

**No. 166. An act relating to cigarette manufacturers.**

(H.747)

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

Sec. 1. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; REQUIREMENTS;

PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than 18 years of age.

\* \* \*

(d) ~~Beginning January 1, 1999, excepting contracts in existence prior to March 31, 1997, no~~ No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel. This subsection shall not apply to the following:

(1) A display of tobacco products that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time.

(2) Cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal

of the cartons or multipacks from the display can be readily observed by that employee.

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

\* \* \*

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

(g) As used in this section, "little cigars" means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco which is a cigarette within the meaning of 32 V.S.A. § 7702(1), and as to which 1,000 units weigh not more than three pounds.

Sec. 2. 7 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

\* \* \*

(3) "Tobacco products" mean cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut, and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in a

manner suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, or for delivery into the body through inhaling heated vapor or in any other manner.

\* \* \*

(7) “Tobacco paraphernalia” means any device used, intended for use, or designed for use in smoking, inhaling, ingesting, or otherwise introducing tobacco products into the human body, or for preparing tobacco for smoking, inhaling, ingesting, or otherwise introducing into the human body, including devices for holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water pipes, carburetion devices, bong, and hookahs.

(8) “Tobacco substitute” means products including electronic cigarettes or other electronic or battery-powered devices that contain and are designed to deliver nicotine or other substances into the body through inhaling vapor and that have not been approved by the United States Food and Drug Administration for tobacco cessation or other medical purposes.

Sec. 3. 7 V.S.A. § 1006 is amended to read:

§ 1006. POSTING OF SIGNS

(a) A person licensed under this chapter shall post ~~a plainly printed copy of the provisions of sections 1004 and 1005 of this title~~ in a conspicuous place on the premises identified in the tobacco license ~~and on any vending machine located on the premises~~ a warning sign stating that the sale of tobacco

products, tobacco substitutes, and tobacco paraphernalia to minors is prohibited. The board shall prepare the ~~signs~~ sign and make ~~them~~ it available with the license forms issued under this chapter. The sign may include information about the health effects of tobacco and tobacco cessation services. The board, in consultation with a representative of the licensees when appropriate, is authorized to change the design of the sign as needed to maintain its effectiveness.

\* \* \*

Sec. 4. 33 V.S.A. § 1925 is added to read:

§ 1925. JOINT AND SEVERAL LIABILITY OF IMPORTERS OF

NONPARTICIPATING MANUFACTURER'S BRAND FAMILIES

Each nonparticipating manufacturer located outside the United States and each importer of any nonparticipating manufacturer's brand families that are sold in the state shall bear joint and several liability for the deposit of all escrow due and payment of all penalties, costs, and attorney fees imposed under this subchapter. The nonparticipating manufacturer, as a condition to being listed on the directory, shall provide a declaration on a form prescribed by the attorney general from each of its importers of any of its brand families to be sold in the state that the importer accepts joint and several liability for all escrow deposits due pursuant to section 1914 of this title and for all penalties, costs, and attorney fees assessed under section 1914 of this title.

Sec. 5. 33 V.S.A. § 1920 is amended to read:

§ 1920. AGENT FOR SERVICE OF PROCESS

(a) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or other business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this subchapter or subchapter 1A of this chapter, or both, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and satisfactory proof of the appointment and availability of such agent to the attorney general. The secretary of state shall be designated as agent for service of process for importers of nonparticipating manufacturers located outside the United States. Service shall be made upon the secretary of state in accordance with the provisions of 12 V.S.A. §§ 851 and 852.

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Sec. 6. 7 V.S.A. § 1011 is added to read:

§ 1011. COMMERCIAL CIGARETTE ROLLING MACHINES

(a) A person shall not possess or use a cigarette rolling machine for commercial purposes.

(b) A person who knowingly violates subsection (a) of this section shall be subject to the following civil penalties:

(1) The revocation or termination of any license, permit, appointment, or commission under this chapter.

(2) A civil penalty of up to \$50,000.00 in any action brought by the department of taxes, the department of liquor control, or the attorney general.

(c) Penalties assessed under subsection (b) of this section shall be paid into the general fund.

(d) A person who violates subsection (a) of this section shall be imprisoned for not more than three years or fined not more than \$100,000.00 or both.

(e) This section shall not apply to the possession of a cigarette rolling machine intended solely for personal use by individuals who do not intend to offer the resulting product for resale.

(f) A cigarette rolling machine capable of rolling 200 cigarettes in fewer than 15 minutes is presumed to be for commercial purposes.

Sec. 7. 7 V.S.A. § 1009 is amended to read:

§ 1009. CONTRABAND AND SEIZURE

Any cigarettes or other tobacco products that have been sold, offered for sale, or possessed for sale in violation of section 1003 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband, and shall be subject to seizure by the commissioner, the commissioner's agents or employees, the commissioner of taxes, or any agent or employee thereof, or by any peace officer of this state when directed to do so by the commissioner. All cigarettes or other tobacco products seized shall be destroyed.

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

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

\* \* \*

(6) "Little cigars" means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subdivision (1) of this section) and as to which 1,000 units weigh not more than ~~three pounds~~ four and one-half pounds.

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Sec. 9. Sec. 3 of No. 212 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage, except ~~6 V.S.A. § 566, which shall take effect at such time as~~ that the secretary shall not issue a license to grow industrial hemp pursuant to Chapter 34 of Title 6 until the United States Congress amends the definition of “marihuana” for the purposes of the Controlled Substances Act (21 U.S.C. 802(16)) or the United States drug enforcement agency amends its interpretation of the existing definition in a manner affording an applicant a reasonable expectation that a permit to grow industrial hemp may be issued in accordance with part C of chapter 13 of Title 21 of the United States Code Annotated, or the drug enforcement agency takes affirmative steps to approve or deny a permit sought by the holder of a license to grow industrial hemp in another state.

Approved: May 16, 2012