

No. 27. An act relating to increasing the legal age for buying and using cigarettes, electronic cigarettes, and other tobacco products from 18 to 21 years of age.

(S.86)

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) An estimated 10,000 children under 18 years of age who are alive in Vermont today will die prematurely from smoking-related illnesses.

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

(3) Cigarette smoking is responsible for more than 480,000 deaths per year in the United States, including more than 41,000 deaths resulting from exposure to secondhand smoke.

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

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

(6) Among current electronic cigarette users under 18 years of age, approximately one-half borrowed or acquired electronic cigarettes from

someone over 18 years of age and nearly one in five purchased them either online or in a retail store.

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

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

(9) Early indications suggest that high levels of awareness of and support for California's 2016 law disallowing tobacco and electronic cigarette sales to young adults under 21 years of age may have contributed to reducing illegal tobacco sales to youth under 18 years of age and to achieving widespread retailer compliance with the law.

Sec. 2. 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 under ~~18~~ 21 years of age.

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

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

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

(B) in a locked container.

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

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

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

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

(a)(1) A person under ~~18~~ 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 ~~18~~ 21 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

(b) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of subsection (a) of this section 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.

(c) A person under ~~18~~ 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. 4. 7 V.S.A. § 1006 is amended to read:

§ 1006. POSTING OF SIGNS

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

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

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

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

(a) A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~18~~ 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.

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

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

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

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

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

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Sec. 7. 7 V.S.A. § 661(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, tobacco substitutes, or tobacco paraphernalia by a person under ~~18~~ 21 years of age.

Sec. 8. EFFECTIVE DATE

This act shall take effect on September 1, 2019.

Date Governor signed bill: May 16, 2019