

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0571.01 Jennifer Berman x3286

HOUSE BILL 22-1064

HOUSE SPONSORSHIP

Mullica and Bacon,

SENATE SPONSORSHIP

Priola and Fields,

House Committees

Health & Insurance
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TOBACCO PRODUCTS, AND, IN CONNECTION THEREWITH,**
102 **PROHIBITING THE DISTRIBUTION OF FLAVORED CIGARETTES,**
103 **TOBACCO PRODUCTS, OR NICOTINE PRODUCTS, AMENDING THE**
104 **DEFINITION OF CIGARETTE, TOBACCO PRODUCT, OR NICOTINE**
105 **PRODUCT TO INCLUDE PRODUCTS CONTAINING SYNTHETIC**
106 **NICOTINE, PROHIBITING THE DISTRIBUTION OF SYNTHETIC**
107 **NICOTINE PRODUCTS, AND DIRECTING THE PREVENTION**
108 **SERVICES DIVISION IN THE DEPARTMENT OF PUBLIC HEALTH AND**
109 **ENVIRONMENT TO CONVENE A WORKING GROUP TO DEVELOP**
110 **AND IMPLEMENT A GRANT PROGRAM TO ADDRESS THE NEEDS OF**
111 **COMMUNITIES DISPROPORTIONATELY IMPACTED BY TOBACCO**
112 **AND NICOTINE MARKETING, SALES, AND USE.**

*Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill makes legislative findings.

Section 3 prohibits a cigarette, tobacco product, or nicotine product (product) retailer from selling, offering for sale, advertising for sale, displaying, or marketing in the state any flavored product, and **section 2** defines flavored product as a product imparting a taste or smell other than the taste or smell of tobacco. A retailer, manufacturer of products, or employee or agent of a retailer or manufacturer of products engages in conduct creating a rebuttable presumption that a product is a flavored product if the person makes a public statement or claim, uses text or images, or takes other action directed toward consumers indicating that the product has a taste or smell other than the taste or smell of tobacco.

Section 4 imposes the same penalties for selling, offering for sale, advertising for sale, displaying, or marketing in the state any flavored product that apply to unlawful sales of products to minors.

Section 5 amends the definition of product to include products containing synthetic nicotine, and **section 2** defines synthetic nicotine as nicotine derived from a source other than tobacco.

Section 6 directs the prevention services division in the department of public health and environment (department) to convene a working group to develop, implement, and administer a grant program to award 2-year grants to applicants who are able to provide evidence-informed and individualized wrap-around services in communities disproportionately impacted by targeted tobacco and nicotine marketing and sales or by increased or minimally improved tobacco-use and nicotine-use prevalence rates. **Section 6** also directs the general assembly to appropriate \$10 million from the general fund to the department for the grant program.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds that:

4 (a) Colorado has a substantial interest in protecting the health and

1 safety of its residents, including protecting children under 18 years of age,
2 referred to in this section as "youth", as well as young adults under 21
3 years of age, from dangerous products like cigarettes, tobacco products,
4 and nicotine products, referred to collectively in this section as "tobacco
5 products";

6 (b) Use of tobacco products remains the leading cause of
7 preventable death in the United States, killing more than 480,000
8 Americans each year, including 5,100 each year in Colorado;

9 (c) According to a 2016 article in the Journal of the American
10 Medical Association Internal Medicine, "State-level Cancer Mortality
11 Attributable to Cigarette Smoking in the United States", smoking
12 accounts for 25.7% of cancer deaths in Colorado;

13 (d) According to a 2018 publication of the office of the surgeon
14 general, "Surgeon General's Advisory on E-cigarette Use Among Youth",
15 nicotine use can harm the part of the adolescent brain that is responsible
16 for attention, learning, mood, and impulse control, and nicotine use can
17 prime the brain for addiction to other drugs;

18 (e) In that same 2018 publication of the office of the surgeon
19 general, the surgeon general declared that electronic cigarette use among
20 youth is an "epidemic";

21 (f) The office of the surgeon general, in a 2012 report entitled
22 "Preventing Tobacco Use Among Youth and Young Adults: A Report of
23 the Surgeon General", determined that menthol cigarettes and other
24 flavored tobacco products have been shown to be "starter" tobacco
25 products for youth, can become habit-forming, and can lead to long-term
26 addiction;

27 (g) According to a 2013 study conducted by the federal food and

1 drug administration, "Preliminary Scientific Evolution of the Possible
2 Public Health Effects of Menthol versus Nonmenthol Cigarettes",
3 menthol is an appealing option for youth initiating tobacco use because
4 it cools and numbs the throat and reduces irritation;

5 (h) Based on the 2013 study, the federal food and drug
6 administration has determined that menthol cigarettes lead to:

7 (I) Increased initiation of smoking among youth and young adults
8 18 to 24 years of age;

9 (II) Greater addiction to tobacco products; and

10 (III) Decreased success in smoking cessation efforts;

11 (i) According to a 2019 federal centers for disease control and
12 prevention study, "Tobacco Product Use and Associated Factors Among
13 Middle and High School Students - United States, 2019", almost one-half
14 of all high school users of flavored tobacco products use menthol
15 cigarettes;

16 (j) A study in Nicotine and Tobacco Research, "The African
17 Americanization of Menthol Cigarette Use in the United States", states
18 that the tobacco product industry has targeted Black communities for
19 decades by marketing menthol cigarette use through magazine
20 advertising, retail promotions, and sponsorship of community and music
21 events;

22 (k) A 2020 article in Nicotine and Tobacco Research, "Banning
23 Menthol Cigarettes: A Social Justice Issue Long Overdue", states that,
24 while only 29% of White tobacco product users smoke menthol
25 cigarettes, 85% of Black tobacco product users and 50% of Hispanic
26 tobacco product users smoke menthol cigarettes;

27 (l) A 2015 report of the United States surgeon general, "Smoking

1 Cessation", indicated that, in the prior year, Black adult smokers had a
2 higher prevalence of attempts to quit smoking than White adult smokers,
3 but that successful attempts at cessation do not vary by race or ethnicity,
4 thus suggesting that a higher percentage of Black adults than White adults
5 are trying to quit smoking, but are less successful at quitting. Because
6 Black smokers are more likely to use menthol cigarettes than other racial
7 or ethnic groups, menthol cigarettes may play a role in this disparity.

8 (m) In a 1998 report of the United States surgeon general, it was
9 estimated that approximately 45,000 Black Americans die each year from
10 smoking-caused illnesses;

11 (n) A 2015 article in the Journal of the American Medical
12 Association, "Flavored Tobacco Product Use Among US Youth Aged
13 12-17 Years, 2013-2014", indicated that eight out of 10 youth who have
14 ever used a tobacco product first used a flavored tobacco product;

15 (o) That same article indicated that more than three-quarters of
16 youth hookah users report that they use hookah products "because they
17 come in flavors I like";

18 (p) A 2012 report of the United States surgeon general,
19 "Preventing Tobacco Use Among Youth and Young Adults: A Report of
20 the Surgeon General", indicated that hookah smoke contains at least 82
21 toxicants and carcinogens and that smoking hookah is linked to many of
22 the same adverse health effects as cigarette smoking, such as heart disease
23 and lung, bladder, and oral cancers;

24 (q) Electronic cigarettes and other flavored tobacco products have
25 been made available in a variety of kid-friendly flavors, like cotton candy,
26 gummy candy, and pink lemonade;

27 (r) Likewise, cigars are sold in hundreds of flavors to mask the

1 harsh taste of tobacco, such as cherry, brownie, and tropical flavors;

2 (s) A 2019 Healthy Kids Colorado Survey conducted by the
3 Colorado Center for Health and Environmental Data showed that 25.9%
4 of Colorado high school students use electronic cigarettes;

5 (t) According to a 2018 report of the National Academies of
6 Science, Engineering, and Medicine, "Public Health Consequences of
7 E-cigarettes", youth usage of electronic cigarettes is associated with an
8 increased risk of cigarette smoking;

9 (u) A United States department of health and human services
10 report, "Results from the 2019 National Survey on Drug Use and Health:
11 Summary of National Findings and Detailed Tables", estimates that each
12 year, 9,900 Colorado youth will try their first cigarette;

13 (v) According to a 2020 nationwide study by the federal centers
14 for disease control and prevention, "E-cigarette Use Among Middle and
15 High School Students - United States, 2020":

16 (I) More than two million youth nationwide use electronic
17 cigarettes;

18 (II) Nearly 40% of high school students who use electronic
19 cigarettes use them frequently;

20 (III) 85% of youth using electronic cigarettes use flavored
21 products;

22 (IV) Cigars are the second most popular tobacco product for youth
23 and are disproportionately used by Black youth; and

24 (V) The growing market for flavored tobacco products
25 undermines the nation's progress toward reducing overall youth tobacco
26 product use; and

27 (w) A 2021 article in the Journal of the American Medical

1 Association, "Nicotine Pouch Unit Sales in the U.S. From 2016 to 2020
2 - Reply", stated that "[w]hether derived from tobacco plants or
3 synthetically developed in a laboratory, nicotine is an addictive drug with
4 known adverse health consequences", particularly to youth.

5 (2) The general assembly further finds and declares that:

6 (a) Many parents, students, schools, and public health
7 organizations, including the American Cancer Society, the American
8 Lung Association, the American Heart Association, and the Campaign for
9 Tobacco-free Kids, support a prohibition on the sale of all flavored
10 tobacco products; and

11 (b) Therefore, the sale of flavored tobacco products in the state
12 should be prohibited.

13 **SECTION 2.** In Colorado Revised Statutes, 44-7-102, **amend (1);**
14 **and add (1.3), (1.5), (4.5), (5.5), (9.5) and (12.2)** as follows:

15 **44-7-102. Definitions.** As used in this article 7, unless the context
16 otherwise requires:

17 (1) ~~"Cigarette, tobacco product, or nicotine product" has the same~~
18 ~~meaning as provided in section 18-13-121 (5)(a)~~ "AGE-RESTRICTED
19 PREMISES" MEANS A RETAIL LOCATION AT WHICH A CUSTOMER, IN ORDER
20 TO ENTER THE RETAIL LOCATION, MUST PRESENT TO THE OWNER OR AN
21 EMPLOYEE AT THE ENTRANCE TO THE PREMISES, A VALID
22 GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION THAT
23 DEMONSTRATES THAT THE CUSTOMER IS TWENTY-ONE YEARS OF AGE OR
24 OLDER.

25 (b) "AGE-RESTRICTED PREMISES" INCLUDES A RETAIL LOCATION
26 THAT MEETS THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION
27 AND AT WHICH CUSTOMERS CONSUME CIGARETTES, TOBACCO PRODUCTS,

1 OR NICOTINE PRODUCTS ON PREMISES, SUCH AS A HOOKAH LOUNGE OR
2 CIGAR-TOBACCO BAR, AS DEFINED IN SECTION 25-14-203 (4).

3 (c) "AGE-RESTRICTED PREMISES" DOES NOT INCLUDE A RETAIL
4 LIQUOR STORE AS DEFINED IN SECTION 44-3-103 (48).

5 (1.3) "CIGAR LOUNGE" MEANS AN ESTABLISHMENT THAT:

6 (a) IS EXEMPTED FROM INDOOR SMOKING RESTRICTIONS UNDER
7 SECTION 25-14-205;

8 (b) IN THE CALENDAR YEAR ENDING DECEMBER 31, 2022, AND FOR
9 EACH CALENDAR YEAR THEREAFTER, GENERATES NINETY PERCENT OR
10 MORE OF ITS REVENUE FROM THE SALE FOR ON-SITE CONSUMPTION OF
11 PREMIUM CIGARS;

12 (c) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.3):

13 (I) HAS NOT CHANGED OWNERSHIP;

14 (II) HAS NOT EXPANDED IN SIZE OR CHANGED ITS LOCATION; AND

15 (III) HAS NOT BEEN CLOSED FOR MORE THAN SIXTY CONSECUTIVE
16 DAYS; AND

17 (d) DOES NOT PERMIT ON ITS PREMISES:

18 (I) AN INDIVIDUAL UNDER TWENTY-ONE YEARS OF AGE;

19 (II) THE CONSUMPTION OF FOOD OR ALCOHOL BEVERAGES; AND

20 (III) ANY PERFORMANCE OF LIVE ENTERTAINMENT, INCLUDING
21 PERFORMANCES BY SINGERS, MUSICIANS, DISC JOCKEYS, DANCERS, OR
22 COMEDIANS.

23 (1.5) "CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT"
24 HAS THE SAME MEANING AS PROVIDED IN SECTION 18-13-121 (5).

25 (4.5) "FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
26 PRODUCT" MEANS A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
27 PRODUCT THAT, EITHER BEFORE OR DURING THE CONSUMPTION OF THE

1 CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT, IMPARTS A TASTE
2 OR SMELL OTHER THAN THE TASTE OR SMELL OF TOBACCO, INCLUDING ANY
3 TASTE OR SMELL RELATING TO FRUIT, MENTHOL, MINT, WINTERGREEN,
4 CHOCOLATE, COCOA, VANILLA, HONEY, CANDY, DESSERT, ALCOHOL
5 BEVERAGE, HERB, OR SPICE.

6 (5.5) "ID SCANNER" MEANS AN ELECTRONIC DEVICE USED TO SCAN
7 AND VERIFY IN REAL TIME THE AUTHENTICITY OF AN IDENTIFICATION
8 PURPORTED TO BE A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC
9 IDENTIFICATION CARD.

10 (9.5) "PREMIUM CIGAR" MEANS A CIGAR THAT:

11 (a) IS HANDMADE;

12 (b) IS NOT MASS PRODUCED THROUGH USE OF MECHANIZATION;

13 (c) HAS A WRAPPER THAT IS MADE ENTIRELY FROM WHOLE
14 TOBACCO LEAF;

15 (d) HAS A FILLER COMPOSED OF AT LEAST FIFTY PERCENT NATURAL
16 LONG-LEAF FILLER TOBACCO;

17 (e) DOES NOT HAVE A FILTER, TIP, OR NONTOBACCO MOUTHPIECE;

18 (f) IS CAPPED BY HAND; AND

19 (g) HAS A WHOLESALE PRICE PER CIGAR OF NO LESS THAN:

20 (I) FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2022,
21 TWELVE DOLLARS; AND

22 (II) FOR CALENDAR YEAR 2023, AND FOR EACH CALENDAR YEAR
23 THEREAFTER, TWELVE DOLLARS PLUS THE AMOUNT REFLECTING ANY
24 PERCENTAGE INCREASE IN THE UNITED STATES DEPARTMENT OF LABOR'S
25 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
26 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
27 CONSUMERS, OR ITS SUCCESSOR INDEX.

1 (12.2) "SYNTHETIC NICOTINE" MEANS NICOTINE DERIVED FROM A
2 SOURCE OTHER THAN TOBACCO.

3 **SECTION 3.** In Colorado Revised Statutes, **add** 44-7-104.9 as
4 follows:

5 **44-7-104.9. Prohibition on sale or advertisement of flavored**
6 **cigarettes, tobacco products, or nicotine products or synthetic**
7 **nicotine products - permit for age-restricted premises - rules -**
8 **definition - rebuttable presumption.** (1) (a) A RETAILER SHALL NOT
9 SELL, OFFER FOR SALE, ADVERTISE FOR SALE, DISPLAY, MARKET, SHIP, OR
10 DELIVER IN THIS STATE ANY FLAVORED CIGARETTE, TOBACCO PRODUCT,
11 OR NICOTINE PRODUCT; EXCEPT THAT A RETAILER MAY SELL, OFFER FOR
12 SALE, ADVERTISE FOR SALE, DISPLAY, OR MARKET IN THE STATE ANY
13 FLAVORED PIPE TOBACCO PRODUCT.

14 (b) A RETAILER AUTHORIZED TO DELIVER CIGARETTES, TOBACCO
15 PRODUCTS, OR NICOTINE PRODUCTS PURSUANT TO SECTION 44-7-104.7
16 (3)(b) OR (3)(c) SHALL NOT DELIVER FLAVORED CIGARETTES, TOBACCO
17 PRODUCTS, OR NICOTINE PRODUCTS.

18 (2) THE FOLLOWING CONDUCT OF A RETAILER, A MANUFACTURER
19 OF A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT, OR AN
20 EMPLOYEE OR AGENT OF A RETAILER OR MANUFACTURER OF CIGARETTES,
21 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS CREATES A REBUTTABLE
22 PRESUMPTION THAT A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
23 PRODUCT IS A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
24 PRODUCT:

25 (a) MAKING A PUBLIC STATEMENT OR CLAIM THAT THE CIGARETTE,
26 TOBACCO PRODUCT, OR NICOTINE PRODUCT IMPARTS A TASTE OR SMELL
27 OTHER THAN THE TASTE OR SMELL OF TOBACCO;

1 (b) USING TEXT, IMAGES, OR BOTH ON THE LABELING OR
2 PACKAGING OF THE CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
3 PRODUCT TO INDICATE, EXPLICITLY OR IMPLICITLY, THAT THE CIGARETTE,
4 TOBACCO PRODUCT, OR NICOTINE PRODUCT IMPARTS A TASTE OR SMELL
5 OTHER THAN THE TASTE OR SMELL OF TOBACCO; OR

6 (c) TAKING ACTION DIRECTED TO CONSUMERS THAT WOULD BE
7 REASONABLY EXPECTED TO CAUSE CONSUMERS TO BELIEVE THAT THE
8 CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT IMPARTS A TASTE
9 OR SMELL OTHER THAN THE TASTE OR SMELL OF TOBACCO.

10 (3) A RETAILER SHALL NOT SELL, OFFER FOR SALE, ADVERTISE FOR
11 SALE, DISPLAY, OR MARKET IN THIS STATE ANY SYNTHETIC NICOTINE
12 PRODUCT.

13 (4) THIS SECTION IS ENFORCEABLE ONLY AGAINST A RETAILER AND
14 SHALL NOT BE ENFORCED AGAINST ANY CONSUMER WHO PURCHASES,
15 USES, OR POSSESSES A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR
16 NICOTINE PRODUCT OR SYNTHETIC NICOTINE PRODUCT.

17 (5) THIS SECTION DOES NOT APPLY TO A PREMIUM CIGAR SOLD AT
18 A CIGAR LOUNGE FOR ON-SITE CONSUMPTION.

19 (6) (a) (I) A RETAILER SHALL NOT SELL OR PERMIT THE SALE OF
20 FLAVORED CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS IN
21 THE STATE WITHOUT FIRST OBTAINING FROM THE DIVISION A PERMIT TO
22 SELL FLAVORED CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
23 PRODUCTS AT AN AGE-RESTRICTED PREMISES.

24 (II) ONLY A RETAILER WITH A VALID STATE LICENSE MAY APPLY
25 FOR A PERMIT PURSUANT TO THIS SUBSECTION (6), AND ONLY WITH
26 RESPECT TO A RETAIL LOCATION THAT, AS OF THE EFFECTIVE DATE OF THIS
27 SUBSECTION (6), IS AN AGE-RESTRICTED PREMISES. TO APPLY FOR AN

1 INITIAL PERMIT, A RETAILER SHALL PAY A FEE IN AN AMOUNT OF THREE
2 THOUSAND DOLLARS OR AN AMOUNT DETERMINED BY THE EXECUTIVE
3 DIRECTOR BY RULE PURSUANT TO SUBSECTION (6)(c)(II) OF THIS SECTION.

4 (III) A PERMIT IS VALID FOR ONE YEAR AND MAY BE RENEWED IN
5 THE FORM AND MANNER DETERMINED BY THE DIVISION AND BY PAYMENT
6 OF A RENEWAL FEE SET BY RULE PURSUANT TO SUBSECTION (6)(c)(II) OF
7 THIS SECTION. IF A PERMIT HOLDER'S STATE LICENSE IS SUSPENDED OR
8 REVOKED, THE PERMIT HOLDER'S PERMIT IS LIKEWISE SUSPENDED OR
9 REVOKED.

10 (IV) AN OWNER OF MULTIPLE RETAIL LOCATIONS THAT ARE
11 AGE-RESTRICTED PREMISES MUST APPLY FOR A SEPARATE PERMIT FOR
12 EACH RETAIL LOCATION.

13 (V) A PERMIT IS NONTRANSFERABLE. IF A PERMIT HOLDER CEASES
14 TO BE A RETAILER AT A RETAIL LOCATION BY REASON OF
15 DISCONTINUANCE, SALE, OR TRANSFER OF THE PERMIT HOLDER'S BUSINESS,
16 THE PERMIT HOLDER SHALL NOTIFY THE DIVISION IN WRITING ON OR
17 BEFORE THE DATE ON WHICH THE DISCONTINUANCE, SALE, OR TRANSFER
18 TAKES EFFECT.

19 (b) (I) THE DIVISION SHALL APPROVE OR DENY AN APPLICATION
20 FOR A PERMIT WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION
21 AND PERMIT FEE. IF THE DIVISION DENIES AN APPLICATION, IT SHALL
22 INFORM THE APPLICANT OF THE REASONS FOR THE DENIAL, AND THE
23 APPLICANT, WITHIN FOURTEEN DAYS AFTER RECEIVING THE WRITTEN
24 DENIAL, MAY REQUEST THAT A HEARING BE HELD ON THE MATTER IN
25 ACCORDANCE WITH SECTION 44-7-105.

26 (II) UPON OBTAINING A PERMIT FROM THE DIVISION PURSUANT TO
27 THIS SUBSECTION (6), THE RETAILER SHALL CONSPICUOUSLY DISPLAY THE

1 PERMIT AT THE RETAIL LOCATION.

2 (III) THE DIVISION MAY COORDINATE THE RENEWAL DATE FOR A
3 PERMIT WITH THE RENEWAL DATE FOR THE PERMIT HOLDER'S STATE
4 LICENSE FOR THE RETAIL LOCATION.

5 (c) THE EXECUTIVE DIRECTOR SHALL ADOPT RULES ESTABLISHING
6 THE FOLLOWING WITH REGARD TO PERMITS ISSUED PURSUANT TO THIS
7 SUBSECTION (6):

8 (I) NOTWITHSTANDING SECTION 44-7-104 (3)(b)(I), A
9 REQUIREMENT THAT THE DIVISION PERFORM, CAUSE TO BE PERFORMED, OR
10 COORDINATE WITH A LOCAL AUTHORITY IN THE PERFORMANCE OF AT
11 LEAST SIX COMPLIANCE CHECKS PER YEAR OF AN AGE-RESTRICTED
12 PREMISES FOR WHICH THE RETAILER HAS OBTAINED A PERMIT PURSUANT
13 TO THIS SUBSECTION (6). THE COMPLIANCE CHECKS MUST INCLUDE:

14 (A) VERIFICATION THAT IDENTIFICATION IS CHECKED AT THE
15 ENTRANCE TO THE AGE-RESTRICTED PREMISES; AND

16 (B) VERIFICATION THAT, IN CHECKING IDENTIFICATION, THE
17 RETAILER USES AN ID SCANNER THAT COMPLIES WITH RULES ADOPTED
18 PURSUANT TO SUBSECTION (6)(c)(III) OF THIS SECTION.

19 (II) A PERMIT RENEWAL FEE IN AN AMOUNT EQUAL TO THE DIRECT
20 AND INDIRECT COSTS THAT THE DIVISION INCURS IN ENFORCING PERMITS,
21 INCLUDING THE DIRECT AND INDIRECT COSTS INCURRED IN PERFORMING
22 COMPLIANCE CHECKS. THE EXECUTIVE DIRECTOR MAY, BY RULE, ADJUST
23 THE INITIAL PERMIT FEE SET IN SUBSECTION (6)(a)(II) OF THIS SECTION IF
24 THE ADJUSTED FEE EQUALS THE DIRECT AND INDIRECT COSTS THAT THE
25 DIVISION INCURS IN ENFORCING PERMITS.

26 (III) SPECIFICATION REQUIREMENTS FOR ID SCANNERS USED AT
27 AGE-RESTRICTED PREMISES OR A LIST OF APPROVED ID SCANNER MODELS,

1 BASED ON THE NEED FOR RETAILERS TO USE THE MOST ACCURATE ID
2 SCANNERS AVAILABLE AT AGE-RESTRICTED PREMISES; AND

3 (IV) THE MAXIMUM NUMBER OF ANNUAL PERMITS THAT THE
4 DIVISION MAY ISSUE BASED ON THE NUMBER OF RETAIL LOCATIONS THAT,
5 AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (6), ARE:

6 (A) AGE-RESTRICTED PREMISES; AND

7 (B) OPERATED UNDER A VALID LICENSE ISSUED PURSUANT TO
8 SECTION 44-7-104.5.

9 (d) A PERMIT ISSUED UNDER THIS SUBSECTION (6) IS SUBJECT TO
10 THE SAME SUSPENSION AND REVOCATION PROVISIONS SET FORTH IN
11 SECTION 44-7-105 (1)(b).

12 (e) (I) THE DIVISION SHALL REQUIRE AS A CONDITION OF A PERMIT
13 ISSUED PURSUANT TO THIS SUBSECTION (6) THAT THE RETAILER AFFIX A
14 UNIQUE IDENTIFYING NUMBER TO, OR HAVE A UNIQUE IDENTIFYING
15 NUMBER AFFIXED TO, THE PACKAGING OF THE FOLLOWING PRODUCTS:

16 (A) EACH INDIVIDUAL ELECTRONIC SMOKING DEVICE THAT IS
17 OFFERED FOR SALE AT THE RETAIL LOCATION FOR WHICH THE PERMIT IS
18 ISSUED AND THAT IS A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR
19 NICOTINE PRODUCT; AND

20 (B) EACH INDIVIDUAL CARTRIDGE OR OTHER CONTAINER OF LIQUID
21 THAT IS INTENDED TO BE VAPORIZED WHEN USED WITH AN ELECTRONIC
22 SMOKING DEVICE, SUCH AS A VAPE PEN; THAT IS OFFERED FOR SALE AT THE
23 RETAIL LOCATION FOR WHICH THE PERMIT IS ISSUED; AND THAT IS A
24 FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT.

25 (II) THE DIVISION SHALL DEVELOP OR CAUSE TO BE DEVELOPED A
26 SYSTEM THROUGH WHICH A UNIQUE IDENTIFYING NUMBER AFFIXED TO THE
27 PACKAGING OF A PRODUCT LISTED IN SUBSECTION (6)(e)(I)(A) OR

1 (6)(e)(I)(B) OF THIS SECTION MAY BE TRACKED IN ORDER TO DETERMINE
2 THE RETAIL LOCATION AT WHICH THE PRODUCT WAS SOLD, FURNISHED, OR
3 OTHERWISE OBTAINED. THE SYSTEM MUST ALSO INCORPORATE DATA
4 INCLUDED IN RETAILERS' MONTHLY REPORTS SUBMITTED TO THE DIVISION
5 PURSUANT TO SUBSECTION (6)(e)(IV)(C) OF THIS SECTION REGARDING THE
6 FLAVORED CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
7 SOLD AND WHEN AND TO WHOM THEY WERE SOLD. THE DIVISION SHALL
8 ENSURE THAT LOCAL LICENSING AUTHORITIES MAY ACCESS THE SYSTEM,
9 OR BE ABLE TO REQUEST FROM THE DIVISION DATA LOGGED INTO THE
10 SYSTEM, TO ENFORCE AGAINST THE UNLAWFUL SALE OR FURNISHING OF
11 FLAVORED CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO
12 MINORS.

13 (III) IF SCHOOL PERSONNEL OR A PARENT FINDS A MINOR IN
14 POSSESSION OF A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
15 PRODUCT WITH A UNIQUE IDENTIFYING NUMBER AFFIXED TO THE
16 PACKAGING OF THE PRODUCT AND REPORTS IT TO THE DIVISION OR A
17 LOCAL LICENSING AUTHORITY, THE DIVISION OR LOCAL LICENSING
18 AUTHORITY MAY USE THE UNIQUE IDENTIFYING NUMBER AND THE RESULTS
19 OF A SEARCH CONDUCTED ON THE UNIQUE IDENTIFYING NUMBER IN AN
20 INVESTIGATION TO DETERMINE:

21 (A) AT WHICH RETAIL LOCATION THE FLAVORED CIGARETTE,
22 TOBACCO PRODUCT, OR NICOTINE PRODUCT WAS SOLD;

23 (B) WHO FURNISHED THE FLAVORED CIGARETTE, TOBACCO
24 PRODUCT, OR NICOTINE PRODUCT TO THE MINOR;

25 (C) WHETHER THE PERSON WHO FURNISHED THE FLAVORED
26 CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT TO THE MINOR, IF
27 THE PERSON WAS A RETAILER OR EMPLOYEE OF A RETAILER, WAS

1 PRESENTED WITH AND REASONABLY RELIED UPON A GOVERNMENT-ISSUED
2 PHOTOGRAPHIC IDENTIFICATION INDICATING THAT THE MINOR WAS AN
3 ADULT AT THE TIME OF PURCHASE; AND

4 (D) WHETHER AND TO WHAT EXTENT THE PERSON SHOULD BE
5 PENALIZED UNDER SECTION 18-13-121 (1) AND, IF THE PERSON IS A
6 RETAILER, PURSUANT TO SECTION 44-7-106.

7 (IV) AS ADDITIONAL CONDITIONS OF A PERMIT ISSUED TO A
8 RETAILER PURSUANT TO THIS SUBSECTION (6), A RETAILER SHALL AGREE,
9 IN THE FORM AND MANNER DETERMINED BY THE DIVISION, TO:

10 (A) MAINTAIN RECORDS OF UNIQUE IDENTIFYING NUMBERS IN A
11 MANNER THAT ALLOWS A DETERMINATION OF WHEN A FLAVORED
12 CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT WITH A UNIQUE
13 IDENTIFYING NUMBER AFFIXED TO ITS PACKAGING WAS SOLD AND WHEN
14 AND TO WHOM IT WAS SOLD;

15 (B) COOPERATE WITH ANY INVESTIGATION INVOLVING A UNIQUE
16 IDENTIFYING NUMBER, INCLUDING ALLOWING ACCESS TO THE RETAILER'S
17 RECORDS DESCRIBED IN SUBSECTION (6)(e)(IV)(A) OF THIS SECTION; AND

18 (C) PROVIDE THE DIVISION WITH MONTHLY REPORTS, IN THE FORM
19 AND MANNER DETERMINED BY THE DIVISION, INDICATING THE FLAVORED
20 CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS SOLD AND
21 WHEN AND TO WHOM THE PRODUCTS WERE SOLD.

22 (V) THE EXECUTIVE DIRECTOR SHALL ADOPT RULES REGARDING
23 THE IMPLEMENTATION OF THIS SUBSECTION (6)(e), INCLUDING RULES
24 REGARDING THE FOLLOWING:

25 (A) THE MECHANISM BY WHICH UNIQUE IDENTIFYING NUMBERS
26 WILL BE ASSIGNED FOR THE FLAVORED CIGARETTES, TOBACCO PRODUCTS,
27 AND NICOTINE PRODUCTS LISTED IN SUBSECTIONS (6)(e)(I)(A) AND

1 (6)(e)(I)(B) OF THIS SECTION;
2 (B) THE SYSTEM CREATED IN ACCORDANCE WITH SUBSECTION
3 (6)(e)(II) OF THIS SECTION; AND
4 (C) ANY OTHER RULES NECESSARY TO IMPLEMENT THIS
5 SUBSECTION (6)(e).
6 (VI) AS USED IN THIS SUBSECTION (6)(e), "UNIQUE IDENTIFYING
7 NUMBER" MEANS A UNIQUE SERIES OF NUMERALS, LETTERS, OR BOTH
8 NUMERALS AND LETTERS.

9 **SECTION 4.** In Colorado Revised Statutes, 44-7-106, **amend**
10 (1)(a) introductory portion as follows:

11 **44-7-106. Limitation on fines.** (1) (a) For a violation of section
12 44-7-103 (1) OR 44-7-104.9, the penalty is as follows:

13 **SECTION 5.** In Colorado Revised Statutes, 18-13-121, **amend**
14 (5); and **add** (6) as follows:

15 **18-13-121. Furnishing cigarettes, tobacco products, or nicotine**
16 **products to persons under twenty-one years of age - definitions.**

17 (5) (a) As used in this section, "cigarette, tobacco product, or nicotine
18 product" means:

19 (I) A product that contains, IS MADE OF, OR IS DERIVED FROM
20 nicotine, ~~or tobacco, or is derived from tobacco,~~ SYNTHETIC NICOTINE and
21 is intended ~~to be ingested or inhaled by~~ FOR HUMAN CONSUMPTION, OR IS
22 LIKELY TO BE CONSUMED, THROUGH INGESTION OR INHALATION ~~or applied~~
23 BY APPLICATION to the skin of an individual; ~~or~~

24 (II) Any device that can be used to deliver tobacco, ~~or~~ nicotine,
25 SYNTHETIC NICOTINE, OR ANY SUBSTANCE THAT CONTAINS NICOTINE OR
26 SYNTHETIC NICOTINE to the person inhaling from the device BY
27 AEROSOLIZING OR VAPORIZING THE TOBACCO, NICOTINE, SYNTHETIC

1 NICOTINE, OR SUBSTANCE THAT CONTAINS NICOTINE OR SYNTHETIC
2 NICOTINE, including:

3 (A) An electronic cigarette;

4 (B) AN ELECTRONIC cigar;

5 (C) AN ELECTRONIC cigarillo; or

6 (D) AN ELECTRONIC pipe; OR

7 (III) ANY COMPONENT, PART, OR ACCESSORY OF A PRODUCT
8 DESCRIBED IN SUBSECTION (5)(a)(I) OF THIS SECTION OR A DEVICE
9 DESCRIBED IN SUBSECTION (5)(a)(II) OF THIS SECTION, WHETHER THE
10 COMPONENT, PART, OR ACCESSORY CONTAINS TOBACCO, NICOTINE, OR
11 SYNTHETIC NICOTINE, INCLUDING FILTERS, ROLLING PAPERS, BLUNT OR
12 HEMP WRAPS, HOOKAHS, FLAVOR ENHANCERS, OR PIPES.

13 (b) ~~Notwithstanding any provision of paragraph (a) of this~~
14 ~~subsection (5) to the contrary,~~ "Cigarette, tobacco product, or nicotine
15 product" does not mean a product that DRUGS, DEVICES, OR COMBINATION
16 PRODUCTS AUTHORIZED FOR SALE BY the food and drug administration of
17 the United States department of health and human services, ~~has approved~~
18 ~~as a tobacco use cessation product~~ AS THOSE TERMS ARE DEFINED IN THE
19 "FEDERAL FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET SEQ.

20 (6) AS USED IN THIS SECTION, "SYNTHETIC NICOTINE" MEANS
21 NICOTINE DERIVED FROM A SOURCE OTHER THAN TOBACCO.

22 **SECTION 6.** In Colorado Revised Statutes, **add 25-3.5-811** as
23 follows:

24 **25-3.5-811. Grant program - disproportionately impacted**
25 **communities - administration by working group - grant applicant**
26 **eligibility - appropriation - report.** (1) BY AUGUST 1, 2022, THE
27 DIVISION SHALL CONVENE A WORKING GROUP TO DEVELOP, IMPLEMENT,

1 AND ADMINISTER A GRANT PROGRAM TO PROVIDE RESOURCES TO
2 COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE MARKETING AND
3 SALES OF TOBACCO AND NICOTINE PRODUCTS AND THE PREVALENCE OF
4 TOBACCO AND NICOTINE PRODUCT USE IN THE COMMUNITIES. THE
5 WORKING GROUP MUST INCLUDE REPRESENTATIVES FROM:

- 6 (a) COMMUNITY-BASED ORGANIZATIONS;
- 7 (b) PUBLIC HEALTH ORGANIZATIONS AND INSTITUTIONS;
- 8 (c) HEALTH CLINICS THAT SERVE COMMUNITIES THAT ARE
9 DISPROPORTIONATELY IMPACTED BY TOBACCO MARKETING, SALES, AND
10 USE;
- 11 (d) COLORADO-BASED FOUNDATIONS;
- 12 (e) THE KINDERGARTEN THROUGH TWELFTH GRADE EDUCATION
13 COMMUNITY; AND
- 14 (f) ADVOCACY ORGANIZATIONS THAT WORK DIRECTLY WITH
15 COMMUNITIES DISPROPORTIONATELY IMPACTED BY TOBACCO AND
16 NICOTINE MARKETING, SALES, AND USE AND THAT PROVIDE CULTURALLY
17 COMPETENT SERVICES.

18 (2)(a) THE WORKING GROUP SHALL MEET AS NECESSARY IN ORDER
19 TO DEVELOP AND IMPLEMENT THE GRANT PROGRAM BY JANUARY 15, 2023.

20 (b) THE WORKING GROUP SHALL DEVELOP THE PROCESS FOR GRANT
21 APPLICANTS TO APPLY FOR A GRANT AND THE CRITERIA FOR GRANT
22 APPLICANTS TO QUALIFY FOR A GRANT, WHICH CRITERIA MUST, AT A
23 MINIMUM, REQUIRE A GRANT APPLICANT TO:

24 (I) SERVE COMMUNITIES AND INDIVIDUALS THAT HAVE BEEN
25 DISPROPORTIONATELY IMPACTED BY:

26 (A) TARGETED TOBACCO AND NICOTINE MARKETING AND USE IN
27 THE COMMUNITY; OR

1 (B) INCREASED OR MINIMAL IMPROVEMENTS IN TOBACCO-USE AND
2 NICOTINE-USE PREVALENCE RATES AND A HEIGHTENED NEED FOR SUPPORT
3 AND RESOURCES TO STOP PERSONAL TOBACCO AND NICOTINE USE; AND

4 (II) PROVIDE EVIDENCE-INFORMED AND INDIVIDUALIZED
5 WRAP-AROUND SERVICES.

6 (c) THE WORKING GROUP SHALL REVIEW GRANT APPLICATIONS
7 AND MAKE RECOMMENDATIONS TO THE DIVISION REGARDING GRANT
8 AWARDS. THE DIVISION SHALL AWARD GRANTS BY APRIL 15, 2023, AND BY
9 EACH APRIL 15 THEREAFTER.

10 (3) (a) FOR THE 2022-23 STATE FISCAL YEAR, THE GENERAL
11 ASSEMBLY SHALL APPROPRIATE TEN MILLION DOLLARS FROM THE
12 GENERAL FUND TO THE DEPARTMENT FOR USE BY THE DIVISION PURSUANT
13 TO THIS SECTION. THE DIVISION SHALL AWARD TWO-YEAR GRANTS TO
14 APPLICANTS BASED ON THE RECOMMENDATIONS OF THE WORKING GROUP.

15 (b) ANY MONEY APPROPRIATED PURSUANT TO THIS SUBSECTION (3)
16 THAT IS NOT EXPENDED OR ENCUMBERED AT THE END OF THE 2022-23
17 STATE FISCAL YEAR REMAINS AVAILABLE FOR EXPENDITURE IN
18 SUBSEQUENT FISCAL YEARS WITHOUT FURTHER APPROPRIATION,

19 (4) THE DIRECTOR SHALL REPORT ON THE GRANT PROGRAM AS
20 PART OF THE DEPARTMENT'S ANNUAL REPORTING UNDER THE "STATE
21 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
22 (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

23 **SECTION 7.** In Colorado Revised Statutes, **amend 25-3.5-809**
24 as follows:

25 **25-3.5-809. Tobacco education, prevention, and cessation**
26 **programs - funding.** The programs under this part 8, OTHER THAN THE
27 GRANT PROGRAM ESTABLISHED PURSUANT TO SECTION 25-3.5-811, shall

1 be funded by ~~moneys~~ MONEY annually appropriated by the general
2 assembly to the department from the tobacco education programs fund
3 created in section 24-22-117. ~~C.R.S.~~

4 **SECTION 8. Effective date - applicability.** (1) Except as
5 provided in subsection (2) of this section, this act takes effect July 1,
6 2022, and applies to conduct occurring on or after the effective date of
7 this act.

8 (2) Sections 3 and 4 of this act take effect January 1, 2024, and
9 apply to conduct occurring on or after the effective date of sections 3 and
10 4 of this act.

11 **SECTION 9. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.