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H.118

Introduced by Representatives French of Randolph, Branagan of Georgia,
Fagan of Rutland City, Haas of Rochester, Kitzmiller of
Montpelier, Klein of East Montpelier, Macaig of Williston,
McCullough of Williston, Minter of Waterbury, Mrowicki of
Putney, Orr of Charlotte, Poirier of Barre City, Pugh of
S. Burlington, Townsend of Randolph and Trombley of Grand
Isle

Referred to Committee on

Date:

Subject: Health; tobacco products; workplace prohibition

Statement of purpose: This bill proposes to prohibit the use of lighted tobacco
products in the workplace.

An act to protect the health of employees by prohibiting the use of lighted
tobacco products in the workplace

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. §§ 1421 and 1426 are amended to read:

§ 1421. ~~DEFINITIONS~~ SMOKING IN THE WORKPLACE; PROHIBITION

~~As used in this subchapter:~~

1 ~~(1) “Smoking area” means an area that nonsmoking employees are not~~
2 ~~required to visit on a regular basis where smoking is permitted pursuant to a~~
3 ~~policy established under this subchapter. Up to 30 percent of employee~~
4 ~~cafeteria and lounge areas may be designated as a smoking area.~~

5 ~~(2) “Workplace”~~ The use of lighted tobacco products is prohibited in
6 any “workplace,” which, for the purposes of this subchapter, means an
7 enclosed structure where employees perform services for an employer or, in
8 the case of an employer who assigns employees to departments, divisions, or
9 similar organizational units, the enclosed portion of a structure ~~where the unit~~
10 ~~to which the employee is located~~ is assigned. Except for schools, workplace
11 does not include areas commonly open to the public nor any portion of a
12 structure ~~which~~ that also serves as the employee’s or employer’s personal
13 residence. For schools, workplace ~~shall include~~ includes any enclosed location
14 ~~at which~~ where instruction or other school-sponsored functions are occurring
15 and students are present.

16 § 1426. ENFORCEMENT

17 (a) An employee aggrieved by an employer’s failure to comply with the
18 provisions of this subchapter may file a complaint with the department of
19 health.

20 ~~(b) If the complaint is based on an employer’s alleged failure to establish a~~
21 ~~smoking policy or post the policy and summary as required under section 1424~~

1 ~~of this title, the department shall not initiate an action under this section until it~~
2 ~~has given the employer written notice of the alleged violation and ten days to~~
3 ~~come into voluntary compliance with the provisions of this subchapter.~~

4 (e) The commissioner of health or a hearing officer designated by the
5 commissioner may, after notice and an opportunity for hearing, impose an
6 administrative penalty of \$100.00 against an employer who violates a
7 ~~provision~~ of this chapter. The hearing before the commissioner shall be a
8 contested case subject to the provisions of chapter 25 of Title 3
9 (Administrative Procedure Act).

10 Sec. 2. REPEAL

11 18 V.S.A. §§ 1422, 1423, 1424, and 1425 (dealing with a smoking policy)
12 are repealed.