

House Calendar

Friday, March 25, 2016

81st DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until March 25, 2016

Favorable

H. 863

An act relating to making miscellaneous amendments to Vermont's retirement laws.

(Rep. Devereux of Mount Holly will speak for the Committee on **Government Operations.**)

Rep. Lanpher of Vergennes, for the Committee on **Appropriations**, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

ACTION CALENDAR

Third Reading

H. 206

An act relating to regulating notaries public

H. 519

An act relating to approval of the adoption and codification of the charter of the Town of Brandon

H. 859

An act relating to special education

Action Postponed Until March 29, 2016

Favorable with Amendment

H. 853

An act relating to setting the nonresidential property tax rate, the property dollar equivalent yield, and the income dollar equivalent yield for fiscal year 2017, and other education changes.

Pending Action; Second Reading

Action Postponed Until March 31, 2016
Committee Bill for Second Reading
H. 867

An act relating to classification of employees and independent contractors.

Pending Action; Second Reading

NOTICE CALENDAR
Committee Bill for Second Reading
H. 877

An act relating to transportation funding.

(Rep. Masland of Thetford will speak for the Committee on **Ways & Means.**)

Favorable with Amendment
H. 93

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

Rep. Mrowicki of Putney, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * 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. 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.

* * * 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. 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(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 ~~19~~ 20 years of age.

* * * 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. 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.

* * * Effective Dates * * *

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.

(Committee Vote: 7-4-0)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of March 24, 2016.

H.C.R. 287

House concurrent resolution congratulating the 2016 Proctor High School Phantoms Division IV boys' basketball championship team

H.C.R. 288

House concurrent resolution honoring the federal TRIO programs in Vermont

H.C.R. 289

House concurrent resolution congratulating the 2016 Enosburg High School Hornets Division III girls' basketball championship team

H.C.R. 290

House concurrent resolution designating April 2016 as the Month of the Military Child in Vermont

H.C.R. 291

House concurrent resolution congratulating the 2016 Lyndon Institute Vikings Division II championship boys' basketball team

H.C.R. 292

House concurrent resolution congratulating the 2016 Lyndon Institute Vikings Division II boys' indoor track and field championship team

H.C.R. 293

House concurrent resolution commemorating the founding of the Reserve Officers' Training Corps at Norwich University on its centennial anniversary

H.C.R. 294

House concurrent resolution congratulating the 2016 Windsor High School Yellow Jackets State championship bowling team

H.C.R. 295

House concurrent resolution congratulating the Rutland Area Visiting Nurse Association & Hospice on its 60th anniversary

H.C.R. 296

House concurrent resolution congratulating the 2016 Hazen Union High School Wildcats Division III championship boys' basketball team

H.C.R. 297

House concurrent resolution congratulating the 2016 Fair Haven Union High School Slaters Division II championship girls' basketball team

H.C.R. 298

House concurrent resolution designating March 23, 2016 as Disability Awareness Day at the State House

H.C.R. 299

House concurrent resolution recognizing the important health care value of the new five-year 2020 Vermont Cancer Plan

H.C.R. 300

House concurrent resolution honoring Griffin MacFadyen of Dover on his outstanding achievements on the slopes, in the classroom, and in the community

H.C.R. 301

House concurrent resolution congratulating Bethany Berger as the runner-up in the 2016 National Best Bagger competition

S.C.R. 40

Senate concurrent resolution designating July 2016 as Park and Recreation Month in Vermont