

H.706

Introduced by Representatives Till of Jericho, Christie of Hartford, Joseph of
North Hero, Lucke of Hartford, and McCullough of Williston

Referred to Committee on

Date:

Subject: Health; tobacco products; smoking; e-cigarettes

Statement of purpose of bill as introduced: This bill proposes to increase the
smoking age in Vermont from 18 to 21 years of age. It would ban all smoking
and use of tobacco substitutes within at least 25 feet of all building entryways
and exits, ventilation systems, and windows. The bill would also prohibit the
purchase and sale of flavored tobacco products, increase taxes on cigarettes
and other tobacco products by 10 percent, and dedicate five percent of the
revenue from tobacco taxes to the Tobacco Prevention and Treatment Program.

An act relating to increasing the smoking age to 21 and raising taxes on
cigarettes and other tobacco products

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

* * * Increasing the Smoking Age from 18 to 21 Years of Age * * *

Sec. 1. FINDINGS

The General Assembly finds that:

1 (1) Every day more than 1,200 persons in the United States die due to
2 smoking.

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

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

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

12 (5) Prevention efforts must focus on young adults 18 through 25 years
13 of age. Almost no one starts smoking after 25 years of age. Nearly nine out of
14 10 smokers began smoking by 18 years of age, and 99 percent started by
15 26 years of age. Progression from occasional to daily smoking almost always
16 occurs by 26 years of age.

17 (6) A 2015 National Academy of Medicine report found that increasing
18 the minimum age of legal access to tobacco products from 18 to 21 years of
19 age would reduce the rate of tobacco use by 12 percent and would decrease
20 smoking-related deaths by 10 percent.

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 under ~~18~~ 21 years of age.

7 (b) All vending machines selling tobacco products are prohibited.

8 (c)(1) Persons holding a tobacco license may only display or store tobacco
9 products or tobacco substitutes:

10 (A) behind a sales counter or in any other area of the establishment
11 that is inaccessible to the public; or

12 (B) in a locked container.

13 (2) This subsection shall not apply to the following:

14 (A) a display of tobacco products that is located in a commercial
15 establishment in which by law no person under ~~18~~ 21 years of age is permitted
16 to enter at any time;

17 * * *

18 (g)(1) The sale and purchase of flavored tobacco products is prohibited.

19 (2) The prohibition in subdivision (1) of this subsection includes any
20 liquid, gel, or other substance designed for use with a tobacco substitute,
21 regardless of whether the substance contains nicotine.

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

2 § 1005. PERSONS UNDER ~~18~~ 21 YEARS OF AGE; POSSESSION OF
3 TOBACCO PRODUCTS; MISREPRESENTING AGE OR
4 PURCHASING TOBACCO PRODUCTS; PENALTY

5 (a)(1) A person under ~~18~~ 21 years of age shall not possess, purchase, or
6 attempt to purchase tobacco products, tobacco substitutes, or tobacco
7 paraphernalia unless the person is an employee of a holder of a tobacco license
8 and is in possession of tobacco products, tobacco substitutes, or tobacco
9 paraphernalia to effect a sale in the course of employment.

10 (2) A person under ~~18~~ 21 years of age shall not misrepresent his or her
11 age to purchase or attempt to purchase tobacco products, tobacco substitutes,
12 or tobacco paraphernalia.

13 (b) A person who possesses tobacco products, tobacco substitutes, or
14 tobacco paraphernalia in violation of subsection (a) of this section shall be
15 subject to having the tobacco products, tobacco substitutes, or tobacco
16 paraphernalia immediately confiscated and shall be further subject to a civil
17 penalty of \$25.00. An action under this subsection shall be brought in the
18 same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

19 (c) A person under ~~18~~ 21 years of age who misrepresents his or her age by
20 presenting false identification to purchase tobacco products, tobacco

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

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

4 § 1006. POSTING OF SIGNS

5 (a) A person licensed under this chapter shall post in a conspicuous place
6 on the premises identified in the tobacco license a warning sign stating that the
7 sale of tobacco products, tobacco substitutes, and tobacco paraphernalia to
8 persons under ~~18~~ 21 years of age is prohibited. The Board shall prepare the
9 sign and make it available with the license forms issued under this chapter.

10 The sign may include information about the health effects of tobacco and
11 tobacco cessation services. The Board, in consultation with a representative of
12 the licensees when appropriate, is authorized to change the design of the sign
13 as needed to maintain its effectiveness.

14 (b) A person violating this section shall be guilty of a misdemeanor and
15 fined not more than \$100.00.

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

17 § 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~18~~ 21 YEARS
18 OF AGE; REPORT

19 (a) A person that sells or furnishes tobacco products, tobacco substitutes, or
20 tobacco paraphernalia to a person under ~~18~~ 21 years of age shall be subject to a
21 civil penalty of not more than \$100.00 for the first offense and not more than

1 \$500.00 for any subsequent offense. An action under this section shall be
2 brought in the same manner as for a traffic violation pursuant to 23 V.S.A.
3 chapter 24 and shall be brought within 24 hours of the occurrence of the
4 alleged violation.

5 (b)(1) The Department of Liquor Control shall conduct or contract for
6 compliance tests of tobacco licensees as frequently and as comprehensively as
7 necessary to ensure consistent statewide compliance with the prohibition on
8 sales to persons under ~~18~~ 21 years of age of at least 90 percent for buyers who
9 are between 16 ~~or 17~~ and 20 years of age. An individual under ~~18~~ 21 years of
10 age participating in a compliance test shall not be in violation of section 1005
11 of this title.

12 * * *

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

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

15 * * *

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

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

20 * * *

1 Sec. 7. 7 V.S.A. § 661(c) is amended to read:

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

5 Sec. 8. EXEMPTIONS; PERSONS ATTAINING 18 YEARS OF AGE ON
6 OR BEFORE JULY 1, 2018

7 (a) Notwithstanding any provision of this act to the contrary, the
8 prohibition on the sale or furnishing of tobacco products, tobacco substitutes,
9 or tobacco paraphernalia to a person under 21 years of age shall not apply to
10 any person who attained 18 years of age on or before July 1, 2018.

11 (b) Notwithstanding any provision of this act to the contrary, the
12 prohibition on the possession of, purchase of, or attempt to purchase tobacco
13 products, tobacco substitutes, or tobacco paraphernalia by a person under
14 21 years of age shall not apply to any person who attained 18 years of age on
15 or before July 1, 2018.

16 * * * Smoking in Public Places * * *

17 Sec. 9. 18 V.S.A. § 1742(a) is amended to read:

18 (a) The possession of lighted tobacco products or use of tobacco substitutes
19 in any form is prohibited in:

20 (1) the common areas of all enclosed indoor places of public access and
21 publicly owned buildings and offices;

1 (2) all enclosed indoor places in lodging establishments used for
2 transient traveling or public vacationing, such as resorts, hotels, and motels,
3 including sleeping quarters and adjoining rooms rented to guests;

4 (3) designated smoke-free areas of property or grounds owned by or
5 leased to the State; and

6 (4) any ~~other~~ area within 25 feet of a window, outside door, ventilation
7 system, or any other opening of a place of public access, including all State-
8 owned buildings and offices, except that to the extent that any portion of the
9 ~~25-foot zone is not on State property, smoking is prohibited only in that~~
10 ~~portion of the zone that is on State property unless the owner of the adjoining~~
11 ~~property chooses to designate his or her property smoke free.~~

12 * * * Cigarette and Tobacco Taxes * * *

13 Sec. 10. 18 V.S.A. § 9502 is amended to read:

14 § 9502. TOBACCO TRUST FUND

15 (a)(1) The Tobacco Trust Fund is established in the Office of the State
16 Treasurer for the purposes of creating a self-sustaining, perpetual fund for
17 tobacco cessation and prevention that is not dependent upon tobacco sales
18 volume.

19 (2) The Trust Fund shall comprise:

20 (A) appropriations made by the General Assembly;

~~(C)~~(D) contributions from any other source.

* * *

(d) The tax imposed under this section shall be at the rate of ~~454~~ 169.5 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.

1 Sec. 13. 32 V.S.A. § 7811 is amended to read:

2 § 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

3 There is hereby imposed and shall be paid a tax on all other tobacco
4 products, snuff, and new smokeless tobacco possessed in the State of Vermont
5 by any person for sale on and after July 1, 1959 ~~which~~ that were imported into
6 the State or manufactured in the State after that date, except that no tax shall be
7 imposed on tobacco products sold under such circumstances that this State is
8 without power to impose such tax, or sold to the United States, or sold to or by
9 a voluntary unincorporated organization of the U.S. Armed Forces operating a
10 place for the sale of goods pursuant to regulations promulgated by the
11 appropriate executive agency of the United States. The tax is intended to be
12 imposed only once upon the wholesale sale of any other tobacco product and
13 shall be at the rate of ~~92~~ 101 percent of the wholesale price for all tobacco
14 products except snuff, which shall be taxed at ~~\$2.57~~ \$2.83 per ounce, or
15 fractional part thereof; new smokeless tobacco, which shall be taxed at the
16 greater of ~~\$2.57~~ \$2.83 per ounce or, if packaged for sale to a consumer in a
17 package that contains less than 1.2 ounces of the new smokeless tobacco, at the
18 rate of ~~\$3.08~~ \$3.39 per package; and cigars with a wholesale price greater than
19 \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price
20 of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00
21 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided,

1 however, that upon payment of the tax within 10 days, the distributor or dealer
2 may deduct from the tax two percent of the tax due. It shall be presumed that
3 all other tobacco products, snuff, and new smokeless tobacco within the State
4 are subject to tax until the contrary is established, and the burden of proof that
5 any other tobacco products, snuff, and new smokeless tobacco are not taxable
6 hereunder shall be upon the person in possession thereof. Licensed
7 wholesalers of other tobacco products, snuff, and new smokeless tobacco
8 shall state on the invoice whether the price includes the Vermont tobacco
9 products tax.

10 Sec. 14. 32 V.S.A. § 7814 is amended to read:

11 § 7814. FLOOR STOCK TAX

12 (a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of
13 snuff in this State in the amount by which the new tax exceeds the amount of
14 the tax already paid on the snuff. The tax shall apply to snuff in the possession
15 or control of the retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2018, but shall not
16 apply to retail dealers who hold less than \$500.00 in wholesale value of such
17 snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2015~~
18 2018, file a report to the Commissioner in such form as the Commissioner may
19 prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2015~~, 2018 and
20 the amount of tax due thereon. The tax imposed by this section shall be due
21 and payable on or before August 25, ~~2015~~, 2018 and thereafter shall bear

1 interest at the rate established under section 3108 of this title. In case of timely
2 payment of the tax, the retail dealer may deduct from the tax due two percent
3 of the tax. Any snuff with respect to which a floor stock tax has been imposed
4 and paid under this section shall not again be subject to tax under section 7811
5 of this title.

6 (b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the
7 prohibition against further tax on stamped cigarettes, little cigars, or roll-your-
8 own tobacco under section 7771 of this title, a floor stock tax is hereby
9 imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco
10 in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on
11 July 1, ~~2015~~, 2018 has more than 10,000 cigarettes or little cigars or who has
12 \$500.00 or more of wholesale value of roll-your-own tobacco; for retail sale in
13 his or her possession or control. The amount of the tax shall be the amount by
14 which the new tax exceeds the amount of the tax already paid for each
15 cigarette, little cigar, or roll-your-own tobacco in the possession or control of
16 the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2015~~, 2018 and on
17 which cigarette stamps have been affixed before July 1, ~~2015~~ 2018. A floor
18 stock tax is also imposed on each Vermont cigarette stamp in the possession or
19 control of the wholesaler at 12:01 a.m. on July 1, ~~2015~~, 2018 and not yet
20 affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.33~~ \$0.31 per
21 stamp. Each wholesaler and retail dealer subject to the tax shall, on or before

1 July 25, ~~2015~~ 2018, file a report to the Commissioner in such form as the
2 Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-
3 own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2015~~, 2018 and the
4 amount of tax due thereon. The tax imposed by this section shall be due and
5 payable on or before July 25, ~~2015~~, 2018 and thereafter shall bear interest at
6 the rate established under section 3108 of this title. In case of timely payment
7 of the tax, the wholesaler or retail dealer may deduct from the tax due two and
8 three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-
9 own tobacco with respect to which a floor stock tax has been imposed under
10 this section shall not again be subject to tax under section 7771 of this title.

11 Sec. 15. 32 V.S.A. § 7823 is amended to read:

12 § 7823. DEPOSIT OF REVENUE

13 The revenue generated by the taxes imposed under this chapter shall be
14 credited as follows:

15 (1) 95 percent to the State Health Care Resources Fund established by

16 33 V.S.A. § 1901d; and

17 (2) five percent to the Tobacco Trust Fund established by 18 V.S.A.

18 § 9502.

1 Sec. 16. 33 V.S.A. § 1901d is amended to read:

2 § 1901d. STATE HEALTH CARE RESOURCES FUND

3 (a) The State Health Care Resources Fund is established in the State
4 Treasury as a special fund to be a source of financing for health care coverage
5 for beneficiaries of the State health care assistance programs under the Global
6 Commitment to Health waiver approved by the Centers for Medicare and
7 Medicaid Services under Section 1115 of the Social Security Act and a source
8 of financing for the Vermont Health Benefit Exchange established in chapter
9 18, subchapter 1 of this title.

10 (b) Into the Fund shall be deposited:

11 (1) all 95 percent of the revenue from the tobacco products ~~tax~~ and ~~from~~
12 ~~the cigarette tax~~ taxes levied pursuant to 32 V.S.A. chapter 205;

13 (2) revenue from health care provider assessments pursuant to chapter
14 19, subchapter 2 ~~of chapter 19~~ of this title;

15 (3) revenue from the employer health care premium contribution
16 pursuant to 21 V.S.A. chapter 25;

17 (4) revenue from health care claims assessments pursuant to 32 V.S.A.
18 § 10402;

19 (5) premium amounts paid by individuals unless paid directly to the
20 insurer;

