or other space used primarily for youth oriented activities;
 220 (ix) a public recreational facility;
 221 (x) a public arcade; or
 222 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

223 (b) "Department" means the Department of Health and Human Services created in
 224 Section 26B-1-201.

225 (c) "Electronic cigarette product" means the same as that term is defined in Section
 226 76-10-101.

227 (d) "Flavored electronic cigarette product" means the same as that term is defined in
 228 Section 76-10-101.

229 ~~[(d)]~~ (e) "Licensee" means a person licensed under this section to conduct business as a
 230 retail tobacco specialty business.

231 ~~[(e)]~~ (f) "Local health department" means the same as that term is defined in Section
 232 26A-1-102.

- 233 ~~[(f)]~~ (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 234 ~~[(g)]~~ (h) "Retail tobacco specialty business" means a commercial establishment in which:
- 235 (i) sales of tobacco products, electronic cigarette products, and nicotine products
- 236 account for more than 35% of the total quarterly gross receipts for the
- 237 establishment;
- 238 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 239 storage of tobacco products, electronic cigarette products, or nicotine products;
- 240 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
- 241 of tobacco products, electronic cigarette products, or nicotine products;
- 242 (iv) the commercial establishment:
- 243 (A) holds itself out as a retail tobacco specialty business; and
- 244 (B) causes a reasonable person to believe the commercial establishment is a retail
- 245 tobacco specialty business; or
- 246 (v) the retail space features a self-service display for tobacco products, electronic
- 247 cigarette products, or nicotine products.
- 248 ~~[(h)]~~ (i) "Self-service display" means the same as that term is defined in Section
- 249 76-10-105.1.
- 250 ~~[(i)]~~ (j) "Tobacco product" means:
- 251 (i) the same as that term is defined in Section 76-10-101; or
- 252 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 253 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
- 254 of the state by the state or by the delegation of the state's police power to other
- 255 governmental entities.
- 256 (3)(a) A person may not operate a retail tobacco specialty business in a county unless the
- 257 person obtains a license from the county in which the retail tobacco specialty
- 258 business is located.
- 259 (b) A county may only issue a retail tobacco specialty business license to a person if the
- 260 person complies with the provisions of Subsections (4) and (5).
- 261 (4)(a) Except as provided in Subsection (7), a county may not issue a license for a
- 262 person to conduct business as a retail tobacco specialty business if the retail tobacco
- 263 specialty business is located within:
- 264 (i) 1,000 feet of a community location;
- 265 (ii) 600 feet of another retail tobacco specialty business; or
- 266 (iii) 600 feet from property used or zoned for:

- 267 (A) agriculture use; or
268 (B) residential use.
- 269 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
270 straight line from the nearest entrance of the retail tobacco specialty business to the
271 nearest property boundary of a location described in Subsections (4)(a)(i) through
272 (iii), without regard to intervening structures or zoning districts.
- 273 (5) A county may not issue or renew a license for a person to conduct business as a retail
274 tobacco specialty business until the person provides the county with proof that the retail
275 tobacco specialty business has:
- 276 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
277 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
278 local health department having jurisdiction over the area in which the retail tobacco
279 specialty business is located; and
- 280 (b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
281 Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco
282 product; or
- 283 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
284 license issued by the State Tax Commission in accordance with Section 59-14-803
285 to sell an electronic cigarette product or a nicotine product.
- 286 (6)(a) Nothing in this section:
- 287 (i) requires a county to issue a retail tobacco specialty business license; or
288 (ii) prohibits a county from adopting more restrictive requirements on a person
289 seeking a license or renewal of a license to conduct business as a retail tobacco
290 specialty business.
- 291 (b) A county may suspend or revoke a retail tobacco specialty business license issued
292 under this section:
- 293 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
294 Part 16, Pattern of Unlawful Activity Act;
- 295 (ii) if a licensee violates federal law or federal regulations restricting the sale and
296 distribution of tobacco products or electronic cigarette products to protect children
297 and adolescents;
- 298 (iii) upon the recommendation of the department or a local health department under
299 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
300 Nicotine Products; or

- 301 (iv) under any other provision of state law or local ordinance.
- 302 (7)(a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is
- 303 exempt from Subsection (4) if:
- 304 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
- 305 license to conduct business as a retail tobacco specialty business;
- 306 (ii) the retail tobacco specialty business is operating in a county in accordance with
- 307 all applicable laws except for the requirement in Subsection (4); and
- 308 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
- 309 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
- 310 high school.
- 311 (b) A retail tobacco specialty business may maintain an exemption under Subsection
- 312 (7)(a) if:
- 313 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
- 314 or permanent revocation;
- 315 (ii) the retail tobacco specialty business does not close for business or otherwise
- 316 suspend the sale of tobacco products, electronic cigarette products, or nicotine
- 317 products for more than 60 consecutive days;
- 318 (iii) the retail tobacco specialty business does not substantially change the business
- 319 premises or business operation; and
- 320 (iv) the retail tobacco specialty business maintains the right to operate under the
- 321 terms of other applicable laws, including:
- 322 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;
- 323 (B) zoning ordinances;
- 324 (C) building codes; and
- 325 (D) the requirements of the license described in Subsection (7)(a)(i).
- 326 (c) A retail tobacco specialty business that does not qualify for an exemption under
- 327 Subsection (7)(a) is exempt from Subsection (4) if:
- 328 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
- 329 general tobacco retailer permit or a retail tobacco specialty business permit under [
- 330 ~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail~~
- 331 ~~Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products,
- 332 and Nicotine Products, by the local health department having jurisdiction over the
- 333 area in which the retail tobacco specialty business is located;
- 334 (ii) the retail tobacco specialty business is operating in the county in accordance with

- 335 all applicable laws except for the requirement in Subsection (4); and
- 336 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
- 337 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
- 338 high school.
- 339 (d) A retail tobacco specialty business may maintain an exemption under Subsection
- 340 (7)(c) if:
- 341 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
- 342 retail tobacco specialty business permit from the local health department having
- 343 jurisdiction over the area in which the retail tobacco specialty business is located;
- 344 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without
- 345 lapse or permanent revocation;
- 346 (iii) the retail tobacco specialty business does not close for business or otherwise
- 347 suspend the sale of tobacco products, electronic cigarette products, or nicotine
- 348 products for more than 60 consecutive days;
- 349 (iv) the retail tobacco specialty business does not substantially change the business
- 350 premises or business operation as the business existed when the retail tobacco
- 351 specialty business received a permit under Subsection (7)(d)(i); and
- 352 (v) the retail tobacco specialty business maintains the right to operate under the terms
- 353 of other applicable laws, including:
- 354 (A) ~~[Title 26, Chapter 38, Utah Indoor Clean Air Act]~~ Section 26B-7-503;
- 355 (B) zoning ordinances;
- 356 (C) building codes; and
- 357 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 358 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
- 359 located within 1,000 feet of a public or private kindergarten, elementary, middle,
- 360 junior high, or high school before July 1, 2022, is exempt from Subsection
- 361 (4)(a)(iii)(B) if the retail tobacco specialty business:
- 362 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
- 363 use and located within a group of architecturally unified commercial
- 364 establishments built on a site that is planned, developed, owned, and managed as
- 365 an operating unit; and
- 366 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
- 367 directly related to the relocation described in this Subsection (7)(e).
- 368 (8) Notwithstanding any other provision of law a retail tobacco specialty business may not

369 sell a flavored electronic cigarette product.

370 Section 3. Section **26A-1-131** is amended to read:

371 **26A-1-131 (Effective upon governor's approval). Electronic cigarette registry**
372 **enforcement.**

373 [~~(1)~~(a) A local health department may examine the books, papers, and records of a
374 retailer in this state, for the purpose of determining compliance with Section
375 59-14-810.]

376 [(b) A local health department may make the inspections and examinations at any time
377 during ordinary business hours, and may inspect the premises and all desks, safes,
378 vaults, and other fixtures and furniture contained in or upon the premises for the
379 purpose of ascertaining whether an electronic cigarette product is held or possessed
380 in violation of Section 59-14-810.]

381 [(c) Unannounced follow-up examinations of all retailers are required within 30 days
382 after any violation of Section 59-14-810.]

383 [~~(d)~~ (1)(a) A local health department may conduct regular inspections of a business that
384 sells an electronic cigarette product as that term is defined in Section 76-10-101, in
385 accordance with the provisions of Section 26B-7-516.

386 [(b) A local health department shall publish the results of all [examinations] inspections at
387 least annually and shall make the results available to the public on request.

388 [(e)] (c) Any electronic cigarette product offered for sale in violation of Section
389 59-14-810 is declared to be a contraband good and shall be immediately embargoed
390 by a local health department.

391 [(f)] (d) An electronic cigarette product described in Subsection [~~(1)~~(e)] (1)(c) may be
392 embargoed without a warrant by:

393 (i) a local health department; or

394 (ii) a law enforcement agency of this state if directed by a local health department
395 with jurisdiction over where the product is found.

396 [~~(g)~~ (e) The cost of embargoing shall be borne by the retailer.

397 [(h)] (f) In an action brought under this section, a local health department may recover
398 reasonable expenses incurred in investigating and preparing the case and attorney
399 fees.

400 [(i)] (g) A retailer shall remove any embargoed electronic cigarette product from the
401 retailer's active inventory and work with the wholesaler or distributor to return or
402 dispose the electronic cigarette product.

- 403 (2)(a) A local health department shall disclose to the attorney general any information
 404 received under this section which is requested by the attorney general for purposes of
 405 determining compliance with and enforcing the provisions of this section or Section
 406 59-14-810.
- 407 (b) A local health department and the attorney general shall share with each other
 408 information received under this section and Section 59-14-810 or corresponding laws
 409 of other states.
- 410 (c) A local health department shall provide any necessary information to the State Tax
 411 Commission regarding violations of Section 59-14-810.
- 412 (3) A monetary penalty assessed to a retailer by a local health department under this section
 413 shall be doubled if the retailer fails to provide documentation establishing a clear chain
 414 of custody back to the manufacturer.

415 Section 4. Section **59-14-810** is amended to read:

416 **59-14-810** [~~Effective 07/01/24~~] (**Effective upon governor's approval**). **Electronic**
 417 **cigarette product registry.**

- 418 (1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that
 419 is sold in this state, whether directly or through a distributor, wholesaler, retailer, or
 420 similar intermediary or intermediaries, shall certify under penalty of perjury on a form
 421 and in the manner prescribed by the commission, that:
- 422 (a) the manufacturer agrees to comply with this section; and
- 423 (b) the electronic cigarette product is a premarket authorized or pending electronic
 424 cigarette product as defined in Section 76-10-101 and will not be illegal to be sold in
 425 the state as of January 1, 2025.
- 426 (2) When submitting the certification a manufacturer shall submit a form that separately
 427 lists each electronic cigarette product that is sold in this state.
- 428 (3)(a) Each certification form shall include:
- 429 (i) the name of the electronic cigarette product, nicotine content level by percentage,
 430 and any flavors contained in the product;
- 431 (ii)(A) a copy of the order granting a premarket tobacco product application of the
 432 electronic cigarette product by the United States Food and Drug
 433 Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or
- 434 (B) evidence that the premarket tobacco product application for the electronic
 435 cigarette product or nicotine product was submitted to the United States Food
 436 and Drug Administration before September 9, 2020, and a final authorization

- 437 or order has not yet taken effect;
- 438 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added
- 439 to the registry in the first instance; and
- 440 (iv) information described in Subsection (10) if applicable.
- 441 (b) The commission shall make the materials submitted under Subsection (3)(a)
- 442 available to the Department of Health and Human Services for review and approval.
- 443 (c) A manufacturer required to submit a certification form under this section shall notify
- 444 the commission and the Department of Health and Human Services in a manner
- 445 prescribed by the commission within 30 days of any material change making the
- 446 certification form no longer accurate, including:
- 447 (i) the issuance or denial of a marketing authorization or other order by the United
- 448 States Food and Drug Administration under 21 U.S.C. Sec. 387j; or
- 449 (ii) any other order or action by the United States Food and Drug Administration or
- 450 any court that affects the ability of the electronic cigarette product to be
- 451 introduced or delivered into interstate commerce for commercial distribution in
- 452 the United States.
- 453 (d) On or before January 31 of each year and in a manner prescribed by the commission,
- 454 a manufacturer shall:
- 455 (i) recertify that the information contained in the certification is correct and accurate;
- 456 (ii) correct or amend information if necessary; and
- 457 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry
- 458 that is manufactured by the manufacturer.
- 459 (e) A manufacturer may amend a certification, including to add additional electronic
- 460 cigarette products to the registry, if all requirements of this section are met.
- 461 (f) The commission shall:
- 462 (i) provide an electronic notification to a manufacturer that has not submitted a
- 463 recertification under Subsection (3)(d); and
- 464 (ii) remove a manufacturer or an electronic cigarette product that is not recertified
- 465 from the registry by March 15.
- 466 (4)(a) The Department of Health and Human Services shall review materials described
- 467 in Subsection (3)(a) and notify the commission regarding whether an electronic
- 468 cigarette product should be included in the registry.
- 469 (b) On or before October 1, 2024, the commission shall make publicly available on the
- 470 commission's website a registry that lists each electronic cigarette product

471 manufacturer and each electronic cigarette product for which certification forms have
472 been approved by the Department of Health and Human Services.

473 (c) An electronic cigarette product may not be listed on the registry unless the
474 Department of Health and Human Services determines the requirements of
475 Subsection (3)(a) are met.

476 (5)(a) If the Department of Health and Human Services obtains information that an
477 electronic cigarette product should not be listed in the registry, the Department of
478 Health and Human Services shall provide the manufacturer notice and an opportunity
479 to cure deficiencies before notifying the commission to remove the manufacturer or
480 products from the registry.

481 (b) Except as provided in Subsection (5)(c), the Department of Health and Human
482 Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act,
483 before notifying the commission to remove an electronic cigarette product or
484 manufacturer from the registry.

485 (c) Subsection (5)(b) does not apply to a manufacturer failing:

- 486 (i) to decertify an electronic cigarette product;
- 487 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or
- 488 (iii) to comply with Subsection (10).

489 (6)(a) If a product is removed from the registry, each retailer, distributor, and wholesaler
490 shall have 30 days from the day on which the product is removed from the registry to
491 remove the product from any inventory and return the product to the manufacturer for
492 disposal.

493 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a
494 manufacturer identified in the notice of removal are contraband and are subject to
495 penalties under Subsection (8)[~~and seizure, forfeiture, and destruction under Section~~
496 ~~26A-1-131~~].

497 (7)(a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an
498 electronic cigarette product in this state that is not included in the registry.

499 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler,
500 retailer, or similar intermediary or intermediaries, an electronic cigarette product in
501 this state that is not included in the registry.

502 (8)(a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic
503 cigarette product in this state that is not included in the registry shall be subject to a
504 civil penalty of:

- 505 (i) \$1,000 for each product offered for sale in violation of this section; and
506 (ii) \$100 per day until the offending product is removed from the market or until the
507 offending product is properly listed on the registry.
- 508 (b) The commission shall suspend the person's license issued under Section 59-14-803
509 for a violation of Subsection (8)(a) as follows:
- 510 (i) for a second violation within a 12-month period, at least 14 days;
511 (ii) for a third violation within a 12-month period, at least 60 days; or
512 (iii) for a fourth violation within a 12-month period, at least one year.
- 513 (c) A manufacturer whose electronic cigarette products are not listed in the registry and
514 are sold in this state, whether directly or through a distributor, wholesaler, retailer, or
515 similar intermediary or intermediaries, is subject to a civil penalty of:
- 516 (i) \$1,000 for each product offered for retail sale in violation of this section; and
517 (ii) \$100 per day until the offending product is removed from the market or until the
518 offending product is properly listed on the registry.
- 519 (d) A manufacturer that falsely represents any information required by a certification
520 form described in this section shall be guilty of a class C misdemeanor for each false
521 representation.
- 522 (e) A repeated violation of this section shall constitute a deceptive act or practice as
523 provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or
524 penalties available for a violation of those sections.
- 525 (9)(a) To assist in ensuring compliance and enforcement of this section and Section
526 26A-1-131, the commission shall disclose to the following entities, upon request, any
527 information obtained under this section:
- 528 (i) the Department of Health and Human Services;
529 (ii) a local health department; or
530 (iii) the attorney general.
- 531 (b) The commission and attorney general shall share with each other information
532 received under this section, or corresponding laws of other states.
- 533 (10)(a)[(†)] The commission may not list a nonresident manufacturer of an electronic
534 cigarette product in the registry unless:
- 535 [~~(A)~~] (i) the nonresident manufacturer has registered to do business in the state as a
536 foreign corporation or business entity; or
537 [~~(B)~~] (ii) the nonresident manufacturer appoints and maintains without interruption
538 the services of an agent in this state to receive any service of process on behalf of

- 539 the manufacturer.
- 540 (b) The nonresident manufacturer shall provide the name, address, and telephone
541 number of the agent to the commission.
- 542 (c)(i) A nonresident manufacturer shall provide notice to the commission 30 days
543 before the termination of the authority of an agent and shall further provide proof
544 to the satisfaction of the commission of the appointment of a new agent no less
545 than five calendar days prior to the termination of an existing agent appointment.
- 546 (ii) In the event an agent terminates an agency appointment, the manufacturer shall
547 notify the commission of the termination within five calendar days and shall
548 include proof to the satisfaction of the commission of the appointment of a new
549 agent.
- 550 (11) Before May 31 of each year, the commission and the Department of Health and
551 Human Services shall provide a report to the Revenue and Taxation Interim Committee
552 and the Health and Human Services Interim Committee regarding:
- 553 (a) the status of the registry;
554 (b) manufacturers and products included in the registry;
555 (c) revenue and expenditures related to administration of this section; and
556 (d) enforcement activities undertaken under this section and Section 26A-1-131.
- 557 (12) All fees and penalties collected under this section shall be used for administration and
558 enforcement of this section and Section 26A-1-131.
- 559 (13) The commission, in consultation with the Department of Health and Human Services,
560 may make rules in accordance with Title 63G, Chapter 3, Utah Administrative
561 Rulemaking Act, to implement this section.
- 562 Section 5. Section **63I-1-210** is amended to read:
563 **63I-1-210 (Effective upon governor's approval). Repeal dates: Title 10.**
- 564 (1) Subsection 10-1-104(5)(c), regarding a preliminary municipality, is repealed January 1,
565 2031.
- 566 (2) Subsection 10-2a-201.5(1)(b), regarding a preliminary municipality, is repealed January
567 1, 2031.
- 568 (3) Subsection 10-2a-202(5), regarding a feasibility request, is repealed January 1, 2031.
- 569 (4) Title 10, Chapter 2a, Part 5, Incorporation of a Preliminary Municipality, is repealed
570 January 1, 2031.
- 571 (5) Subsection 10-8-41.6(8), regarding the prohibition on flavored electronic cigarette
572 product sales, is repealed July 1, 2030.

573 Section 6. Section **63I-1-217** is amended to read:

574 **63I-1-217 (Effective upon governor's approval) (Superseded 07/01/25). Repeal**
 575 **dates: Titles 17 through 17D.**

576 (1) Section 17-41-102, Study of critical infrastructure materials operations and related
 577 mining, is repealed July 1, 2026.

578 (2) Subsection 17-50-333(8), regarding the prohibition on flavored electronic cigarette
 579 product sales, is repealed July 1, 2030.

580 Section 7. Section **63I-1-217** is amended to read:

581 **63I-1-217 (Effective 07/01/25). Repeal dates: Titles 17 through 17D.**

582 (1) Section 17-18a-203.5, District attorney data collection -- Report, is repealed July 1,
 583 2029.

584 (2) Section 17-41-102, Study of critical infrastructure materials operations and related
 585 mining, is repealed July 1, 2026.

586 (3) Subsection 17-50-333(8), regarding the prohibition on flavored electronic cigarette
 587 product sales, is repealed July 1, 2030.

588 Section 8. Section **63I-1-226** is amended to read:

589 **63I-1-226 (Effective upon governor's approval). Repeal dates: Titles 26 through**
 590 **26B.**

591 (1) Section 26A-1-131, Electronic cigarette registry enforcement, is repealed July 1, 2030.

592 (2) Subsection 26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed
 593 July 1, 2025.

594 [(2)] (3) Section 26B-1-315, Medicaid ACA Fund, is repealed July 1, 2034.

595 [(3)] (4) Section 26B-1-318, Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

596 [(4)] (5) Section 26B-1-402, Rare Disease Advisory Council Grant Program -- Creation --
 597 Reporting, is repealed July 1, 2026.

598 [(5)] (6) Section 26B-1-409, Utah Digital Health Service Commission -- Creation --
 599 Membership -- Duties, is repealed July 1, 2025.

600 [(6)] (7) Section 26B-1-410, Primary Care Grant Committee, is repealed July 1, 2025.

601 [(7)] (8) Section 26B-1-416, Utah Children's Health Insurance Program Advisory Council,
 602 is repealed July 1, 2025.

603 [(8)] (9) Section 26B-1-417, Brain and Spinal Cord Injury Advisory Committee --
 604 Membership -- Duties, is repealed July 1, 2029.

605 [(9)] (10) Section 26B-1-422, Early Childhood Utah Advisory Council -- Creation --
 606 Compensation -- Duties, is repealed July 1, 2029.

- 607 ~~[(10)]~~ (11) Section 26B-1-425, Utah Health Workforce Advisory Council -- Creation and
608 membership, is repealed July 1, 2027.
- 609 ~~[(11)]~~ (12) Section 26B-1-428, Youth Electronic Cigarette, Marijuana, and Other Drug
610 Prevention Committee and Program -- Creation -- Membership -- Duties, is repealed
611 July 1, 2025.
- 612 ~~[(12)]~~ (13) Section 26B-1-430, Coordinating Council for Persons with Disabilities -- Policy
613 regarding services to individuals with disabilities -- Creation -- Membership --
614 Expenses, is repealed July 1, 2027.
- 615 ~~[(13)]~~ (14) Section 26B-1-432, Newborn Hearing Screening Committee, is repealed July 1,
616 2026.
- 617 ~~[(14)]~~ (15) Section 26B-2-407, Drinking water quality in child care centers, is repealed July
618 1, 2027.
- 619 ~~[(15)]~~ (16) Subsection 26B-3-107(9), regarding reimbursement for dental hygienists, is
620 repealed July 1, 2028.
- 621 ~~[(16)]~~ (17) Section 26B-3-136, Children's Health Care Coverage Program, is repealed July
622 1, 2025.
- 623 ~~[(17)]~~ (18) Section 26B-3-137, Reimbursement for diabetes prevention program, is repealed
624 June 30, 2027.
- 625 ~~[(18)]~~ (19) Subsection 26B-3-213(2)(b), regarding consultation with the Behavioral Health
626 Crisis Response Committee, is repealed December 31, 2026.
- 627 ~~[(19)]~~ (20) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is
628 repealed July 1, 2027.
- 629 ~~[(20)]~~ (21) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.
- 630 ~~[(21)]~~ (22) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.
- 631 ~~[(22)]~~ (23) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.
- 632 ~~[(23)]~~ (24) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.
- 633 ~~[(24)]~~ (25) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.
- 634 ~~[(25)]~~ (26) Section 26B-3-308, Penalties, is repealed July 1, 2027.
- 635 ~~[(26)]~~ (27) Section 26B-3-309, Immunity, is repealed July 1, 2027.
- 636 ~~[(27)]~~ (28) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1,
637 2034.
- 638 ~~[(28)]~~ (29) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is
639 repealed July 1, 2034.
- 640 ~~[(29)]~~ (30) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1,

641 2028.

642 ~~[(30)]~~ (31) Section 26B-3-910, Alternative eligibility -- Report -- Alternative Eligibility

643 Expendable Revenue Fund, is repealed July 1, 2028.

644 ~~[(31)]~~ (32) Section 26B-4-710, Rural residency training program, is repealed July 1, 2025.

645 ~~[(32)]~~ (33) Subsection 26B-5-112(1)(b), regarding consultation with the Behavioral Health

646 Crisis Response Committee, is repealed December 31, 2026.

647 ~~[(33)]~~ (34) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health

648 Crisis Response Committee, is repealed December 31, 2026.

649 ~~[(34)]~~ (35) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed

650 December 31, 2026.

651 ~~[(35)]~~ (36) Section 26B-5-114, Behavioral Health Receiving Center Grant Program, is

652 repealed December 31, 2026.

653 ~~[(36)]~~ (37) Section 26B-5-118, Collaborative care grant program, is repealed December 31,

654 2024.

655 ~~[(37)]~~ (38) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed

656 December 31, 2026.

657 ~~[(38)]~~ (39) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response

658 Committee, is repealed December 31, 2026.

659 ~~[(39)]~~ (40) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response

660 Committee, is repealed December 31, 2026.

661 ~~[(40)]~~ (41) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response

662 Committee, is repealed December 31, 2026.

663 ~~[(41)]~~ (42) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response

664 Committee, is repealed December 31, 2026.

665 ~~[(42)]~~ (43) Section 26B-5-612, Integrated behavioral health care grant programs, is repealed

666 December 31, 2025.

667 ~~[(43)]~~ (44) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed

668 July 1, 2029.

669 ~~[(44)]~~ (45) Subsection 26B-5-704(2)(a), regarding the Behavioral Health Crisis Response

670 Committee, is repealed December 31, 2026.

671 ~~[(45)]~~ (46) Subsection 26B-5-704(2)(b), regarding the Education and Mental Health

672 Coordinating Committee, is repealed December 31, 2024.

673 ~~[(46)]~~ (47) Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory

674 Committee, is repealed January 1, 2033.

675 [~~(47)~~] (48) Section 26B-7-119, Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

676 [~~(48)~~] (49) Section 26B-7-122, Communication Habits to reduce Adolescent Threats Pilot
677 Program, is repealed July 1, 2029.

678 [~~(49)~~] (50) Section 26B-7-123, Report on CHAT campaign, is repealed July 1, 2029.

679 (51) Subsection 26B-7-505(3)(c), regarding the sale of a premarket authorized or pending
680 electronic cigarette product, is repealed July 1, 2030.

681 [~~(50)~~] (52) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1,
682 2026.

683 Section 9. Section **63I-1-259** is amended to read:

684 **63I-1-259 (Effective upon governor's approval). Repeal dates: Title 59.**

685 (1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to
686 inform the Department of Workforce Services whether an individual claimed a federal
687 earned income tax credit, is repealed July 1, 2029.

688 (2) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is
689 repealed July 1, 2029.

690 (3) Section 59-9-102.5, Offset for occupational health and safety related donations, is
691 repealed December 31, 2030.

692 (4) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is
693 repealed July 1, 2029.

694 (5) Subsection 59-14-807(3)(a)(vii), regarding the distribution of fees from Section
695 59-14-810, is repealed July 1, 2030.

696 (6) Section 59-14-810, Electronic cigarette product registry, is repealed July 1, 2030.

697 Section 10. Section **63I-1-276** is amended to read:

698 **63I-1-276 (Effective upon governor's approval). Repeal dates: Title 76.**

699 (1) Subsection 76-7-313(6), regarding a report provided by the Department of Health and
700 Human Services, is repealed July 1, 2027.

701 (2) Subsection 76-10-101(16), regarding the definition of premarket authorized or pending
702 electronic cigarette product, is repealed July 1, 2030.

703 (3) Subsection 76-10-113(2), regarding the illegal sale of a flavored electronic cigarette
704 product, is repealed July 1, 2030.

705 (4) Subsection 76-10-113(3), regarding the illegal sale of a premarket authorized or pending
706 electronic cigarette product, is repealed July 1, 2030.

707 [~~(2)~~] (5) Section 76-10-526.1, Information check before private sale of firearm, is repealed
708 July 1, 2025.

709 Section 11. **Effective Date.**710 (1) Except as provided in Subsection (2), this bill takes effect:711 (a) except as provided in Subsection (1)(b), May 7, 2025; or712 (b) if approved by two-thirds of all members elected to each house:713 (i) upon approval by the governor;714 (ii) without the governor's signature, the day following the constitutional time limit of715 Utah Constitution, Article VII, Section 8; or716 (iii) in the case of a veto, the date of veto override.717 (2) The actions affecting Section 63I-1-217 (Effective 07/01/25) take effect on July 1, 2025.718 Section 12. **Coordinating H.B. 432 with S.B. 46.**719 If H.B. 432, Tobacco and Electronic Cigarette Modifications, and S.B. 46, Youth720 Electronic Cigarette, Marijuana, and Other Drug Prevention Program Sunset Extension, both721 pass and become law, the Legislature intends that, on May 7, 2025, Subsection 63I-1-259(5)722 enacted in H.B. 432 be amended to read:723 "(5) Subsection 59-14-807(3)(c), regarding the distribution of fees from Section 59-14-810,724 is repealed July 1, 2030."725 Section 13. **Coordinating H.B. 432 with H.B. 21.**726 If H.B. 432, Tobacco and Electronic Cigarette Modifications, and H.B. 21, Criminal727 Code Recodification and Cross References, both pass and become law, the Legislature intends728 that, on May 7, 2025, Subsection 63I-1-276(4) enacted in H.B. 432 be amended to read:729 "(4) Section 76-9-1115, Illegal distribution of an electronic cigarette product without730 federal authorization, is repealed July 1, 2030."