

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means 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 report of the Committee on Human Services be amended as follows:

6 First: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (7) in its
7 entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

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

15 Second: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (22) in its
16 entirety and inserting in lieu thereof a new subdivision (22) to read as follows:

17 ~~(8)(22)(A)~~ “Tobacco substitute” means ~~products~~ any product that is not
18 a tobacco product, as defined in subdivision (21) of this section, and that meets
19 one or both of the following descriptions:

20 (i) a product, including an electronic ~~cigarettes~~ cigarette or other
21 electronic or battery-powered ~~devices~~ device, or any component, part, or

1 accessory thereof, that ~~contain or are~~ contains or is designed to deliver nicotine
2 ~~or other substances~~ into the body through the inhalation or other absorption of
3 aerosol, vapor, or other emission and that ~~have~~ has not been approved by the
4 U.S. Food and Drug Administration for tobacco cessation or other medical
5 purposes; or

6 (ii) an oral nicotine product or any other item that is designed to
7 deliver nicotine into the body, including a product or item containing or
8 delivering nicotine that has been extracted from a tobacco plant or leaf.

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

13 Third: In Sec. 2, by striking out 7 V.S.A. § 1005 in its entirety and inserting
14 in lieu thereof a new 7 V.S.A. § 1005 to read as follows:

15 § 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OR
16 PURCHASE OF TOBACCO PRODUCTS; MISREPRESENTING
17 AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY,
18 TOBACCO SUBSTITUTES, E-LIQUIDS, OR TOBACCO
19 PARAPHERNALIA PROHIBITED

1 (a)(1) **Prohibited conduct.** A person under 21 years of age shall not
2 possess, purchase, or attempt to purchase tobacco products, tobacco
3 substitutes, e-liquids, or tobacco paraphernalia unless:

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

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

9 (2) A person under 21 years of age shall not misrepresent ~~his or her~~ the
10 person's age to purchase or attempt to purchase tobacco products, tobacco
11 substitutes, e-liquids, or tobacco paraphernalia.

12 (b) **Offense.** A person who possesses tobacco products, tobacco
13 substitutes, e-liquids, or tobacco paraphernalia in violation of subsection (a) of
14 this section **commits a civil violation and** shall be subject to having the
15 tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia
16 immediately confiscated and shall **be** ~~further subject to a civil penalty of~~
17 ~~\$25.00. An action under this subsection shall be brought in the same manner~~
18 ~~as a traffic violation pursuant to 23 V.S.A. chapter 24~~ **referred to the Court**
19 **Diversion Program for the purpose of enrollment in a tobacco cessation**
20 **program approved by the Department of Health. A person who fails to**
21 **complete the program shall be subject to a civil penalty of \$50.00.**

1 **(c) Issuance of notice of violation. A law enforcement officer shall**
2 **issue a person who violates this section a notice of violation, in a form**
3 **approved by the Court Administrator. The notice of violation shall**
4 **require the person to provide the person’s name and address and shall**
5 **explain procedures under this section, including that:**

6 **(1) the person shall contact the Diversion Program in the county**
7 **where the offense occurred within 15 days;**

8 **(2) failure to contact the Diversion Program within 15 days will**
9 **result in the case being referred to the Judicial Bureau, where the person,**
10 **if found liable for the violation, will be subject to a civil penalty;**

11 **(3) no money should be submitted to pay any penalty until after**
12 **adjudication; and**

13 **(4) the person shall notify the Diversion Program if the person’s**
14 **address changes.**

15 **(d) Summons and complaint. When a person is issued a notice of**
16 **violation under this section, the law enforcement officer shall complete a**
17 **summons and complaint for the offense and send it to the Diversion**
18 **Program in the county where the offense occurred. The summons and**
19 **complaint shall not be filed with the Judicial Bureau at that time.**

20 **(e) Registration in tobacco cessation program. Within 15 days after**
21 **receiving a notice of violation, the person shall contact the Diversion**

1 **Program in the county where the offense occurred and register for a**
2 **tobacco cessation program approved by the Department of Health. If the**
3 **person fails to do so, the Diversion Program shall file the summons and**
4 **complaint with the Judicial Bureau for adjudication under 4 V.S.A.**
5 **chapter 29. The Diversion Program shall provide a copy of the summons**
6 **and complaint to the law enforcement officer who issued the notice of**
7 **violation and shall provide two copies to the person charged with the**
8 **violation.**

9 **(f) Notice to report to Diversion. Upon receipt from a law enforcement**
10 **officer of a summons and complaint completed under this section, the**
11 **Diversion Program shall send the person a notice to report to the**
12 **Diversion Program. The notice to report shall provide that:**

13 **(1) the person is required to complete the tobacco cessation**
14 **program;**

15 **(2) if the person does not satisfactorily complete the tobacco**
16 **cessation program, the case will be referred to the Judicial Bureau, where**
17 **the person, if found liable for the violation, will be subject to a civil**
18 **penalty; and**

19 **(3) if the person satisfactorily completes the tobacco cessation**
20 **program, no penalty shall be imposed.**

21 **(g) Diversion Program requirements.**

1 **(1) Upon being contacted by a person who has been issued a notice**
2 **of violation, the Diversion Program shall register the person in a tobacco**
3 **cessation program approved by the Department of Health.**

4 **(2) When a person has satisfactorily completed the tobacco cessation**
5 **program, the Diversion Program shall do all of the following:**

6 **(A) Void the summons and complaint with no penalty due.**

7 **(B) Send copies of the voided summons and complaint to the**
8 **Judicial Bureau and to the law enforcement officer who completed them.**

9 **Before sending copies of the voided summons and complaint to the**
10 **Judicial Bureau under this subdivision, the Diversion Program shall**
11 **redact all language containing the person’s name, address, Social Security**
12 **number, and any other information that identifies the person.**

13 **(3) If a person does not satisfactorily complete the tobacco cessation**
14 **program or if the person fails to pay the Diversion Program any required**
15 **program fees, the Diversion Program shall file the summons and**
16 **complaint with the Judicial Bureau for adjudication under 4 V.S.A.**
17 **chapter 29. The Diversion Program shall provide a copy of the summons**
18 **and complaint to the law enforcement officer who issued the notice of**
19 **violation and shall provide two copies to the person charged with the**
20 **violation.**

1 **(4) A person aggrieved by a decision of the Diversion Program or of**
2 **the tobacco cessation program may seek review of that decision pursuant**
3 **to Rule 75 of the Vermont Rules of Civil Procedure.**

4 ~~(e)~~**(h) Confiscation of false identification. A** **In addition to the**
5 **procedures set forth in subsections (b)–(g) of this section, a** person under 21
6 years of age who misrepresents ~~his or her~~ the person's age by presenting false
7 identification to purchase tobacco products, tobacco substitutes, e-liquids, or
8 tobacco paraphernalia shall ~~be fined not more than \$50.00 or provide up to 10~~
9 ~~hours of community service, or both~~ **have the person's false identification**
10 **immediately confiscated.**

11 Fourth: By striking out Sec. 15, effective dates, in its entirety and inserting
12 in lieu thereof a new Sec. 15 to read as follows:

13 Sec. 15. EFFECTIVE DATES

14 (a) ~~Secs.~~ **2 (7 V.S.A. chapter 40), 3 (4 V.S.A. § 1102(b); Judicial Bureau**
15 **jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use**
16 **prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse**
17 **Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702;**
18 **definition for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition**
19 **for medical assistance statutes)** shall take effect on January 1, ~~2026~~ **2025**;

1 ~~except that 7 V.S.A. § 1013(a)(3) (prohibiting retail sale of menthol flavored~~
2 ~~tobacco products) shall take effect on July 1, 2025.~~

3 (b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment), 9
4 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity
5 Advisory Commission; menthol ban; report), 12 (advertising restrictions;
6 report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14
7 (school-based usage and cessation efforts; report) and this section shall take
8 effect on passage.

9 ~~(c) Secs. 3 (4 V.S.A. § 1102(b); Judicial Bureau jurisdiction), 4 (7 V.S.A.~~
10 ~~§ 661(e); penalties), 5 (16 V.S.A. § 140; use prohibited on school grounds), 7~~
11 ~~(18 V.S.A. § 4803(a); Substance Misuse Prevention Oversight and Advisory~~
12 ~~Council), 8 (32 V.S.A. § 7702; definition for tobacco tax purposes), and 10 (33~~
13 ~~V.S.A. § 1900; definition for medical assistance statutes) shall take effect on~~
14 ~~January 1, 2025.~~

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17 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE