

1 H.93

2 Introduced by Representatives Till of Jericho, Berry of Manchester, Branagan
3 of Georgia, Christie of Hartford, Clarkson of Woodstock, Dakin
4 of Chester, Frank of Underhill, Jewett of Ripton, McCullough
5 of Williston, Mrowicki of Putney, O'Sullivan of Burlington,
6 Poirier of Barre City, Russell of Rutland City, Toll of Danville,
7 Townsend of South Burlington, Troiano of Stannard, and Walz
8 of Barre City

9 Referred to Committee on

10 Date:

11 Subject: Health; tobacco; smoking age

12 Statement of purpose of bill as introduced: This bill proposes to increase the
13 smoking age from 18 to 21 years of age.

14 An act relating to increasing the smoking age from 18 to 21 years of age

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

16 ~~Sec. 1. FINDINGS~~

17 ~~(a) Every day more than 1,200 persons in the United States die due to~~
18 ~~smoking. And every day at least two youths or young adults become regular~~
19 ~~smokers.~~

1 ~~(b) The younger an individual is when he or she begins using tobacco, the~~
2 more likely he or she will become addicted. Among youths who persist in
3 smoking, one-third will die prematurely due to smoking.

4 (c) Compared with adults, adolescents appear to display evidence of
5 addiction at much lower levels of cigarette consumption, and their attempts to
6 quit smoking thus may be less successful.

7 (d) Persons 18 through 20 years of age are responsible for 90 percent of the
8 cigarettes purchased on behalf of minors less than 18 years of age. If their
9 legal access is curtailed, the benefit will extend to much younger teens.

10 (e) Prevention efforts must focus on young adults 18 through 25 years of
11 age. Almost no one starts smoking after 25 years of age. Nearly nine out of
12 10 smokers began smoking by 18 years of age, and 99 percent started by
13 26 years of age. Progression from occasional to daily smoking almost always
14 occurs by 26 years of age.

15 (f) Of all young adults 18 to 25 years of age in Vermont who had never
16 smoked, 12.1 percent smoked a cigarette for the first time in 2008–2009.
17 Vermont ranked 49th in the nation, with a range of 4.2 to 14.7 percent among
18 the states.

1 ~~Sec. 2. 7 V.S.A. § 1003 is amended to read:~~

2 § 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
3 TOBACCO PARAPHERNALIA; REQUIREMENTS;
4 PROHIBITIONS

5 (a) A person shall not sell or provide tobacco products, tobacco substitutes,
6 or tobacco paraphernalia to any person younger than ~~18~~ 21 years of age.

7 (b) Beginning August 28, 1997, vending machines selling tobacco
8 products, tobacco substitutes, or tobacco paraphernalia are prohibited. This
9 subsection shall not apply to a vending machine that is located in a commercial
10 establishment in which by law no person younger than ~~18~~ 21 years of age is
11 permitted to enter at any time. A single vending machine may not be used to
12 sell other commodities in combination with tobacco products, tobacco
13 substitutes, or tobacco paraphernalia. A violation of this subsection shall result
14 in the seizure of the vending machine.

15 (c) Beginning January 1, 2001, and subject to receiving any necessary
16 exemption from preemption from the U.S. Food and Drug Administration, all
17 vending machines selling tobacco products are prohibited.

18 (d) No person holding a tobacco license shall display or store tobacco
19 products or tobacco substitutes where those products are accessible to
20 consumers without direct assistance by the sales personnel. This subsection
21 shall not apply to the following:

1 ~~(1) A display of tobacco products that is located in a commercial~~
2 establishment in which by law no person younger than ~~18~~ 21 years of age is
3 permitted to enter at any time.

4 * * *

5 Sec. 3. 7 V.S.A. § 1005 is amended to read:

6 § 1005. PERSONS UNDER ~~THE AGE OF 18~~ 21 YEARS OF AGE;

7 POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING

8 AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

9 (a) A person under ~~18~~ 21 years of age shall not possess, purchase, or
10 attempt to purchase tobacco products, tobacco substitutes, or tobacco
11 paraphernalia unless the person is an employee of a holder of a tobacco license
12 and is in possession of tobacco products, tobacco substitutes, or tobacco
13 paraphernalia to effect a sale in the course of employment. A person under ~~18~~
14 21 years of age shall not misrepresent his or her age to purchase or attempt to
15 purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A
16 person who possesses tobacco products, tobacco substitutes, or tobacco
17 paraphernalia in violation of this subsection shall be subject to having the
18 tobacco products, tobacco substitutes, or tobacco paraphernalia immediately
19 confiscated and shall be further subject to a civil penalty of \$25.00. In the case
20 of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person
21 at the address in the complaint notifying the person that failure to pay the

1 ~~penalty within 60 days of the notice will result in either the suspension of the~~
2 person's operator's license for a period of not more than 90 days or the delay
3 of the initial licensing of the person for a period of not more than one year. A
4 copy of the notice shall be sent to the Commissioner of Motor Vehicles, who,
5 after expiration of 60 days from the date of notice and unless notified by the
6 Judicial Bureau that the penalty has been paid shall either suspend the person's
7 operator's license or cause initial licensing of the person to be delayed for the
8 periods set forth in this subsection and the rules. An action under this
9 subsection shall be brought in the same manner as a traffic violation pursuant
10 to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt
11 rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement
12 the provisions of this subsection, which may provide for incremental
13 suspension or delays not exceeding cumulatively the maximum periods
14 established by this subsection.

15 (b) A person under ~~18~~ 21 years of age who misrepresents his or her age by
16 presenting false identification to purchase tobacco products, tobacco
17 substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or
18 provide up to 10 hours of community service, or both.

1 ~~Sec. 4. 7 V.S.A. § 1006 is amended to read:~~

2 § 1006. POSTING OF SIGNS

3 (a) A person licensed under this chapter shall post in a conspicuous place
4 on the premises identified in the tobacco license a warning sign stating that the
5 sale of tobacco products, tobacco substitutes, and tobacco paraphernalia to
6 ~~minors~~ persons under 21 years of age is prohibited. The Board shall prepare
7 the sign and make it available with the license forms issued under this chapter.
8 The sign may include information about the health effects of tobacco and
9 tobacco cessation services. The Board, in consultation with a representative of
10 the licensees when appropriate, is authorized to change the design of the sign
11 as needed to maintain its effectiveness.

12 * * *

13 Sec. 5. 7 V.S.A. § 1007 is amended to read:

14 § 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~18~~ 21 YEARS
15 OF AGE

16 An individual who sells or furnishes tobacco products, tobacco substitutes,
17 or tobacco paraphernalia to a person under ~~18~~ 21 years of age shall be subject
18 to a civil penalty of not more than \$100.00 for the first offense and not more
19 than \$500.00 for any subsequent offense. An action under this section shall be
20 brought in the same manner as for a traffic violation pursuant to 23 V.S.A.

1 ~~chapter 24 and shall be brought within 24 hours of the occurrence of the~~
2 alleged violation.

3 Sec. 6. 4 V.S.A. § 1102(b) is amended to read:

4 (b) The Judicial Bureau shall have jurisdiction of the following matters:

5 * * *

6 (4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco
7 products by a person ~~less than 18~~ under 21 years of age.

8 (5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco
9 products to a person ~~under the age of 18~~ 21 years of age.

10 * * *

11 Sec. 7. 7 V.S.A. § 667(c) is amended to read:

12 (c) The provisions of subsection (b) of this section shall not apply to a
13 violation of subsection 1005(a) of this title, relating to purchase of tobacco
14 products by a person ~~less than 18~~ under 21 years of age.

15 Sec. 8. EFFECTIVE DATE

16 ~~This act shall take effect on July 1, 2015.~~

** * * Increasing Smoking Age to 19 Years of Age * * **

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

*§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS*

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~18~~ 19 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~18~~ 19 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d) 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~~ a display of tobacco products that is located in a commercial establishment in which by law no person younger than ~~18~~ 19 years of age is permitted to enter at any time;

(2) ~~Cigarettes~~ 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; or

(3) ~~Cigars~~ 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.

~~Sec. 2. 7 V.S.A. § 1005 is amended to read:~~

~~§ 1005. PERSONS UNDER ~~18~~ 19 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY~~

~~(a) A person under ~~18~~ 19 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under ~~18~~ 19 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes,~~

~~or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

~~(b) A person under ~~18~~ 19 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco~~

~~substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or
provide up to 10 hours of community service, or both.~~

Sec. 2. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~18~~ 19 YEARS OF AGE; POSSESSION OF
TOBACCO PRODUCTS; MISREPRESENTING AGE OR
PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under ~~18~~ 19 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment.

(2) A person under ~~18~~ 19 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

(3) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated ~~and~~. A person who violates subdivision (1) of this subsection shall be further subject to a civil penalty of \$25.00 and a person who violates subdivision (2) of this subsection shall be subject to a civil penalty of not more than \$200.00. In the case of failure to pay a penalty, the

~~Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

~~(b) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both. [Repealed.]~~

Sec. 3. 7 V.S.A. § 1007 is amended to read:

*§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~18~~ 19 YEARS OF
AGE*

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~18~~ 19 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 4. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

** * **

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person ~~less than 18~~ under 19 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~the age of 18~~ 19 years of age.

** * **

Sec. 5. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than ~~18~~ 19 years of age.

Sec. 5. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) or 1013(d) of this title, relating to purchase of tobacco products by a person ~~less than 18 years of~~ under the legal age.

Sec. 5a. 32 V.S.A. § 7771(d) is amended to read:

(d) The tax imposed under this section shall be at the rate of ~~154~~ 160.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 5b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and

shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$2.57~~ \$2.68 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.57~~ \$2.68 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$3.08~~ \$3.21 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 5c. 32V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before ~~July 25, 2015~~ January 25, 2017, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~August 25, 2015~~ February 25, 2017, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own

tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and on which cigarette stamps have been affixed before ~~July 1, 2015~~ January 1, 2017. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.33~~ \$0.13 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before ~~July 25, 2015~~ January 25, 2017, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on ~~July 1, 2015~~ January 1, 2017, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~July 25, 2015~~ February 25, 2017, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the

tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

** * * Increasing Smoking Age to 20 Years of Age * * **

Sec. 6. 7 V.S.A. § 1003 is amended to read:

*§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS*

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~19~~ 20 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~19~~ 20 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d) 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 ~~19~~ 20 years of age is permitted to enter at any time;

** * **

Sec. 7. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~19~~ 20 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~19~~ 20 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under ~~19~~ 20 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, ~~or tobacco paraphernalia in violation of this subsection shall be subject to~~

~~having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.~~

~~(b) A person under ~~19~~ 20 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both~~

Sec. 7. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~19~~ 20 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under ~~19~~ 20 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment.

(2) A person under ~~19~~ 20 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

* * *

Sec. 8. 7 V.S.A. § 1007 is amended to read:

*§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~19~~ 20 YEARS OF
AGE*

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~19~~ 20 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 9. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

** * **

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person under ~~19~~ 20 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~19~~ 20 years of age.

** * **

Sec. 10. ~~7 V.S.A. § 667(e) is amended to read:~~

~~*(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than 19 20 years of age.*~~

[Deleted.]

Sec. 10a. 32 V.S.A. § 7771(d) is amended to read:

(d) The tax imposed under this section shall be at the rate of ~~160.5~~ 167 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 10b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be

imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$2.68~~ \$2.78 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.68~~ \$2.78 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$3.21~~ \$3.34 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 10c. 32V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on January 1, ~~2017~~ 2018, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before January 25, ~~2017~~ 2018, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on January 1, ~~2017~~ 2018, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before February 25, ~~2017~~ 2018, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own

tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on January 1, ~~2017~~ 2018, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on January 1, ~~2017~~ 2018, and on which cigarette stamps have been affixed before January 1, ~~2017~~ 2018. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on January 1, ~~2017~~ 2018, and not yet affixed to a cigarette package, and the tax shall be at the rate of \$0.13 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before January 25, ~~2017~~ 2018, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on January 1, ~~2017~~ 2018, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before January 25, ~~2017~~ 2018, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax

has been imposed under this section shall not again be subject to tax under section 7771 of this title.

** * * Increasing Smoking Age to 21 Years of Age * * **

Sec. 11. 7 V.S.A. § 1003 is amended to read:

*§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS*

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~20~~ 21 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~20~~ 21 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d) 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 ~~20~~ 21 years of age is permitted to enter at any time;

* * *

Sec. 12. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~20~~ 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~20~~ 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under ~~20~~ 21 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to

~~having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.~~

~~(b) A person under 20 21 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both.~~

Sec. 12. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 20 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under 20 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment.

(2) A person under 20 21 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

* * *

Sec. 13. 7 V.S.A. § 1007 is amended to read:

*§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~20~~ 21 YEARS OF
AGE*

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~20~~ 21 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 14. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

** * **

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person under ~~20~~ 21 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~20~~ 21 years of age.

** * **

Sec. 15. ~~7 V.S.A. § 667(c) is amended to read:~~

~~(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than 20 21 years of age~~

[Deleted.]

Sec. 15a. 32 V.S.A. § 7771(d) is amended to read:

(d) The tax imposed under this section shall be at the rate of ~~167~~ 173.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 15b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and

shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$2.78~~ \$2.89 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.78~~ \$2.89 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$3.34~~ \$3.47 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 15c. 32V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on January 1, ~~2018~~ 2019, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before January 25, ~~2018~~ 2019, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on January 1, ~~2018~~ 2019, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before February 25, ~~2018~~ 2019, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own

tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on January 1, ~~2018~~ 2019, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on January 1, ~~2018~~ 2019, and on which cigarette stamps have been affixed before January 1, ~~2018~~ 2019. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on January 1, ~~2018~~ 2019, and not yet affixed to a cigarette package, and the tax shall be at the rate of \$0.13 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before January 25, ~~2018~~ 2019, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on January 1, ~~2018~~ 2019, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before January 25, ~~2018~~ 2019, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax

has been imposed under this section shall not again be subject to tax under section 7771 of this title.

~~Sec. 16. EFFECTIVE DATES~~

~~*(a) Secs. 1–5 (increasing smoking age to 19) and this section shall take effect on January 1, 2017.*~~

~~*(b) Secs. 6–10 (increasing smoking age to 20) shall take effect on January 1, 2018.*~~

~~*(c) Secs. 11–15 (increasing smoking age to 21) shall take effect on January 1, 2019.*~~

~~Sec. 16. DEPARTMENT OF LIQUOR CONTROL; COMPLIANCE TESTING,
REPORT~~

~~*On or before January 15, 2017, the Department of Liquor Control shall report to the House Committees on Health Care, on Human Services, and on General, Housing and Military Affairs and the Senate Committees on Health and Welfare and on Economic Development, Housing and General Affairs regarding any necessary modifications it has made or plans to make to its compliance testing program for tobacco licensees in light of the increase to the smoking age set forth in this act.*~~

~~** * * Maintaining Smoking Age at 18 Years of Age for Military * * **~~

~~Sec. 17. 7 V.S.A. § 1013 is added to read:~~

~~§ 1013. SMOKING AGE FOR MEMBERS OF THE U.S. ARMED FORCES~~

(a) As used in this section:

(1) "U.S. Armed Forces" means the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard; a reserve component thereof; or the National Guard of this State or another state.

(2) "Member of the U.S. Armed Forces" means a current member of the U.S. Armed Forces or a wounded veteran of the U.S. Armed Forces.

(b) Notwithstanding any provision of section 1003 of this title to the contrary, a person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any member of the U.S. Armed Forces younger than 18 years of age.

(c)(1) For members of the U.S. Armed Forces under 21 years of age purchasing tobacco products, tobacco substitutes, or tobacco paraphernalia, proper proof of age pursuant to section 1004 of this title shall be:

(A) a photographic U.S. Military identification card showing the person is a current member of the U.S. Armed Forces; or

(B) for a wounded veteran, a photographic Veteran Health Identification Card issued by the U.S. Department of Veterans Affairs coupled with a photographic motor vehicle operator's license, a valid passport, or a photographic nondriver motor vehicle identification card obtained from the Department of Motor Vehicles.

(2) A U.S. Military dependent's identification and privilege card shall not constitute proper proof under this subsection.

(d)(1) Notwithstanding any provision of section 1005 of this title to the contrary, a current member of the U.S. Armed Forces under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A current member of the U.S. Armed Forces under 18 years of age who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subdivision is subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00.

(2) Notwithstanding any provision of section 1005 of this title to the contrary, a current member of the U.S. Armed Forces under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A current member of the U.S. Armed Forces under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia is subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately

confiscated and shall be further subject to a civil penalty of not more than \$200.00.

(3) An action under subdivision (1) or (2) of this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(e) Notwithstanding any provision of section 1007 of this title to the contrary, an individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a current member of the U.S. Armed Forces under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 18. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(27) Violations of 7 V.S.A. § 1013, relating to possession of tobacco products by a member of the U.S. Armed Forces under 18 years of age and to furnishing tobacco products to a member of the U.S. Armed Forces under 18 years of age.

**** Effective Dates ****

Sec. 19. EFFECTIVE DATES

(a) Secs. 1–5c (increasing smoking age to 19 and increasing tobacco taxes), and 17–18 (smoking age for military), ~~and this section~~ shall take effect on January 1, 2017.

(b) Secs. 6–9, and 10a-10c (increasing smoking age to 20 and increasing tobacco taxes) shall take effect on January 1, 2018.

(c) Secs. 11–14, and 15a-15c (increasing smoking age to 21 and increasing tobacco taxes) shall take effect on January 1, 2019.

(d) Sec. 16 (Department of Liquor Control; compliance testing) and this section shall take effect on passage.