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H.47

Introduced by Representatives Till of Jericho, Bartholomew of Hartland,
Campbell of St. Johnsbury, Carroll of Bennington, Christensen
of Weathersfield, Coffey of Guilford, Cordes of Lincoln,
Hashim of Dummerston, Killacky of South Burlington,
Kitzmiller of Montpelier, Kornheiser of Brattleboro, LaLonde
of South Burlington, Macaig of Williston, McCarthy of St.
Albans City, Notte of Rutland City, O'Sullivan of Burlington,
Pugh of South Burlington, Scheu of Middlebury, Squirrell of
Underhill, Szott of Barnard, Townsend of South Burlington,
Troiano of Stannard, Walz of Barre City, Yacovone of
Morristown, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Taxation; tobacco taxes; electronic cigarettes

Statement of purpose of bill as introduced: This bill proposes to subject
electronic cigarettes to wholesale tax on "other tobacco products" under
current law.

An act relating to the taxation of electronic cigarettes

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

2 ~~Sec. 1. 32 V.S.A. § 7702(15) is amended to read:~~

3 (15) "Other tobacco products" means any product manufactured from,
4 derived from, or containing tobacco that is intended for human consumption
5 by smoking, chewing, or in any other manner, including products sold as a
6 tobacco substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids,
7 whether nicotine based or not, or delivery devices sold separately for use with
8 a tobacco substitute; but shall not include cigarettes, little cigars, roll-your-own
9 tobacco, snuff, or new smokeless tobacco as defined in this section.

10 Sec. 2. EFFECTIVE DATE

11 ~~This act shall take effect on July 1, 2019.~~

Sec. 1. 32 V.S.A. § 7702(15) is amended to read:

*(15) "Other tobacco products" means any product manufactured from,
derived from, or containing tobacco that is intended for human consumption
by smoking, chewing, or in any other manner, including products sold as a
tobacco substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids,
whether nicotine based or not, or delivery devices sold separately for use with
a tobacco substitute; but shall not include cigarettes, little cigars, roll-your-
own tobacco, snuff, or new smokeless tobacco as defined in this section.*

Sec. 2. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

(a) 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 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of \$2.57 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 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.

(b) The tax established in this section shall not be imposed on marijuana-related supplies sold by a dispensary registered under 18 V.S.A. chapter 86 to registered patients and registered caregivers, as those terms are defined in 18 V.S.A. § 4472.

Sec. 3. 7 V.S.A. § 1001(8) is amended to read:

(8) “Tobacco substitute” means products, including electronic cigarettes or other electronic or battery-powered devices, that contain ~~and~~ or are designed to deliver nicotine or other substances into the body through the inhalation of vapor and that have not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes. Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

Sec. 4. EFFECTIVE DATES

(a) Secs. 1 (32 V.S.A. § 7702) and 2 (32 V.S.A. § 7811) shall take effect on July 1, 2019.

(b) Sec. 3 (7 V.S.A. § 1001) and this section shall take effect on passage.