

1 S.41

2 Introduced by Senators Lyons and Cummings

3 Referred to Committee on

4 Date:

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

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

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

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

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

14 CHAPTER 40. TOBACCO PRODUCTS

15 § 1001. DEFINITIONS

16 As used in this chapter:

17 * * *

18 (3) "Tobacco products" means cigarettes, little cigars, roll-your-own
19 tobacco, snuff, cigars, new smokeless tobacco, and ~~other tobacco products as~~
20 ~~defined in 32 V.S.A. § 7702~~ any other product manufactured from, derived

1 from, or containing tobacco that is intended for human consumption by
2 smoking, by chewing, or in any other manner.

3 * * *

4 (8) "Tobacco substitute" means ~~products~~ any product, including an
5 electronic ~~cigarettes~~ cigarette or other electronic or battery-powered ~~devices~~
6 device, or any component, part, or accessory thereof, that ~~contain or are~~
7 contains or is designed to deliver nicotine or other substances into the body
8 through the inhalation or other absorption of aerosol, vapor, or other emission
9 and that ~~have~~ has not been approved by the U.S. Food and Drug
10 Administration for tobacco cessation or other medical purposes. Products that
11 have been approved by the U.S. Food and Drug Administration for tobacco
12 cessation or other medical purposes shall not be considered to be tobacco
13 substitutes.

14 * * *

15 § 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
16 TOBACCO PARAPHERNALIA; REQUIREMENTS;
17 PROHIBITIONS

18 * * *

19 (d) The sale ~~and the purchase~~ of bidis is prohibited. A person who holds a
20 tobacco license who sells bidis as prohibited by this subsection shall be fined

1 not more than \$500.00. A person who purchases bidis from any source shall
2 be fined not more than \$250.00.

3 * * *

4 § 1005. ~~PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF~~
5 ~~TOBACCO PRODUCTS; MISREPRESENTING AGE OR~~
6 ~~PURCHASING TOBACCO PRODUCTS; PENALTY~~

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

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

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

1 ~~(e) A person under 21 years of age who misrepresents his or her age by~~
2 ~~presenting false identification to purchase tobacco products, tobacco~~
3 ~~substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or~~
4 ~~provide up to 10 hours of community service, or both. [Repealed.]~~

5 § 1007. FURNISHING TOBACCO TO ~~PERSONS~~ INDIVIDUALS UNDER
6 21 YEARS OF AGE; REPORT

7 (a)(1) ~~A person that~~ If a tobacco retailer or a tobacco retailer's agent or
8 employee sells or furnishes tobacco products, tobacco substitutes, or tobacco
9 paraphernalia to ~~a person~~ an individual under 21 years of age, the tobacco
10 retailer shall be subject to a civil penalty of not more than \$100.00 for the first
11 offense and not more than \$500.00 for any subsequent offense.

12 (2) If a person other than a tobacco retailer or a tobacco retailer's agent
13 or employee sells or furnishes tobacco products, tobacco substitutes, or
14 tobacco paraphernalia to an individual under 21 years of age, the person shall
15 be subject to a civil penalty of not more than \$100.00 for the first offense and
16 not more than \$500.00 for any subsequent offense, in addition to any other
17 penalties that may be applicable under this chapter.

18 (3) An action under this section shall be brought in the same manner as
19 for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought
20 within 24 hours of the occurrence of the alleged violation.

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

8 * * *

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

17 * * *

18 § 1009. CONTRABAND AND SEIZURE

19 (a) Any cigarettes or other tobacco products, tobacco substitutes, or
20 tobacco paraphernalia that have been sold, offered for sale, or possessed for
21 sale in violation of section 1003 or 1010 of this title, 20 V.S.A. § 2757,

1 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling
2 machines possessed or utilized in violation of section 1011 of this title, shall be
3 deemed contraband and shall be subject to seizure by the Commissioner, the
4 Commissioner's agents or employees, the Commissioner of Taxes or any agent
5 or employee of the Commissioner of Taxes, or by any law enforcement officer
6 of this State when directed to do so by the Commissioner. All ~~cigarettes or~~
7 ~~other tobacco products~~ items seized under this subsection shall be destroyed.

8 * * *

9 § 1010. INTERNET SALES

10 * * *

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

12 (1) A knowing or intentional violation of this section shall be punishable
13 by imprisonment for not more than five years or a fine of not more than
14 \$5,000.00, or both.

15 (2) In addition to or in lieu of any other civil or criminal remedy
16 provided by law, upon a determination that a person has violated this section,
17 the Attorney General may impose a civil penalty in an amount not to exceed
18 \$5,000.00 for each violation. For purposes of this subsection, each shipment
19 or transport of cigarettes, roll-your-own tobacco, little cigars, ~~or snuff,~~ tobacco
20 substitutes, or tobacco paraphernalia shall constitute a separate violation.

21 * * *

1

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

3 § 1102. JUDICIAL BUREAU; JURISDICTION

4 * * *

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

6 * * *

7 (4) ~~Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco~~
8 ~~products by a person under 21 years of age. [Repealed.]~~

9 * * *

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

11 § 7702. DEFINITIONS

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

14 * * *

15 (15) “Other tobacco products” means any product manufactured from,
16 derived from, or containing tobacco that is intended for human consumption by
17 smoking, by chewing, or in any other manner, ~~including.~~ The term also
18 includes products sold as a tobacco substitute, as defined in 7 V.S.A.
19 § 1001(8), ~~and~~ including any liquids, whether nicotine based or not, ~~or~~ and
20 delivery devices sold separately for use with a tobacco substitute; but shall not

1 include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless
2 tobacco as defined in this section.

3 * * *

4 Sec. 4. EFFECTIVE DATE

5 This act shall take effect on July 1, 2021.