Introduced by Senators Lyons and Cummings

Referred to Committee on

Subject: Health; tobacco; smoking; purchase, use, and possession

Statement of purpose of bill as introduced: This bill proposes to eliminate prohibitions on and penalties for the purchase, use, and possession of tobacco products in Vermont. It would also update and align tobacco-related terminology and make similar and conforming revisions in relevant statutes.

An act relating to eliminating prohibitions and penalties on the purchase, use, and possession of tobacco products

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

Sec. 1. 7 V.S.A. chapter 40 is amended to read:

CHAPTER 40. TOBACCO PRODUCTS

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(3) “Tobacco products” means cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and other tobacco products as defined in 32 V.S.A. § 7702 and any other product manufactured from, derived...
from, or containing tobacco that is intended for human consumption by
smoking, by chewing, or in any other manner.

* * *

(8) “Tobacco substitute” means products any product, including an
electronic cigarettes cigarette or other electronic or battery-powered devices
device, or any component, part, or accessory thereof, that contain or are
contains or is designed to deliver nicotine or other substances into the body
through the inhalation or other absorption of aerosol, vapor, or other emission
and that have has 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.

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

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(d) The sale and the purchase of bidis is prohibited. A person who holds a
tobacco license who sells bidis as prohibited by this subsection shall be fined
not more than $500.00. A person who purchases bidis from any source shall be fined not more than $250.00.

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

(a)(1) A person under 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 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 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. [Repealed.]

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

(a)(1) A person that If a tobacco retailer or a tobacco retailer’s agent or employee sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person an individual under 21 years of age, the tobacco retailer 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.

(2) If a person other than a tobacco retailer or a tobacco retailer’s agent or employee sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to an individual under 21 years of age, the person 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, in addition to any other penalties that may be applicable under this chapter.

(3) 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 21 years of age of at least 90 percent for buyers who are between 17 and 20 years of age. An individual under 21 years of age participating in a compliance test shall not be in violation of section 1005 of this title.

* * *

(3) The Division shall report to the House Committee on General, Housing, and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the Tobacco Evaluation and Review Board Substance Misuse Prevention Oversight and Advisory Council annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

* * *

§ 1009. CONTRABAND AND SEIZURE

(a) Any cigarettes or other tobacco products, tobacco substitutes, or tobacco paraphernalia that have been sold, offered for sale, or possessed for sale in violation of section 1003 or 1010 of this title, 20 V.S.A. § 2757,
32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband and shall be subject to seizure by the Commissioner, the Commissioner’s agents or employees, the Commissioner of Taxes or any agent or employee of the Commissioner of Taxes, or by any law enforcement officer of this State when directed to do so by the Commissioner. All cigarettes or other tobacco products items seized under this subsection shall be destroyed.

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§ 1010. INTERNET SALES

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(d) A violation of this section is punishable as follows:

(1) A knowing or intentional violation of this section shall be punishable by imprisonment for not more than five years or a fine of not more than $5,000.00, or both.

(2) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a person has violated this section, the Attorney General may impose a civil penalty in an amount not to exceed $5,000.00 for each violation. For purposes of this subsection, each shipment or transport of cigarettes, roll-your-own tobacco, little cigars, or snuff, tobacco substitutes, or tobacco paraphernalia shall constitute a separate violation.

* * *
Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(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 21 years of age. [Repealed.]

Sec. 3. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

(15) “Other tobacco products” means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, by chewing, or in any other manner, including. The term also includes 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 and 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.

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Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2021.