

S.7

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

~~(2) “Workplace”~~ The use of lighted tobacco products is prohibited in any “workplace,” which, for the purposes of this subchapter, means an enclosed structure where employees perform services for an employer or, in the case of an employer who assigns employees to departments, divisions, or similar organizational units, the enclosed portion of a structure where the unit to which the employee is assigned is located. Workplace does not include a residential facility for elders or disabled persons that is regulated by C.M.S., centers for Medicaid and Medicare services. Except for schools, workplace does not include areas commonly open to the public nor any portion of a structure ~~which~~ that also serves as the employee’s or employer’s personal

residence. For schools, workplace ~~shall include~~ includes any enclosed location ~~at which~~ where instruction or other school-sponsored functions are occurring and students are present.

§ 1426. ENFORCEMENT

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

~~(b) If the complaint is based on an employer's alleged failure to establish a smoking policy or post the policy and summary as required under section 1424 of this title, the department shall not initiate an action under this section until it has given the employer written notice of the alleged violation and ten days to come into voluntary compliance with the provisions of this subchapter.~~

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

(c) Nothing in this section shall limit the commissioner's authority under any other provisions of law.

Sec. 2. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products ~~shall~~ do not apply to:

~~(1) Workplace smoking areas designated under subchapter 2 of chapter 28 of this title.~~

~~(2) Areas~~ areas not commonly open to the public of owner-operated businesses with no employees.

Sec. 3. REPEAL

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