

Matt MacPherson proposes the following substitute bill:

Specialized Product Sales Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions related to specialized products.

Highlighted Provisions:

This bill:

- defines terms;
- creates a license for persons that sell specialized products to be administered by the Department of Agriculture and Food (department);
- requires specialized product retailers to provide a list of specialized products offered for sale to the department;
- requires applicants for a specialized product retailer license to provide ownership information;
- prohibits issuing a license if certain individuals involved with the specialized product retailer have violated certain criminal laws;
- requires the State Tax Commission to revoke certain tobacco and nicotine licenses if the licensee stores or sells illegally obtained controlled substances;
- prohibits advertising of electronic cigarette products and nicotine products in certain locations;
- creates fees and penalties related to the license;
- criminalizes the criminally negligent sale of tobacco, electronic cigarettes, and nicotine to minors; and
- amends provisions related to underage tobacco sales.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26B-1-310**, as last amended by Laws of Utah 2025, First Special Session, Chapter 932 **76-9-1102**, as renumbered and amended by Laws of Utah 2025, Chapter 17333 **76-9-1116**, as renumbered and amended by Laws of Utah 2025, Chapter 17334 **77-39-101**, as last amended by Laws of Utah 2025, Chapters 114, 173

35 ENACTS:

36 **4-45a-101**, Utah Code Annotated 195337 **4-45a-102**, Utah Code Annotated 195338 **4-45a-103**, Utah Code Annotated 195339 **4-45a-104**, Utah Code Annotated 195340 **4-45a-105**, Utah Code Annotated 195341 **59-14-106**, Utah Code Annotated 1953

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43 *Be it enacted by the Legislature of the state of Utah:*44 Section 1. Section **4-45a-101** is enacted to read:45 **CHAPTER 45a. Specialized Product Regulation**46 **4-45a-101 . Definitions.**47 As used in this section:48 (1) "Conventional food" means:49 (a) an article used for food or drink for human or animal consumption or the components
50 of the article; or51 (b) chewing gum or chewing gum components.52 (2)(a) "Crime involving a nicotine containing product" means an offense described in
53 any of the following sections:54 (i) Section 76-9-1102, Illegal sale of clove cigarette;55 (ii) Section 76-9-1103, Permitting minors to use tobacco or electronic cigarette
56 product in place of business;57 (iii) Section 76-9-1104, Providing tobacco product, electronic cigarette product, or
58 nicotine product to a minor;59 (iv) Section 76-9-1105, Providing tobacco paraphernalia to a minor;60 (v) Section 76-9-1107, Requirement of direct, face-to-face sale -- Restrictions on
61 remote sales;62 (vi) Section 76-9-1108, Illegal presence of a minor inside a retail tobacco specialty

- 63 business;
- 64 (vii) Section 76-9-1112, Illegal provision of smokeless tobacco or electronic cigarette
- 65 product;
- 66 (viii) Section 76-9-1113, Illegal distribution of a tobacco product on school property;
- 67 (ix) Section 76-9-1114, Illegal distribution of a flavored electronic cigarette product;
- 68 (x) Section 76-9-1115, Illegal distribution of electronic cigarette product without
- 69 premarket authorization; or
- 70 (xi) Section 76-9-1116, Unlawful sale of a tobacco product, electronic cigarette
- 71 product, or nicotine product.
- 72 (b) "Crime involving a nicotine containing product" includes a conviction for an offense
- 73 previously in statute in this state that is the same or substantially similar to an offense
- 74 described in Subsection (2)(a).
- 75 (3) "Electronic cigarette product" means the same as that term is defined in Section
- 76 76-9-1101.
- 77 (4) "License" means the license described in Section 4-45a-102.
- 78 (5) "Licensee" means a specialized product retailer licensed under Section 4-45a-102.
- 79 (6) "Nicotine product" means the same as that term is defined in Section 76-9-1101.
- 80 (7) "Product list" means a list of specialized products sold by a licensee.
- 81 (8) "Self-service display" means the same as that term is defined in Section 76-9-1107.
- 82 (9)(a) "Specialized product" means any product intended to be ingested, inhaled,
- 83 absorbed, or introduced into the human body that is:
- 84 (i) a cannabinoid product as defined in Section 4-41-102;
- 85 (ii) a kratom product as defined in Section 4-45-102;
- 86 (iii) a tobacco product that is not tobacco paraphernalia;
- 87 (iv) a nicotine product;
- 88 (v) an electronic cigarette substance as defined in Section 76-9-1101;
- 89 (vi) a prefilled electronic cigarette as defined in Section 76-9-1101; or
- 90 (vii) a product containing a substance:
- 91 (A) not generally recognized as safe for use in a conventional food product under
- 92 applicable federal food additive regulations; and
- 93 (B) that is known or intended to have psychoactive, euphoric, analgesic, sedative,
- 94 or intoxicating effects.
- 95 (b) "Specialized product" includes a product described in Subsection (10)(a) even if the
- 96 product complies with the federal Dietary Supplement Health and Education Act, 21

97 U.S.C. Sec. 321(ff) et seq.

98 (c) "Specialized product" does not include a conventional food product that does not
99 contain any substance or product type described in Subsection (10)(a).

100 (10) "Specialized product retailer" means a person that sells a specialized product.

101 (11) "Tobacco product" means:

102 (a) a tobacco product as defined in Section 76-9-1101; or

103 (b) tobacco paraphernalia as defined in Section 76-9-1101.

104 Section 2. Section **4-45a-102** is enacted to read:

105 **4-45a-102 . License.**

106 (1) A specialized product retailer may not sell a specialized product in the state unless the
107 specialized product retailer obtains a license from the department.

108 (2)(a) A fee for a license under this section is \$600.

109 (b) The term for a license under this section is one year.

110 (3) The department may not issue a license to a person under this section unless the person
111 provides proof that the person has obtained the applicable license, registration, or
112 permit, required by law for each specialized product type that the person sells which
113 may include:

114 (a) a license for a retail tobacco specialty business described in Section 10-8-41.6 and
115 Section 17-78-1004;

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

120 (c) each appropriate license from the State Tax Commission for each product the person
121 will sell that requires a license from the State Tax Commission.

122 (4) A person that operates a specialized product retailer without a current and valid license
123 described in Subsection (1) is subject to a \$50,000 civil fine.

124 (5) The department shall deposit fees collected under this section into the Qualified Patient
125 Enterprise Fund described in Section 26B-1-310.

126 Section 3. Section **4-45a-103** is enacted to read:

127 **4-45a-103 . Applicants.**

128 (1) An applicant for a license shall provide the name and address of any individual who has:

129 (a) for a publicly traded company, a financial or voting interest of 10% or greater in the
130 specialized product retailer;

131 (b) for a privately held company, a financial or voting interest in the specialized product
132 retailer; or

133 (c) the power to direct or cause the management or control of the specialized product
134 retailer.

135 (2) The department may not issue a license to an applicant if an individual described in
136 Subsection (1) has been convicted under state or federal law of:

137 (a) a felony in the preceding 10 years;

138 (b) a crime involving a nicotine containing product; or

139 (c) after December 3, 2018, a misdemeanor or felony for drug distribution.

140 Section 4. Section **4-45a-104** is enacted to read:

141 **4-45a-104 . Registration of products.**

142 (1)(a) A licensee shall provide the department a product list.

143 (b) At least seven days before selling a specialized product not on the product list, a
144 licensee shall notify the department and provide an updated product list that includes
145 the additional specialized product.

146 (c) For any product on a product list or that is being added to a product list under
147 Subsection (1)(b), the licensee shall provide the department with access to the
148 ingredient list for the specialized product.

149 (d) The department may remove specialized products from a product list if the
150 possession or sale of the specialized product violates state law.

151 (2) A licensee may not sell a specialized product that is not on the product list provided to
152 the department.

153 (3) If requested by the department to provide a specialized product for inspection or testing,
154 a licensee shall provide the requested specialized product to the department.

155 (4)(a) A licensee that sells a product in violation of Subsection (2) is subject to a \$1,000
156 fine for each product sold in violation of Subsection (2).

157 (b) In addition to the monetary fine described in Subsection (4)(a), a licensee is subject
158 to the following for violations of Subsection (2):

159 (i) for a first violation, a public reprimand posted on the department's website;

160 (ii) for a second violation, a 30-day license suspension;

161 (iii) for a third violation, a 60-day license suspension;

162 (iv) for a fourth violation, a 90-day license suspension; and

163 (v) for a fifth violation, revocation of the license.

164 Section 5. Section **4-45a-105** is enacted to read:

165 **4-45a-105 . Rulemaking.**

166 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 167 department shall make rules to implement this chapter.

168 Section 6. Section **26B-1-310** is amended to read:

169 **26B-1-310 . Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality**
 170 **-- Uniform fee.**

171 (1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

172 (2) The fund created in this section is funded from:

173 (a) money the department deposits into the fund under Chapter 4, Part 2, Cannabinoid
 174 Research and Medical Cannabis;

175 (b) appropriations the Legislature makes to the fund; and

176 (c) the interest described in Subsection (3).

177 (3) Interest earned on the fund shall be deposited into the fund.

178 (4)(a) ~~[Money]~~ Except as provided in Subsection (4)(b), money deposited into the fund
 179 may only be used by:

180 ~~[(a)]~~ (i) the department to accomplish the department's responsibilities described in
 181 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

182 ~~[(b)]~~ (ii) the Center for Medical Cannabis Research created in Section 53H-4-206 to
 183 accomplish the Center for Medical Cannabis Research's responsibilities; and

184 ~~[(c)]~~ (iii) the Department of Agriculture and Food for the one time purchase of
 185 equipment to meet the requirements described in Section 4-41a-204.1.

186 (b) For money deposited under Section 4-45a-102, the department shall:

187 (i) use 10% of the money for tobacco and nicotine prevention purposes; and

188 (ii) provide the remainder of the money to the Department of Agriculture and Food to:

189 (A) expand and improve testing services at the state lab; and

190 (B) enforce Title 4, Chapter 45a, Specialized Product Regulation.

191 (5) The department shall set fees authorized under Chapter 4, Part 2, Cannabinoid Research
 192 and Medical Cannabis, in amounts that the department anticipates are necessary, in total,
 193 to cover the department's cost to implement Chapter 4, Part 2, Cannabinoid Research
 194 and Medical Cannabis.

195 (6) The department may impose a uniform fee on each medical cannabis transaction in a
 196 medical cannabis pharmacy in an amount that, subject to Subsection (5), the department
 197 sets in accordance with Section 63J-1-504.

198 Section 7. Section **59-14-106** is enacted to read:

199 **59-14-106 . Revocation of license for controlled substance sale and distribution.**

200 (1) As used in this section:

201 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

202 (b) "Licensee" means a person that holds a license under Section 59-14-201, 59-14-301,
203 or 59-14-803.

204 (2) As a condition for each license issued under this chapter, a licensee agrees to not store,
205 sell, or attempt to sell illegally obtained controlled substances.

206 (3) The tax commission shall revoke each license described in Section 59-14-201,
207 59-14-301, and 59-14-803 that a licensee holds if the tax commission receives notice
208 that a licensee has been charged with a criminal offense involving possession with intent
209 to distribute, distribution, or sale of a controlled substance.

210 Section 8. Section **76-9-1102** is amended to read:

211 **76-9-1102 . Cigarette or tobacco advertising violation.**

212 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

213 (2) Except as provided in Subsection (4), an actor commits cigarette or tobacco advertising
214 violation if the actor displays on a billboard, streetcar sign, streetcar, bus, placard, or on
215 any other object or place of display, an advertisement of cigarettes, electronic cigarette
216 products, cigarette papers, cigars, chewing tobacco, nicotine products, or smoking
217 tobacco or any disguise or substitute of cigarettes, cigarette papers, tobacco, or cigars.

218 (3) A violation of Subsection (2) is a class B misdemeanor.

219 (4)(a) A dealer of cigarettes, electronic cigarette products, cigarette papers, tobacco,
220 cigars, nicotine products, or a substitute for cigarettes, cigarette papers, tobacco, or
221 cigars may have a sign on the front of the dealer's place of business stating that the
222 dealer is a dealer of cigarettes, electronic cigarette products, cigarette papers,
223 tobacco, cigars, nicotine products, or a substitute for cigarettes, cigarette papers,
224 tobacco, or cigars.

225 (b) This section does not prohibit the advertisement of an item listed in Subsection (4)(a)
226 in a newspaper, magazine or periodical printed or circulating in this state.

227 Section 9. Section **76-9-1116** is amended to read:

228 **76-9-1116 . Unlawful sale of a tobacco product, electronic cigarette product, or**
229 **nicotine product.**

230 (1)(a) As used in this section:

231 (i) "Compensatory service" means service or unpaid work performed by an
232 employee, in lieu of the payment of a fine or imprisonment.

- 233 (ii) "Employee" means an employee or an owner of a tobacco retailer.
- 234 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 235 (2) An actor commits unlawful sale of a tobacco product, electronic cigarette product, or
 236 nicotine product if the actor:
- 237 (a) is an employee; and
- 238 (b) [~~intentionally or knowingly~~] with criminal negligence, sells or gives a tobacco
 239 product, an electronic cigarette product, or a nicotine product in the course of
 240 business to an individual younger than 21 years old.
- 241 (3) A violation of Subsection (2) is:
- 242 (a) on a first violation:
- 243 (i) an infraction; and
- 244 (ii) subject to:
- 245 (A) a fine not exceeding \$1,000; or
- 246 (B) compensatory service; or
- 247 (b) on a subsequent violation:
- 248 (i) a class C misdemeanor; and
- 249 (ii) subject to:
- 250 (A) a fine not exceeding \$2,000; or
- 251 (B) compensatory service.
- 252 Section 10. Section **77-39-101** is amended to read:
- 253 **77-39-101 . Investigation of sales of alcohol, tobacco products, electronic**
 254 **cigarette products, nicotine products, and cannabinoid products to underage individuals.**
- 255 (1) As used in this section:
- 256 (a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.
- 257 (b) "Electronic cigarette product" means the same as that term is defined in Section
 258 76-9-1101.
- 259 (c) "Nicotine product" means the same as that term is defined in Section 76-9-1101.
- 260 (d) "Peace officer" means the same as the term is described in Section 53-13-109.
- 261 (e) "Tobacco product" means the same as that term is defined in Section 76-9-1101.
- 262 (2)(a) A peace officer may investigate the possible violation of:
- 263 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into
 264 and attempt to purchase or make a purchase of alcohol from a retail establishment;
- 265 (ii) Section 76-9-1103, 76-9-1104, 76-9-1105, or 76-9-1116 by requesting an
 266 individual under 21 years old to enter into and attempt to purchase or make a

- 267 purchase from a retail establishment of:
- 268 (A) a tobacco product;
- 269 (B) an electronic cigarette product; or
- 270 (C) a nicotine product; or
- 271 (iii) Subsection 4-41-105(2)(a)(iv) by requesting an individual under 21 years old to
- 272 enter into and attempt to purchase or make a purchase of a cannabinoid product
- 273 that contains THC or a THC analog from a retail establishment.
- 274 (b) A peace officer who is present at the site of a proposed purchase shall direct,
- 275 supervise, and monitor the individual requested to make the purchase.
- 276 (c) Immediately following a purchase or attempted purchase or as soon as practical the
- 277 supervising peace officer shall inform the cashier and the proprietor or manager of
- 278 the retail establishment that the attempted purchaser was under the legal age to
- 279 purchase:
- 280 (i) alcohol;
- 281 (ii)(A) a tobacco product;
- 282 (B) an electronic cigarette product; or
- 283 (C) a nicotine product; or
- 284 (iii) a cannabinoid product that contains THC or a THC analog.
- 285 (d) If a citation or information is issued, the citation or information shall be issued
- 286 within seven days after the day on which the purchase occurs.
- 287 (3)(a) If an individual under 18 years old is requested to attempt a purchase, a written
- 288 consent of that individual's parent or guardian shall be obtained before the individual
- 289 participates in any attempted purchase.
- 290 (b) An individual requested by the peace officer to attempt a purchase may:
- 291 (i) be a trained volunteer; or
- 292 (ii) receive payment, but may not be paid based on the number of successful
- 293 purchases of alcohol, tobacco products, electronic cigarette products, nicotine
- 294 products, or cannabinoid products that contain THC or a THC analog.
- 295 (4) The individual requested by the peace officer to attempt a purchase and anyone
- 296 accompanying the individual attempting a purchase may use false identification in
- 297 attempting the purchase if:
- 298 (a) the Department of Public Safety created in Section 53-1-103 provides the false
- 299 identification;
- 300 (b) the false identification:

- 301 (i) accurately represents the individual's age; and
302 (ii) displays a current photo of the individual; and
303 (c) the peace officer maintains possession of the false identification at all times outside
304 the attempt to purchase.
- 305 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
306 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
307 purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product,[-]
308 a nicotine product, or a cannabinoid product that contains THC or a THC analog if a
309 peace officer directs, supervises, and monitors the individual.
- 310 (6)(a) Except as provided in Subsection (6)(b), a purchase attempted under this section
311 shall be conducted within a 12-month period:
- 312 (i) on a random basis at any one retail establishment location, not more often than
313 four times for the attempted purchase of alcohol;
314 (ii) a minimum of two times at a retail establishment that sells tobacco products,
315 electronic cigarette products, or nicotine products for the attempted purchase of a
316 tobacco product, an electronic cigarette product, or a nicotine product; and
317 (iii) a minimum of one time at a retail establishment that sells a cannabinoid product
318 that contains THC or a THC analog.
- 319 (b) This section does not prohibit an investigation or an attempt to purchase alcohol, a
320 tobacco product, an electronic cigarette product, or a nicotine product under this
321 section if:
- 322 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
323 tobacco product, an electronic cigarette product,[-] a nicotine product, or a
324 cannabinoid product that contains THC or a THC analog to an individual under
325 the age established by Section 32B-4-403, Section 76-9-1116, or Subsection
326 4-41-105(2)(d); and
327 (ii) the supervising peace officer makes a written record of the grounds for the
328 reasonable suspicion.
- 329 (7)(a) The peace officer exercising direction, supervision, and monitoring of the
330 attempted purchase shall make a report of the attempted purchase, whether or not a
331 purchase was made.
- 332 (b) The report required by this Subsection (7) shall include:
- 333 (i) the name of the supervising peace officer;
334 (ii) the name of the individual attempting the purchase;

- 335 (iii) a photograph of the individual attempting the purchase showing how that
- 336 individual appeared at the time of the attempted purchase;
- 337 (iv) the name and description of the cashier or proprietor from whom the individual
- 338 attempted the purchase;
- 339 (v) the name and address of the retail establishment; and
- 340 (vi) the date and time of the attempted purchase.

341 Section 11. **Effective Date.**

342 This bill takes effect on May 6, 2026.