

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred Senate Bill No.
3 18 entitled “An act relating to banning flavored tobacco products and e-
4 liquids” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

9 (1) Tobacco use is costly. Vermont spends more than \$400 million
10 annually to treat tobacco-caused illnesses, including more than \$90 million
11 each year in Medicaid expenses. This translates into a tax burden each year of
12 over \$1,000.00 per Vermont household. Smoking-related productivity losses
13 add another \$576 million in additional costs each year.

14 (2) Youth tobacco use is growing due to e-cigarettes. Seven percent of
15 Vermont high school students smoke, but if e-cigarette use is included,
16 28 percent of Vermont youths use some form of tobacco product. More than
17 one in four Vermont high school students now uses e-cigarettes. Use more
18 than doubled among this age group, from 12 percent to 26 percent, between
19 2017 and 2019.

20 (3) ~~Eliminating the sale of menthol tobacco products promotes health~~
21 equity. Menthol cigarette use is more prevalent among persons of color who

1 smoke than among white persons who smoke and is more common among
2 lesbian, gay, bisexual, and transgender smokers than among heterosexual
3 smokers. Eighty-five percent of African American adult smokers use menthol
4 cigarettes, and of Black youths 12–17 years of age who smoke, seven out of 10
5 use menthol cigarettes. Tobacco industry documents show a concerted effort
6 to target African Americans through specific advertising efforts.

7 Sec. 2. 7 V.S.A. chapter 40 is amended to read:

8 CHAPTER 40. TOBACCO PRODUCTS

9 § 1001. DEFINITIONS

10 As used in this chapter:

11 (1) “Bidis” or “Beedies” means a product containing tobacco that is
12 wrapped in temburni leaf (diospyros melanoxyton) or tendu leaf (diospyros
13 exculpra), or any other product that is offered to, or purchased by, consumers
14 as bidis or beedies.

15 (2) “Board” means the Board of Liquor and Lottery.

16 (3) “Characterizing flavor” means a taste or aroma, other than the taste
17 or aroma of tobacco, imparted either prior to or during consumption of a
18 tobacco product or tobacco substitute, or a component part or byproduct of a
19 tobacco product or tobacco substitute. The term includes tastes or aromas
20 relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert,
21 alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or

1 drink, or to any conceptual flavor that imparts a taste or aroma that is
2 distinguishable from tobacco flavor but may not relate to any particular known
3 flavor. The term also includes induced sensations, such as those produced by
4 synthetic cooling agents, regardless of whether the agent itself imparts any
5 taste or aroma.

6 (4) “Child-resistant packaging” means packaging that is designed or
7 constructed to be significantly difficult for children under five years of age to
8 open or obtain a toxic or harmful amount of the substance in the container
9 within a reasonable time and not difficult for normal adults to use properly but
10 does not mean packaging that all children under five years of age cannot open
11 or obtain a toxic or harmful amount of the substance in the container within a
12 reasonable time.

13 (5) “Cigarette” means:

14 (A) any roll of tobacco wrapped in paper or any substance not
15 containing tobacco; and

16 (B) any roll of tobacco wrapped in a substance containing tobacco
17 that, because of its appearance, the type of tobacco used in the filler, or its
18 packaging and labeling, is likely to be offered to, or purchased by, consumers
19 as a cigarette described in subdivision (A) of this subdivision (5).

20 (2)(6) “Commissioner” means the Commissioner of Liquor and Lottery.

1 ~~(3) “Tobacco products” means cigarettes, little cigars, roll-your-own~~
2 ~~tobacco, snuff, cigars, new smokeless tobacco, and other tobacco products as~~
3 ~~defined in 32 V.S.A. § 7702.~~

4 ~~(4) “Vending machine” means any mechanical, electronic, or other~~
5 ~~similar device that dispenses tobacco products for money.~~

6 (7) “E-liquid” means the solution, substance, or other material used in or
7 with a tobacco substitute that is heated or otherwise acted upon to produce an
8 aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the
9 user, regardless of whether the solution, substance, or other material contains
10 nicotine. The term does not include cannabis products as defined in section
11 831 of this title or products that are regulated by the Cannabis Control Board.

12 (8) “E-liquid container or other container holding a liquid or gel
13 substance containing nicotine” means a bottle or other container of an e-liquid
14 containing nicotine or a nicotine liquid or other substance containing nicotine
15 that is sold, marketed, or intended for use in a tobacco substitute. The term
16 does not include a container containing nicotine in a cartridge that is sold,
17 marketed, or intended for use in a tobacco substitute if the cartridge is prefilled
18 and sealed by the manufacturer and not intended to be opened by the
19 consumer.

20 (9) “Flavored e-liquid” means any e-liquid with a characterizing flavor.
21 An e-liquid shall be presumed to be a flavored e-liquid if a licensee, a

1 manufacturer, or a licensee’s or manufacturer’s agent or employee has made a
2 statement or claim directed to consumers or the public, whether express or
3 implied, that the product has a distinguishable taste or aroma other than the
4 taste or aroma of tobacco.

5 (10) “Flavored tobacco product” means any tobacco product with a
6 characterizing flavor. A tobacco product shall be presumed to be a flavored
7 tobacco product if a licensee, a manufacturer, or a licensee’s or manufacturer’s
8 agent or employee has made a statement or claim directed to consumers or the
9 public, whether express or implied, that the product has a distinguishable taste
10 or aroma other than the taste or aroma of tobacco.

11 (11) “Flavored tobacco substitute” means any tobacco substitute with a
12 characterizing flavor. A tobacco substitute shall be presumed to be a flavored
13 tobacco substitute if a licensee, a manufacturer, or a licensee’s or
14 manufacturer’s agent or employee has made a statement or claim directed to
15 consumers or the public, whether express or implied, that the product has a
16 distinguishable taste or aroma other than the taste or aroma of tobacco.

17 (12) “Licensed wholesale dealer” means a wholesale dealer licensed
18 under 32 V.S.A. chapter 205.

19 (13) “Little cigars” means any rolls of tobacco wrapped in leaf tobacco
20 or any substance containing tobacco, other than any roll of tobacco that is a
21 cigarette, and as to which 1,000 units weigh not more than three pounds.

1 **(14) “Nicotine” means the chemical substance named 3-(1-Methyl-2-**
2 **pyrrolidinyl)pyridine or C[10]H[14]N[2], including any salt or complex of**
3 **nicotine, whether naturally or synthetically derived.**

4 (15) “Proper proof of age” means a valid authorized form of
5 identification as defined in section 589 of this title.

6 (16) “Retail dealer” means a person licensed pursuant to section 1002 of
7 this title.

8 (17) “Roll-your-own tobacco” means any tobacco that, because of its
9 appearance, type, packaging, or labeling, is suitable for use and likely to be
10 offered to, or purchased by, consumers as tobacco for making cigarettes.

11 (18) “Snuff” means any finely cut, ground, or powdered tobacco that is
12 not intended to be smoked, has a moisture content of not less than 45 percent,
13 and is not offered in individual single-dose tablets or other discrete single-use
14 units.

15 ~~(5)(19)~~ “Tobacco license” means a license issued by the Division of
16 Liquor Control under this chapter permitting the licensee to engage in the retail
17 sale of tobacco products.

18 ~~(6) “Bidis” or “Beedies” means a product containing tobacco that is~~
19 ~~wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros~~
20 ~~exculpra), or any other product that is offered to, or purchased by, consumers~~
21 ~~as bidis or beedies.~~

1 ~~(7)~~(20) “Tobacco paraphernalia” means any device used, intended for
2 use, or designed for use in smoking, inhaling, ingesting, or otherwise
3 introducing tobacco products, tobacco substitutes, e-liquids, or a combination
4 of these, into the human body, or for preparing tobacco for smoking, inhaling,
5 ingesting, or otherwise introducing into the human body, including devices for
6 holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water
7 pipes, carburetion devices, bong, ~~and~~ hookahs, and clothing or accessories
8 adapted for use with a tobacco product, a tobacco substitute, an e-liquid, or
9 tobacco paraphernalia.

10 (21) “Tobacco products” means cigarettes, little cigars, roll-your-own
11 tobacco, snuff, cigars, new smokeless tobacco, and any other product
12 manufactured from, derived from, or containing tobacco that is intended for
13 human consumption by smoking, by chewing, or in any other manner.

14 ~~(8)~~(22)(A) “Tobacco substitute” means ~~products~~ a product that is not
15 a tobacco product and that meets one or both of the following
16 descriptions:

17 (i) a product, including an electronic cigarette or other
18 electronic or battery-powered device, or any component, part, or
19 accessory thereof, that contain or are contains or is designed to deliver nicotine
20 or other substances into the body through the inhalation or other absorption of
21 aerosol, vapor, or other emission and that have has not been approved by the

1 U.S. Food and Drug Administration for tobacco cessation or other medical
2 purposes; **or**

3 **(ii) an oral nicotine product or any other item that is designed to**
4 **deliver nicotine into the body ~~through a product that is not a tobacco product.~~**

5 (B) Cannabis products as defined in section 831 of this title or
6 products that have been approved by the U.S. Food and Drug Administration
7 for tobacco cessation or other medical purposes shall not be considered to be
8 tobacco substitutes.

9 (23) “Vending machine” means any mechanical, electronic, or other
10 similar device that **sells or** dispenses tobacco products, **tobacco substitutes, e-**
11 **liquids, tobacco paraphernalia, or a combination of these.**

12 (24) “Wholesale dealer” means a person who imports or causes to be
13 imported into the State any cigarettes, little cigars, roll-your-own tobacco,
14 snuff, new smokeless tobacco, or other tobacco product for sale or who sells or
15 furnishes any of these products to other wholesale dealers or retail dealers for
16 the purpose of resale, but not by small quantity or parcel to consumers thereof.

17 § 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

18 (a)(1) Except as provided in subsection (h) of this section, no person shall
19 engage in the retail sale of tobacco products, tobacco substitutes, e-liquids, or
20 tobacco paraphernalia in the person’s place of business without a tobacco
21 license obtained from the Division of Liquor Control.

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(e) A person who sells tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia without obtaining a tobacco license and a tobacco substitute endorsement, as applicable, in violation of this section shall be guilty of a misdemeanor and fined not more than \$200.00 for the first offense and not more than \$500.00 for each subsequent offense.

(f) No individual under 16 years of age may sell tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia.

(g) No person shall engage in the retail sale of tobacco products, tobacco substitutes, ~~substances containing nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia in the State unless the person is a licensed wholesale dealer ~~as defined in 32 V.S.A. § 7702~~ or has purchased the tobacco products, tobacco substitutes, ~~substances containing nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia from a licensed wholesale dealer.

(h) This section shall not apply to a cannabis establishment licensed pursuant to chapter 33 of this title to engage in the retail sale of cannabis products as defined in section 831 of this title but not engaged in the sale of tobacco products or tobacco substitutes.

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1 § 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
2 E-LIQUIDS; TOBACCO PARAPHERNALIA; REQUIREMENTS;
3 PROHIBITIONS

4 (a)(1) A person shall not:

5 (A) sell or provide tobacco products, tobacco substitutes, e-liquids, or
6 tobacco paraphernalia to any person under 21 years of age; or

7 (B) knowingly enable the usage of tobacco products, tobacco
8 substitutes, or e-liquids by a person under 21 years of age.

9 (2)(A) A person who violates subdivision (1) of this subsection (a) shall
10 be subject to a civil penalty of not more than \$500.00 for the first offense and
11 not more than \$2,000.00 for any subsequent offense. In addition, an employee
12 of a retail dealer who violates subdivision (1) of this subsection (a) in the
13 course of employment shall be subject to a civil penalty of not more than
14 \$100.00 for a first offense and not more than \$500.00 for any subsequent
15 offense.

16 (B) An action under this subsection (a) shall be brought in the same
17 manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be
18 brought within 24 hours after the occurrence of the alleged violation.

19 (b) All vending machines selling or dispensing tobacco products, tobacco
20 substitutes, e-liquids, or tobacco paraphernalia, or a combination of these,
21 are prohibited.

1 (c)(1) Persons holding a tobacco license may only display or store tobacco
2 products ~~or~~ tobacco substitutes, and e-liquids:

3 (A) behind a sales counter or in any other area of the establishment
4 that is inaccessible to the public; or

5 (B) in a locked container.

6 (2) This subsection shall not apply to the following:

7 (A) a display of tobacco products, tobacco substitutes, or e-liquids
8 that is located in a commercial establishment in which by law no person under
9 21 years of age is permitted to enter at any time;

10 (B) cigarettes in unopened cartons and smokeless tobacco in
11 unopened multipack containers of 10 or more packages, any of which shall be
12 displayed in plain view and under the control of a responsible employee so that
13 removal of the cartons or multipacks from the display can be readily observed
14 by that employee; or

15 (C) cigars and pipe tobacco stored in a humidor on the sales counter
16 in plain view and under the control of a responsible employee so that the
17 removal of these products from the humidor can be readily observed by that
18 employee.

19 (d) The sale and the purchase of bidis is prohibited. A person who holds a
20 tobacco license who sells bidis as prohibited by this subsection ~~shall be fined~~
21 ~~not more than \$500.00.~~ A ~~or a~~ person who purchases bidis from any source

1 shall be ~~fined~~ **subject to a civil penalty of** not more than \$250.00 **for a first**
2 **offense and not more than \$500.00 for a subsequent offense.**

3 (e) No person holding a tobacco license shall sell cigarettes or little cigars
4 individually or in packs that contain fewer than 20 cigarettes or little cigars.

5 (f) As used in this section, ~~“little cigars” means any rolls of tobacco~~
6 ~~wrapped in leaf tobacco or any substance containing tobacco, other than any~~
7 ~~roll of tobacco that is a cigarette within the meaning of 32 V.S.A. § 7702(1),~~
8 ~~and as to which 1,000 units weigh not more than three pounds~~ “enable the
9 usage of tobacco products, tobacco substitutes, or e-liquids” means creating a
10 direct and immediate opportunity for a person to use tobacco products, tobacco
11 substitutes, or e-liquids, or a combination of these.

12 § 1004. PROOF OF AGE FOR THE SALE OF TOBACCO PRODUCTS;

13 TOBACCO SUBSTITUTES; E-LIQUIDS; TOBACCO

14 PARAPHERNALIA

15 (a) A person shall exhibit proper proof of ~~his or her~~ the person’s age upon
16 demand of a person licensed under this chapter, an employee of a licensee, or a
17 law enforcement officer. If the person fails to provide proper proof of age, the
18 licensee shall be entitled to refuse to sell tobacco products, tobacco substitutes,
19 e-liquids, or tobacco paraphernalia to the person. The sale or furnishing of
20 tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to a

1 person exhibiting proper proof of age shall be prima facie evidence of a
2 licensee’s compliance with section 1007 of this title.

3 ~~(b) As used in this section, “proper proof of age” means a valid authorized~~
4 ~~form of identification as defined in section 589 of this title.~~

5 § 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION **OR**

6 **PURCHASE** OF TOBACCO PRODUCTS; ~~MISREPRESENTING~~

7 ~~AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY;~~

8 **TOBACCO SUBSTITUTES, E-LIQUIDS, OR TOBACCO**

9 **PARAPHERNALIA PROHIBITED**

10 (a)(1) A person under 21 years of age shall not possess, purchase, or
11 attempt to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco
12 paraphernalia unless:

13 (A) the person is an employee of a holder of a tobacco license and is
14 in possession of tobacco products, tobacco substitutes, e-liquids, or tobacco
15 paraphernalia to effect a sale in the course of employment; or

16 (B) the person is in possession of tobacco products or tobacco
17 paraphernalia in connection with Indigenous cultural tobacco practices.

18 (2) A person under 21 years of age shall not misrepresent ~~his or her~~ the
19 person’s age to purchase or attempt to purchase tobacco products, tobacco
20 substitutes, e-liquids, or tobacco paraphernalia.

1 (b) A person who possesses tobacco products, tobacco substitutes, e-
2 liquids, or tobacco paraphernalia in violation of subsection (a) of this section
3 shall be subject to having the tobacco products, tobacco substitutes, e-liquids,
4 or tobacco paraphernalia immediately confiscated and shall be further subject
5 to a civil penalty of \$25.00. An action under this subsection shall be brought
6 in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

7 (c) A person under 21 years of age who misrepresents ~~his or her~~ the
8 person's age by presenting false identification to purchase tobacco products,
9 tobacco substitutes, e-liquids, or tobacco paraphernalia shall be **fined not more**
10 **than subject to:**

11 **(1) having the tobacco products, tobacco substitutes, e-liquids, or**
12 **tobacco paraphernalia immediately confiscated;**

13 **(2) having the false identification immediately confiscated; and**

14 **(3) being assessed a civil penalty of not more than** \$50.00 or **provide**
15 **providing** up to 10 hours of community service, or both.

16 § 1006. POSTING OF SIGNS

17 (a) A person licensed under this chapter shall post in a conspicuous place
18 on the premises identified in the tobacco license a warning sign stating that the
19 sale of tobacco products, tobacco substitutes, e-liquids, and tobacco
20 paraphernalia to persons under 21 years of age is prohibited. The Board shall
21 prepare the sign and make it available with the license forms issued under this

1 chapter. The sign may include information about the health effects of tobacco
2 and tobacco cessation services. The Board, in consultation with a
3 representative of the licensees when appropriate, is authorized to change the
4 design of the sign as needed to maintain its effectiveness.

5 (b) A person violating this section shall be guilty of a misdemeanor and
6 fined not more than \$100.00.

7 § 1007. FURNISHING TOBACCO TO PERSONS UNDER 21 YEARS OF
8 AGE; REPORT

9 ~~(a) A person that sells or furnishes tobacco products, tobacco substitutes, or~~
10 ~~tobacco paraphernalia to a person under 21 years of age shall be subject to a~~
11 ~~civil penalty of not more than \$100.00 for the first offense and not more than~~
12 ~~\$500.00 for any subsequent offense. An action under this section shall be~~
13 ~~brought in the same manner as for a traffic violation pursuant to 23 V.S.A.~~
14 ~~chapter 24 and shall be brought within 24 hours of the occurrence of the~~
15 ~~alleged violation. [Repealed.]~~

16 (b)(1) The Division of Liquor Control shall conduct or contract for
17 compliance tests of tobacco licensees as frequently and as comprehensively as
18 necessary to ensure consistent statewide compliance with the prohibition on
19 sales to persons under 21 years of age of at least 90 percent for buyers who are
20 between 17 and 20 years of age. An individual under 21 years of age

1 participating in a compliance test shall not be in violation of section 1005 of
2 this title.

3 (2) Any violation by a tobacco licensee of subsection 1003(a) of this
4 title and this section after a sale violation or during a compliance test
5 conducted within six months of a previous violation shall be considered a
6 multiple violation and shall result in the minimum license suspension in
7 addition to any other penalties available under this title. Minimum license
8 suspensions for multiple violations shall be assessed as follows:

- 9 (A) two violations two weekdays;
10 (B) three violations 15-day suspension;
11 (C) four violations 90-day suspension;
12 (D) five violations one-year suspension.

13 (3) The Division shall report to the House Committee on ~~General,~~
14 ~~Housing,~~ Government Operations and Military Affairs, the Senate Committee
15 on Economic Development, Housing and General Affairs, and the ~~Tobacco~~
16 ~~Evaluation and Review Board~~ Substance Misuse Prevention Oversight and
17 Advisory Council annually, on or before January 15, the methodology and
18 results of compliance tests conducted during the previous year. The provisions
19 of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the
20 required report to be made under this subdivision.

21 * * *

1 § 1009. CONTRABAND AND SEIZURE

2 (a) Any cigarettes or other tobacco products, tobacco substitutes, e-liquids,
3 or tobacco paraphernalia that have been sold, offered for sale, or possessed for
4 sale in violation of section 1003, 1010, or 1013 of this title, 20 V.S.A. § 2757,
5 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling
6 machines possessed or utilized in violation of section 1011 of this title, shall be
7 deemed contraband and shall be subject to seizure by the Commissioner, the
8 Commissioner’s agents or employees, the Commissioner of Taxes or any agent
9 or employee of the Commissioner of Taxes, or by any law enforcement officer
10 of this State when directed to do so by the Commissioner. All ~~eigarettes or~~
11 ~~other tobacco products~~ items seized under this subsection shall be destroyed.

12 * * *

13 § 1010. INTERNET SALES

14 (a) ~~As used in this section:~~

15 (1) ~~“Cigarette” has the same meaning as in 32 V.S.A. § 7702(1).~~

16 (2) ~~[Repealed.]~~

17 (3) ~~“Licensed wholesale dealer” has the same meaning as in 32 V.S.A.~~
18 ~~§ 7702(5).~~

19 (4) ~~“Little cigars” has the same meaning as in 32 V.S.A. § 7702(6).~~

20 (5) ~~“Retail dealer” has the same meaning as in 32 V.S.A. § 7702(10).~~

1 ~~(6) “Roll-your-own tobacco” has the same meaning as in 32 V.S.A.~~
2 ~~§ 7702(11).~~

3 ~~(7) “Snuff” has the same meaning as in 32 V.S.A. § 7702(13).~~

4 [Repealed.]

5 (b) No person shall cause cigarettes, roll-your-own tobacco, little cigars,
6 snuff, tobacco substitutes, ~~substances containing nicotine or otherwise intended~~
7 ~~for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia, ordered or
8 purchased by mail or through a computer network, telephonic network, or
9 other electronic network, to be shipped to anyone other than a licensed
10 wholesale dealer or retail dealer in this State.

11 (c) No person shall, with knowledge or reason to know of the violation,
12 provide substantial assistance to a person in violation of this section.

13 (d) A violation of this section is punishable as follows:

14 (1) A knowing or intentional violation of this section shall be punishable
15 by imprisonment for not more than five years or a fine of not more than
16 \$5,000.00, or both.

17 (2) In addition to or in lieu of any other civil or criminal remedy
18 provided by law, upon a determination that a person has violated this section,
19 the Attorney General may impose a civil penalty in an amount not to exceed
20 \$5,000.00 for each violation. For purposes of this subsection, each shipment
21 or transport of cigarettes, roll-your-own tobacco, little cigars, ~~or~~ snuff, tobacco

1 substitutes, e-liquids, or tobacco paraphernalia shall constitute a separate
2 violation.

3 * * *

4 § 1012. ~~LIQUID NICOTINE~~ E-LIQUIDS AND OTHER SUBSTANCES
5 CONTAINING NICOTINE; PACKAGING

6 (a) Unless specifically preempted by federal law, no person shall
7 manufacture, regardless of location, for sale in; offer for sale in; sell in or into
8 the stream of commerce in; or otherwise introduce into the stream of
9 commerce in Vermont:

10 (1) any e-liquid containing nicotine or any other liquid or gel substance
11 containing nicotine unless that product is contained in child-resistant
12 packaging; or

13 (2) any ~~nicotine liquid~~ e-liquid container or other container holding a
14 liquid or gel substance containing nicotine unless that container constitutes
15 child-resistant packaging.

16 (b) ~~As used in this section:~~

17 (1) ~~“Child resistant packaging” means packaging that is designed or~~
18 ~~constructed to be significantly difficult for children under five years of age to~~
19 ~~open or obtain a toxic or harmful amount of the substance in the container~~
20 ~~within a reasonable time and not difficult for normal adults to use properly, but~~
21 ~~does not mean packaging that all children under five years of age cannot open~~

1 ~~or obtain a toxic or harmful amount of the substance in the container within a~~
2 ~~reasonable time.~~

3 ~~(2) “Nicotine liquid container” means a bottle or other container of a~~
4 ~~nicotine liquid or other substance containing nicotine that is sold, marketed, or~~
5 ~~intended for use in a tobacco substitute. The term does not include a container~~
6 ~~containing nicotine in a cartridge that is sold, marketed, or intended for use in a~~
7 ~~tobacco substitute if the cartridge is prefilled and sealed by the manufacturer~~
8 ~~and not intended to be opened by the consumer. [Repealed.]~~

9 § 1013. FLAVORED TOBACCO SUBSTITUTES, FLAVORED E-

10 LIQUIDS, AND MENTHOL TOBACCO PRODUCTS

11 PROHIBITED

12 (a) No person shall engage in the retail sale of:

13 (1) any flavored tobacco substitute;

14 (2) any flavored e-liquid; or

15 (3) any menthol-flavored tobacco product.

16 (b)(1) A person who violates subsection (a) of this section shall be
17 subject to a civil penalty of not more than \$200.00 for the first offense and
18 not more than \$500.00 for any subsequent offense. In addition, an
19 employee of a retail dealer who violates subsection (a) of this section in the
20 course of employment shall be subject to a civil penalty of not more than

1 **\$100.00 for a first offense and not more than \$300.00 for any subsequent**
2 **offense.**

3 **(2) An action under this section shall be brought in the same**
4 **manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and**
5 **shall be brought within 24 hours after the occurrence of the alleged**
6 **violation.**

7 **§ 1014. SALE OF DISCOUNTED TOBACCO PRODUCTS, TOBACCO**
8 **SUBSTITUTES, E-LIQUIDS, AND TOBACCO**
9 **PARAPHERNALIA PROHIBITED**

10 (a) As used in this section, “price reduction instrument” means any coupon,
11 voucher, rebate, card, paper, note, form, statement, ticket, image, or other
12 issue, whether in paper, digital, or any other form, used for commercial
13 purposes to receive an article, product, service, or accommodation without
14 charge or at a discounted price.

15 (b) No person shall do any of the following:

16 (1) sell or offer for sale a tobacco product, tobacco substitute, e-liquid,
17 or tobacco paraphernalia to a consumer at a price lower than the price that was
18 in effect at the time the seller purchased the item from the wholesale dealer;

19 (2) sell or offer for sale a tobacco product, tobacco substitute, e-liquid,
20 or tobacco paraphernalia through any multipackage discount; or

1 Sec. 4. 7 V.S.A. § 661(c) is amended to read:

2 (c) The provisions of subsection (b) of this section shall not apply to a
3 violation of subsection 1005(a) of this title, relating to purchase of tobacco
4 products, tobacco substitutes, e-liquids, or tobacco paraphernalia by a person
5 under 21 years of age.

6 Sec. 5. 16 V.S.A. § 140 is amended to read:

7 § 140. **TOBACCO USE OF TOBACCO PRODUCTS, TOBACCO**
8 **SUBSTITUTES, AND E-LIQUIDS** PROHIBITED ON PUBLIC
9 SCHOOL GROUNDS

10 No person shall be permitted to use tobacco products, e-liquids, or tobacco
11 substitutes, or e-liquids, as those terms are defined in 7 V.S.A. § 1001, on
12 public school grounds or at public school sponsored functions. Public school
13 boards may adopt policies that include confiscation and appropriate referrals to
14 law enforcement authorities.

15 Sec. 6. 18 V.S.A. § 4226 is amended to read:

16 § 4226. MINORS; TREATMENT; CONSENT

17 (a)(1) If a minor 12 years of age or older is suspected to ~~be dependent upon~~
18 have a substance use disorder, including a dependence on regulated drugs as
19 defined in section 4201 of this title, on alcohol, on nicotine, or on tobacco
20 products or tobacco substitutes as defined in 7 V.S.A. § 1001, or to have
21 venereal disease, or to be an alcoholic as defined in section 8401 of this title a

1 ~~sexually transmitted infection~~, and the finding of such ~~dependency, disease, or~~
2 ~~alcoholism~~ substance use disorder or infection is verified by a licensed
3 ~~physician~~ health care professional, the minor may give:

4 (A) ~~his or her~~ consent to ~~medical treatment~~ health care services and
5 hospitalization; and

6 (B) in the case of a ~~drug dependent or alcoholic person~~ an individual
7 who has a substance use disorder, consent to nonmedical inpatient or
8 outpatient treatment at a program approved by the Agency of Human Services
9 to provide treatment for ~~drug dependency or alcoholism~~ substance use disorder
10 if deemed necessary by the examining ~~physician for diagnosis or treatment of~~
11 ~~such dependency or disease or alcoholism~~ health care professional.

12 (2) Consent under this section shall not be subject to disaffirmance due
13 to minority of the person consenting. The consent of the parent or legal
14 guardian of a minor consenting under this section shall not be necessary to
15 authorize care as described in this subsection.

16 (b) The parent, parents, or legal guardian shall be notified by the physician
17 if the condition of a minor child requires immediate hospitalization as the
18 result of drug ~~usage, alcoholism, or alcohol use~~ usage, alcoholism, or alcohol use or for the treatment of a
19 ~~venereal disease~~ sexually transmitted infection.

20 (c) As used in this section, “health care professional” means an individual
21 licensed as a physician under 26 V.S.A. chapter 23 or 33, an individual

1 licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual
2 licensed as a registered nurse or advanced practice registered nurse under 26
3 V.S.A. chapter 28.

4 Sec. 7. 18 V.S.A. § 4803(a) is amended to read:

5 (a) Creation. There is created the Substance Misuse Prevention Oversight
6 and Advisory Council within the Department of Health to improve the health
7 outcomes of all Vermonters through a consolidated and holistic approach to
8 substance misuse prevention that addresses all categories of substances. The
9 Council shall provide advice to the Governor and General Assembly for
10 improving prevention policies and programming throughout the State and to
11 ensure that population prevention measures are at the forefront of all policy
12 determinations. The Advisory Council’s prevention initiatives shall
13 encompass all substances at risk of misuse, including:

14 (1) alcohol;

15 (2) cannabis;

16 (3) controlled substances, such as opioids, cocaine, and
17 methamphetamines; and

18 (4) tobacco products ~~and~~, tobacco substitutes, and e-liquids, as those
19 terms are defined in 7 V.S.A. § 1001 ~~and substances containing nicotine or that~~
20 ~~are otherwise intended for use with a tobacco substitute.~~

1 Sec. 8. 32 V.S.A. § 7702 is amended to read:

2 § 7702. DEFINITIONS

3 As used in this chapter unless the context otherwise requires:

4 * * *

5 (15) “Other tobacco products” means any product manufactured from,
6 derived from, or containing tobacco that is intended for human consumption
7 by smoking, by chewing, or in any other manner, ~~including~~. The term also
8 includes products sold as a tobacco substitute, as defined in 7 V.S.A.

9 ~~§ 1001(8), and including any liquids, whether nicotine based or not, or; e-~~
10 liquids, as defined in 7 V.S.A. § 1001; and delivery devices sold separately for
11 use with a tobacco substitute or e-liquid, but shall not include cigarettes, little
12 cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in
13 this section, or cannabis products as defined in 7 V.S.A. § 831.

14 * * *

15 Sec. 9. 18 V.S.A. § 9503 is amended to read:

16 § 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

17 (a) Except as otherwise specifically provided, the tobacco prevention and
18 treatment program shall be administered and coordinated statewide by the
19 Department of Health, pursuant to the provisions of this chapter. The program
20 shall be comprehensive and research-based.

1 (b) The Department shall establish goals for reducing adult and youth
2 smoking rates, including performance measures for each goal in conjunction
3 with the Substance Misuse Prevention Oversight and Advisory Council
4 established pursuant to section 4803 of this title. The services provided by a
5 quitline approved by the Department of Health shall be offered and made
6 available to any minor, upon ~~his or her~~ the minor's consent, who is a smoker or
7 user of tobacco products, tobacco substitutes, or e-liquids, as those terms are
8 defined in 7 V.S.A. § 1001.

9 (c) The Department of Liquor and Lottery shall administer the component
10 of the program that relates to enforcement activities.

11 (d) The Agency of Education shall administer school-based programs.

12 (e) The Department shall pay all fees and costs of the surveillance and
13 evaluation activities, including the costs associated with hiring a contractor to
14 conduct an independent evaluation of the program.

15 Sec. 10. 33 V.S.A. § 1900 is amended to read:

16 § 1900. DEFINITIONS

17 As used in this subchapter, unless otherwise indicated:

18 * * *

19 (10) “Tobacco” means all of the products listed in the definition of
20 “tobacco products” in 7 V.S.A. § 1001(3).

21 * * *

1 Sec. 11. HEALTH EQUITY ADVISORY COMMISSION; MENTHOL
2 TOBACCO PRODUCT BAN; REPORT

3 On or before January 15, 2025, in its annual report due pursuant to 18
4 V.S.A. § 252(e), the Health Equity Advisory Commission shall recommend to
5 the General Assembly whether the sale of tobacco products containing
6 menthol, including menthol cigarettes, should be banned in Vermont.

7 Sec. 12. **TOBACCO SUBSTITUTES AND E-LIQUIDS**; ADVERTISING
8 RESTRICTIONS; REPORT

9 On or before December 1, 2024, the Office of the Attorney General shall
10 report to the House Committees on Commerce and Economic Development
11 and on Human Services and the Senate Committees on Economic
12 Development, Housing and General Affairs and on Health and Welfare
13 regarding whether and to what extent Vermont may legally restrict advertising
14 and regulate the content of labels for **tobacco substitutes, including oral**
15 **nicotine products, and e-liquids** in this State.

16 Sec. 13. DEPARTMENT OF HEALTH; VERMONT YOUTH RISK
17 BEHAVIOR SURVEY; **TOBACCO SALES**; REPORT

18 On or before March 1, 2027, the Department of Health shall report to the
19 House Committee on Human Services and the Senate Committee on Health
20 and Welfare the results of the 2025 Vermont Youth Risk Behavior Survey that
21 relate to youth use of tobacco products, tobacco substitutes, and e-liquids,

1 along with a comparison of the rates of use from previous Vermont Youth Risk
2 Behavior Surveys. In its report, the Department shall also provide data on
3 retail **sales of tobacco sales products, tobacco substitutes, and e-liquids**
4 during calendar years 2024, 2025, and 2026.

5 Sec. 14. DEPARTMENT OF HEALTH; SCHOOL-BASED USAGE AND
6 CESSATION EFFORTS; REPORT

7 The Department of Health shall collaborate with relevant school and
8 community partners to survey and report on the use of tobacco products,
9 tobacco substitutes, and e-liquids, as well as on nicotine and tobacco cessation
10 efforts, in Vermont’s schools. On or before [date], the Department shall report
11 to the House Committees on Human Services and on Education and the Senate
12 Committees on Health and Welfare and on Education with its findings and any
13 recommendations for legislative action.

14 Sec. 15. EFFECTIVE DATES

15 **(a) Sec. 2 (7 V.S.A. chapter 40) shall take effect on January 1, 2025,**
16 **except that 7 V.S.A. § 1013(a)(3) (prohibiting retail sale of menthol-**
17 **flavored tobacco products) shall take effect on July 1, 2025.**

18 **(b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment),**
19 **9 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity**
20 **Advisory Commission; menthol ban; report), 12 (advertising restrictions;**
21 **report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14**

1 **(school-based usage and cessation efforts; report) and this section shall**
2 **take effect on passage.**

3 **(c) Secs. 3 (4 V.S.A. § 1102(b); Judicial Bureau jurisdiction), 4 (7**
4 **V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use prohibited on school**
5 **grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse Prevention Oversight**
6 **and Advisory Council), 8 (32 V.S.A. § 7702; definition for tobacco tax**
7 **purposes), and 10 (33 V.S.A. § 1900; definition for medical assistance**
8 **statutes) shall take effect on January 1, 2025.**

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(Committee vote: _____)

Representative _____
FOR THE COMMITTEE