

Utah Law and Electronic Cigarettes

Recent action by the Utah State Legislature has resulted in restrictions on the use, possession, and sales of electronic cigarettes. A brief description of Utah laws that place restrictions is included below.

Utah Indoor Clean Air Act

26-38-1 to 9 The Utah Indoor Clean Air Act; R392-510-1 to 17.

Now **prohibits the use of electronic cigarettes** in the same locations that lighted or heated tobacco products are not allowed to be used. There is an exemption for businesses whose gross receipts are a minimum of 75% sales of electronic cigarettes and substances for use in electronic cigarettes to demonstrate use and allow sampling of products. Under the exemption, no one under the age of 19 is allowed to enter the premises. (This exemption sunsets in 2017).

Youth Access

76-10-104 Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor- Penalties-

Now includes electronic cigarettes in the law related to the providing [includes selling] of cigars, cigarettes, or other forms of tobacco to anyone under age 19.

76-10-105 Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by minors- Penalty.

Includes electronic cigarettes in the law related to buying or possessing cigars, cigarettes, and other forms of tobacco by anyone under the age of 19.

Retail

76-10-105.1 Requirement of direct, face-to-face sale of tobacco products and electronic cigarettes- Supremacy Clause-Penalties.

Requires that tobacco products **and electronic cigarettes** be sold "...only in a direct, face-to-face exchange between (I) an employee of the retailer and (ii) the purchaser." Self service displays that the purchaser has access to are prohibited unless retail store derives at least 80% of its revenue from tobacco and tobacco related products and where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter at any time, unless accompanied by a parent or legal guardian.

10-8-41.6 and 17-50-333 Regulation of retail tobacco specialty business. Sister laws that place limitations on where businesses can be located in a community. These laws apply to businesses whose sale of tobacco products **[including electronic cigarettes]** accounts for more than 35% of the total annual gross receipts for the establishment and whose food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment. Tobacco specialty businesses cannot be located within: (1) 1,000 feet of a community location; (2) 600 feet of another retail tobacco specialty business; (3) or 600 feet from property used or zoned for agricultural or residential use.

76-10-111 Prohibition of gift or free distribution of smokeless tobacco or electronic cigarettes- Exceptions

It is unlawful for a manufacturer, wholesaler, and retailer to give or distribute without charge any smokeless tobacco, chewing tobacco, or electronic cigarette in this state. There is an exception for adults at professional conventions where the general public is prohibited.

The material contained in the update was developed to provide general information about recent Utah legislation that includes electronic cigarettes and should not be considered legal advice. For specific information about the legal aspects of the statutes interested persons should contact their legal advisor.

Information contained in this update is subject to change without further notice.