

1 S.18

2 An act relating to banning flavored tobacco products and e-liquids

3 The House proposes to the Senate to amend the bill by striking out all after
4 the enacting clause and inserting in lieu thereof the following:

5 Sec. 1. FINDINGS

6 The General Assembly finds that:

7 (1) Tobacco use is costly. Vermont spends more than \$400 million
8 annually to treat tobacco-caused illnesses, including more than \$90 million
9 each year in Medicaid expenses. This translates into a tax burden each year of
10 over \$1,000.00 per Vermont household. Smoking-related productivity losses
11 add another \$576 million in additional costs each year.

12 (2) Youth tobacco use is growing due to e-cigarettes. Seven percent of
13 Vermont high school students smoke, but if e-cigarette use is included,
14 28 percent of Vermont youths use some form of tobacco product. More than
15 one in four Vermont high school students now uses e-cigarettes. Use more
16 than doubled among this age group, from 12 percent to 26 percent, between
17 2017 and 2019.

18 (3) Menthol cigarette use is more prevalent among persons of color who
19 smoke than among white persons who smoke and is more common among
20 lesbian, gay, bisexual, and transgender smokers than among heterosexual
21 smokers. Eighty-five percent of African American adult smokers use menthol

1 cigarettes, and of Black youths 12–17 years of age who smoke, seven out of 10
2 use menthol cigarettes. Tobacco industry documents show a concerted effort
3 to target African Americans through specific advertising efforts.

4 Sec. 2. 7 V.S.A. chapter 40 is amended to read:

5 CHAPTER 40. TOBACCO PRODUCTS

6 § 1001. DEFINITIONS

7 As used in this chapter:

8 (1) “Bidis” or “Beedies” means a product containing tobacco that is
9 wrapped in temburni leaf (diospyros melanoxyton) or tendu leaf (diospyros
10 exculpra), or any other product that is offered to, or purchased by, consumers
11 as bidis or beedies.

12 (2) “Board” means the Board of Liquor and Lottery.

13 (3) “Characterizing flavor” means a taste or aroma, other than the taste
14 or aroma of tobacco, imparted either prior to or during consumption of a
15 tobacco product or tobacco substitute, or a component part or byproduct of a
16 tobacco product or tobacco substitute. The term includes tastes or aromas
17 relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert,
18 alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or
19 drink, or to any conceptual flavor that imparts a taste or aroma that is
20 distinguishable from tobacco flavor but may not relate to any particular known
21 flavor. The term also includes induced sensations, such as those produced by

1 synthetic cooling agents, regardless of whether the agent itself imparts any
2 taste or aroma.

3 (4) “Child-resistant packaging” means packaging that is designed or
4 constructed to be significantly difficult for children under five years of age to
5 open or obtain a toxic or harmful amount of the substance in the container
6 within a reasonable time and not difficult for normal adults to use properly but
7 does not mean packaging that all children under five years of age cannot open
8 or obtain a toxic or harmful amount of the substance in the container within a
9 reasonable time.

10 (5) “Cigarette” means:

11 (A) any roll of tobacco wrapped in paper or any substance not
12 containing tobacco; and

13 (B) any roll of tobacco wrapped in a substance containing tobacco
14 that, because of its appearance, the type of tobacco used in the filler, or its
15 packaging and labeling, is likely to be offered to, or purchased by, consumers
16 as a cigarette described in subdivision (A) of this subdivision (5).

17 ~~(2)(6)~~ “Commissioner” means the Commissioner of Liquor and Lottery.

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.~~

1 ~~(4) “Vending machine” means any mechanical, electronic, or other~~
2 ~~similar device that dispenses tobacco products for money.~~

3 (7) “E-liquid” means the solution, substance, or other material that
4 contains nicotine and is used in or with a tobacco substitute, and that is heated
5 or otherwise acted upon to produce an aerosol, vapor, or other emission to be
6 inhaled or otherwise absorbed by the user. The term does not include cannabis
7 products as defined in section 831 of this title or products that are regulated by
8 the Cannabis Control Board.

9 (8) “E-liquid container or other container holding a liquid or gel
10 substance containing nicotine” means a bottle or other container of an e-liquid
11 containing nicotine or a nicotine liquid or other substance containing nicotine
12 that is sold, marketed, or intended for use in a tobacco substitute. The term
13 does not include a container containing nicotine in a cartridge that is sold,
14 marketed, or intended for use in a tobacco substitute if the cartridge is prefilled
15 and sealed by the manufacturer and not intended to be opened by the
16 consumer.

17 (9) “Flavored e-liquid” means any e-liquid with a characterizing flavor.
18 An e-liquid shall be presumed to be a flavored e-liquid if a licensee, a
19 manufacturer, or a licensee’s or manufacturer’s agent or employee has made a
20 statement or claim directed to consumers or the public, whether express or

1 implied, that the product has a distinguishable taste or aroma other than the
2 taste or aroma of tobacco.

3 (10) “Flavored tobacco product” means any tobacco product with a
4 characterizing flavor. A tobacco product shall be presumed to be a flavored
5 tobacco product if a licensee, a manufacturer, or a licensee’s or manufacturer’s
6 agent or employee has made a statement or claim directed to consumers or the
7 public, whether express or implied, that the product has a distinguishable taste
8 or aroma other than the taste or aroma of tobacco.

9 (11) “Flavored tobacco substitute” means any tobacco substitute with a
10 characterizing flavor. A tobacco substitute shall be presumed to be a flavored
11 tobacco substitute if a licensee, a manufacturer, or a licensee’s or
12 manufacturer’s agent or employee has made a statement or claim directed to
13 consumers or the public, whether express or implied, that the product has a
14 distinguishable taste or aroma other than the taste or aroma of tobacco.

15 (12) “Licensed wholesale dealer” means a wholesale dealer licensed
16 under 32 V.S.A. chapter 205.

17 (13) “Little cigars” means any rolls of tobacco wrapped in leaf tobacco
18 or any substance containing tobacco, other than any roll of tobacco that is a
19 cigarette, and as to which 1,000 units weigh not more than three pounds.

1 (14) “Nicotine” means the chemical substance named 3-(1-Methyl-2-
2 pyrrolidinyl)pyridine or C[10]H[14]N[2], including any salt or complex of
3 nicotine, whether naturally or synthetically derived.

4 (15) “Proper proof of age” means a valid authorized form of
5 identification as defined in section 589 of this title.

6 (16) “Retail dealer” means a person licensed pursuant to section 1002 of
7 this title.

8 (17) “Roll-your-own tobacco” means any tobacco that, because of its
9 appearance, type, packaging, or labeling, is suitable for use and likely to be
10 offered to, or purchased by, consumers as tobacco for making cigarettes.

11 (18) “Snuff” means any finely cut, ground, or powdered tobacco that is
12 not intended to be smoked, has a moisture content of not less than 45 percent,
13 and is not offered in individual single-dose tablets or other discrete single-use
14 units.

15 ~~(5)(19)~~ “Tobacco license” means a license issued by the Division of
16 Liquor Control under this chapter permitting the licensee to engage in the retail
17 sale of tobacco products.

18 ~~(6) “Bidis” or “Beedies” means a product containing tobacco that is~~
19 ~~wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros~~
20 ~~exculpra), or any other product that is offered to, or purchased by, consumers~~
21 ~~as bidis or beedies.~~

1 ~~(7)~~(20) “Tobacco paraphernalia” means any device used, intended for
2 use, or designed for use in smoking, inhaling, ingesting, or otherwise
3 introducing tobacco products, tobacco substitutes, e-liquids, or a combination
4 of these, into the human body, or for preparing tobacco for smoking, inhaling,
5 ingesting, or otherwise introducing into the human body, including devices for
6 holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water
7 pipes, carburetion devices, bong, ~~and~~ hookahs, and clothing or accessories
8 adapted for use with a tobacco product, a tobacco substitute, an e-liquid, or
9 tobacco paraphernalia.

10 (21) “Tobacco products” means cigarettes, little cigars, roll-your-own
11 tobacco, snuff, cigars, new smokeless tobacco, and any other product
12 manufactured from, derived from, or containing tobacco that is intended for
13 human consumption by smoking, by chewing, or in any other manner.

14 ~~(8)~~(22)(A) “Tobacco substitute” means ~~products~~ any product that is not
15 a tobacco product, as defined in subdivision (21) of this section, and that meets
16 one or both of the following descriptions:

17 (i) a product, including an electronic ~~cigarettes~~ cigarette or other
18 electronic or battery-powered ~~devices~~ device, or any component, part, or
19 accessory thereof, that ~~contain or are~~ contains or is designed to deliver nicotine
20 or other substances into the body through the inhalation or other absorption of
21 aerosol, vapor, or other emission and that ~~have~~ has not been approved by the

1 U.S. Food and Drug Administration for tobacco cessation or other medical
2 purposes; or

3 (ii) an oral nicotine product or any other item that is designed to
4 deliver nicotine into the body, including a product or item containing or
5 delivering nicotine that has been extracted from a tobacco plant or leaf.

6 (B) Cannabis products as defined in section 831 of this title or
7 products that have been approved by the U.S. Food and Drug Administration
8 for tobacco cessation or other medical purposes shall not be considered to be
9 tobacco substitutes.

10 (23) “Vending machine” means any mechanical, electronic, or other
11 similar device that sells or dispenses tobacco products, tobacco substitutes, e-
12 liquids, tobacco paraphernalia, or a combination of these.

13 (24) “Wholesale dealer” means a person who imports or causes to be
14 imported into the State any cigarettes, little cigars, roll-your-own tobacco,
15 snuff, new smokeless tobacco, or other tobacco product for sale or who sells or
16 furnishes any of these products to other wholesale dealers or retail dealers for
17 the purpose of resale, but not by small quantity or parcel to consumers thereof.

18 § 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

19 (a)(1) Except as provided in subsection (h) of this section, no person shall
20 engage in the retail sale of tobacco products, tobacco substitutes, e-liquids, or

1 tobacco paraphernalia in the person's place of business without a tobacco
2 license obtained from the Division of Liquor Control.

3 * * *

4 (e) A person who sells tobacco products, tobacco substitutes, e-liquids, or
5 tobacco paraphernalia without obtaining a tobacco license and a tobacco
6 substitute endorsement, as applicable, in violation of this section shall be guilty
7 of a misdemeanor and fined not more than \$200.00 for the first offense and not
8 more than \$500.00 for each subsequent offense.

9 (f) No individual under 16 years of age may sell tobacco products, tobacco
10 substitutes, e-liquids, or tobacco paraphernalia.

11 (g) No person shall engage in the retail sale of tobacco products, tobacco
12 substitutes, ~~substances containing nicotine or otherwise intended for use with a~~
13 ~~tobacco substitute~~ e-liquids, or tobacco paraphernalia in the State unless the
14 person is a licensed wholesale dealer as defined in 32 V.S.A. § 7702 or has
15 purchased the tobacco products, tobacco substitutes, ~~substances containing~~
16 ~~nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or
17 tobacco paraphernalia from a licensed wholesale dealer.

18 (h) This section shall not apply to a cannabis establishment licensed
19 pursuant to chapter 33 of this title to engage in the retail sale of cannabis
20 products as defined in section 831 of this title but not engaged in the sale of
21 tobacco products or tobacco substitutes.

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§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;

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E-LIQUIDS; TOBACCO PARAPHERNALIA; REQUIREMENTS;

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PROHIBITIONS

5

(a)(1) A person shall not:

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(A) sell or provide tobacco products, tobacco substitutes, e-liquids, or

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tobacco paraphernalia to any person under 21 years of age; or

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(B) knowingly enable the usage of tobacco products, tobacco

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substitutes, or e-liquids by a person under 21 years of age.

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(2)(A) Except as otherwise provided in subdivision (B) of this

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subdivision (2), a person, including a retail dealer, who violates subdivision (1)

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of this subsection (a) shall be subject to a civil penalty of not more than

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\$500.00 for the first offense and not more than \$2,000.00 for any subsequent

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offense.

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(B) An employee of a retail dealer who violates subdivision (1) of

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this subsection (a) in the course of employment shall be subject to a civil

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penalty of not more than \$100.00 for a first offense and not more than \$500.00

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for any subsequent offense. This penalty shall be in addition to the penalty

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imposed on the retail dealer pursuant to subdivision (A) of this subdivision (2).

1 (C) An action under this subsection (a) shall be brought in the same
2 manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be
3 brought within 24 hours after the occurrence of the alleged violation.

4 (b) All vending machines selling or dispensing tobacco products, tobacco
5 substitutes, e-liquids, or tobacco paraphernalia, or a combination of these, are
6 prohibited.

7 (c)(1) Persons holding a tobacco license may only display or store tobacco
8 products ~~or~~ tobacco substitutes, and e-liquids:

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

11 (B) in a locked container.

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

13 (A) a display of tobacco products, tobacco substitutes, or e-liquids
14 that is located in a commercial establishment in which by law no person under
15 21 years of age is permitted to enter at any time;

16 (B) cigarettes in unopened cartons and smokeless tobacco in
17 unopened multipack containers of 10 or more packages, any of which shall be
18 displayed in plain view and under the control of a responsible employee so that
19 removal of the cartons or multipacks from the display can be readily observed
20 by that employee; or

1 (C) cigars and pipe tobacco stored in a humidor on the sales counter
2 in plain view and under the control of a responsible employee so that the
3 removal of these products from the humidor can be readily observed by that
4 employee.

5 (d) The sale and the purchase of bidis is prohibited. A person who holds a
6 tobacco license who sells bidis as prohibited by this subsection ~~shall be fined~~
7 ~~not more than \$500.00.~~ A or a person who purchases bidis from any source
8 shall be fined subject to a civil penalty of not more than \$250.00 for a first
9 offense and not more than \$500.00 for a subsequent offense.

10 (e) No person holding a tobacco license shall sell cigarettes or little cigars
11 individually or in packs that contain fewer than 20 cigarettes or little cigars.

12 (f) As used in this section, ~~“little cigars” means any rolls of tobacco~~
13 ~~wrapped in leaf tobacco or any substance containing tobacco, other than any~~
14 ~~roll of tobacco that is a cigarette within the meaning of 32 V.S.A. § 7702(1),~~
15 ~~and as to which 1,000 units weigh not more than three pounds~~ “enable the
16 usage of tobacco products, tobacco substitutes, or e-liquids” means creating a
17 direct and immediate opportunity for a person to use tobacco products, tobacco
18 substitutes, or e-liquids, or a combination of these.

1 § 1004. PROOF OF AGE FOR THE SALE OF TOBACCO PRODUCTS;
2 TOBACCO SUBSTITUTES; E-LIQUIDS; TOBACCO
3 PARAPHERNALIA

4 (a) A person shall exhibit proper proof of ~~his or her~~ the person's age upon
5 demand of a person licensed under this chapter, an employee of a licensee, or a
6 law enforcement officer. If the person fails to provide proper proof of age, the
7 licensee shall be entitled to refuse to sell tobacco products, tobacco substitutes,
8 e-liquids, or tobacco paraphernalia to the person. The sale or furnishing of
9 tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to a
10 person exhibiting proper proof of age shall be prima facie evidence of a
11 licensee's compliance with section 1007 of this title.

12 ~~(b) As used in this section, "proper proof of age" means a valid authorized~~
13 ~~form of identification as defined in section 589 of this title.~~

14 § 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF
15 TOBACCO PRODUCTS, TOBACCO SUBSTITUTES, E-LIQUIDS,
16 OR TOBACCO PARAPHERNALIA; MISREPRESENTING AGE
17 ~~OR PURCHASING TOBACCO PRODUCTS~~; PENALTY

18 (a)(1) A person under 21 years of age shall not possess, purchase, or
19 attempt to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco
20 paraphernalia unless:

1 (A) the person is an employee of a holder of a tobacco license and is
2 in possession of tobacco products, tobacco substitutes, e-liquids, or tobacco
3 paraphernalia to effect a sale in the course of employment; or

4 (B) the person is in possession of tobacco products or tobacco
5 paraphernalia in connection with Indigenous cultural tobacco practices.

6 (2) A person under 21 years of age shall not misrepresent ~~his or her~~ the
7 person's age to purchase or attempt to purchase tobacco products, tobacco
8 substitutes, e-liquids, or tobacco paraphernalia.

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

15 (c) A person under 21 years of age who misrepresents ~~his or her~~ the
16 person's age by presenting false identification to purchase tobacco products,
17 tobacco substitutes, e-liquids, or tobacco paraphernalia shall be fined not more
18 than \$50.00 or provide up to 10 hours of community service, or both.

19 § 1006. POSTING OF SIGNS

20 (a) A person licensed under this chapter shall post in a conspicuous place
21 on the premises identified in the tobacco license a warning sign stating that the

1 sale of tobacco products, tobacco substitutes, e-liquids, and tobacco
2 paraphernalia to persons under 21 years of age is prohibited. The Board shall
3 prepare the sign and make it available with the license forms issued under this
4 chapter. The sign may include information about the health effects of tobacco
5 and tobacco cessation services. The Board, in consultation with a
6 representative of the licensees when appropriate, is authorized to change the
7 design of the sign as needed to maintain its effectiveness.

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

10 § 1007. FURNISHING TOBACCO TO PERSONS UNDER 21 YEARS OF
11 AGE; REPORT

12 ~~(a) A person that sells or furnishes tobacco products, tobacco substitutes, or~~
13 ~~tobacco paraphernalia to a person under 21 years of age shall be subject to a~~
14 ~~civil penalty of not more than \$100.00 for the first offense and not more than~~
15 ~~\$500.00 for any subsequent offense. An action under this section shall be~~
16 ~~brought in the same manner as for a traffic violation pursuant to 23 V.S.A.~~
17 ~~chapter 24 and shall be brought within 24 hours of the occurrence of the~~
18 ~~alleged violation. [Repealed.]~~

19 (b)(1) The Division of Liquor Control shall conduct or contract for
20 compliance tests of tobacco licensees as frequently and as comprehensively as
21 necessary to ensure consistent statewide compliance with the prohibition on

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

5 (2) Any violation by a tobacco licensee of subsection 1003(a) of this
6 title and this section after a sale violation or during a compliance test
7 conducted within six months of a previous violation shall be considered a
8 multiple violation and shall result in the minimum license suspension in
9 addition to any other penalties available under this title. Minimum license
10 suspensions for multiple violations shall be assessed as follows:

- 11 (A) two violations two weekdays;
12 (B) three violations 15-day suspension;
13 (C) four violations 90-day suspension;
14 (D) five violations one-year suspension.

15 (3) The Division shall report to the House Committee on ~~General,~~
16 ~~Housing,~~ Government Operations and Military Affairs, the Senate Committee
17 on Economic Development, Housing and General Affairs, and the ~~Tobacco~~
18 ~~Evaluation and Review Board~~ Substance Misuse Prevention Oversight and
19 Advisory Council annually, on or before January 15, the methodology and
20 results of compliance tests conducted during the previous year. The provisions

1 of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the
2 required report to be made under this subdivision.

3 * * *

4 § 1009. CONTRABAND AND SEIZURE

5 (a) Any cigarettes or other tobacco products, tobacco substitutes, e-liquids,
6 or tobacco paraphernalia that have been sold, offered for sale, or possessed for
7 sale in violation of section 1003, 1010, or 1013 of this title, 20 V.S.A. § 2757,
8 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling
9 machines possessed or utilized in violation of section 1011 of this title, shall be
10 deemed contraband and shall be subject to seizure by the Commissioner, the
11 Commissioner's agents or employees, the Commissioner of Taxes or any agent
12 or employee of the Commissioner of Taxes, or by any law enforcement officer
13 of this State when directed to do so by the Commissioner. All ~~cigarettes or~~
14 ~~other tobacco products~~ items seized under this subsection shall be destroyed.

15 * * *

16 § 1010. INTERNET SALES

17 (a) ~~As used in this section:~~

18 (1) ~~“Cigarette” has the same meaning as in 32 V.S.A. § 7702(1).~~

19 (2) ~~[Repealed.]~~

20 (3) ~~“Licensed wholesale dealer” has the same meaning as in 32 V.S.A.~~
21 ~~§ 7702(5).~~

1 ~~(4) “Little cigars” has the same meaning as in 32 V.S.A. § 7702(6).~~

2 ~~(5) “Retail dealer” has the same meaning as in 32 V.S.A. § 7702(10).~~

3 ~~(6) “Roll your own tobacco” has the same meaning as in 32 V.S.A.~~
4 ~~§ 7702(11).~~

5 ~~(7) “Snuff” has the same meaning as in 32 V.S.A. § 7702(13).~~

6 [Repealed.]

7 (b) No person shall cause cigarettes, roll-your-own tobacco, little cigars,
8 snuff, tobacco substitutes, ~~substances containing nicotine or otherwise intended~~
9 ~~for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia, ordered or
10 purchased by mail or through a computer network, telephonic network, or
11 other electronic network, to be shipped to anyone other than a licensed
12 wholesale dealer or retail dealer in this State.

13 (c) No person shall, with knowledge or reason to know of the violation,
14 provide substantial assistance to a person in violation of this section.

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

16 (1) A knowing or intentional violation of this section shall be punishable
17 by imprisonment for not more than five years or a fine of not more than
18 \$5,000.00, or both.

19 (2) In addition to or in lieu of any other civil or criminal remedy
20 provided by law, upon a determination that a person has violated this section,
21 the Attorney General may impose a civil penalty in an amount not to exceed

1 \$5,000.00 for each violation. For purposes of this subsection, each shipment
2 or transport of cigarettes, roll-your-own tobacco, little cigars, ~~or snuff,~~ tobacco
3 substitutes, e-liquids, or tobacco paraphernalia shall constitute a separate
4 violation.

5 * * *

6 § 1012. ~~LIQUID NICOTINE~~ E-LIQUIDS AND OTHER SUBSTANCES
7 CONTAINING NICOTINE; PACKAGING

8 (a) Unless specifically preempted by federal law, no person shall
9 manufacture, regardless of location, for sale in; offer for sale in; sell in or into
10 the stream of commerce in; or otherwise introduce into the stream of
11 commerce in Vermont:

12 (1) any e-liquid containing nicotine or any other liquid or gel substance
13 containing nicotine unless that product is contained in child-resistant
14 packaging; or

15 (2) any ~~nicotine liquid~~ e-liquid container or other container holding a
16 liquid or gel substance containing nicotine unless that container constitutes
17 child-resistant packaging.

18 (b) ~~As used in this section:~~

19 (1) ~~“Child resistant packaging” means packaging that is designed or~~
20 ~~constructed to be significantly difficult for children under five years of age to~~
21 ~~open or obtain a toxic or harmful amount of the substance in the container~~

1 ~~within a reasonable time and not difficult for normal adults to use properly, but~~
2 ~~does not mean packaging that all children under five years of age cannot open~~
3 ~~or obtain a toxic or harmful amount of the substance in the container within a~~
4 ~~reasonable time.~~

5 (2) ~~“Nicotine liquid container” means a bottle or other container of a~~
6 ~~nicotine liquid or other substance containing nicotine that is sold, marketed, or~~
7 ~~intended for use in a tobacco substitute. The term does not include a container~~
8 ~~containing nicotine in a cartridge that is sold, marketed, or intended for use in a~~
9 ~~tobacco substitute if the cartridge is prefilled and sealed by the manufacturer~~
10 ~~and not intended to be opened by the consumer. [Repealed.]~~

11 § 1013. FLAVORED TOBACCO SUBSTITUTES, FLAVORED E-
12 LIQUIDS, AND MENTHOL TOBACCO PRODUCTS
13 PROHIBITED

14 (a) No person shall engage in the retail sale of:

15 (1) any flavored tobacco substitute;

16 (2) any flavored e-liquid; or

17 (3) any menthol-flavored tobacco product.

18 (b)(1) A person who violates subsection (a) of this section shall be subject
19 to a civil penalty of not more than \$200.00 for the first offense and not more
20 than \$500.00 for any subsequent offense.

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

4 § 1014. SALE OF DISCOUNTED TOBACCO PRODUCTS, TOBACCO
5 SUBSTITUTES, E-LIQUIDS, AND TOBACCO
6 PARAPHERNALIA PROHIBITED

7 (a) As used in this section, “price reduction instrument” means any coupon,
8 voucher, rebate, card, paper, note, form, statement, ticket, image, or other
9 issue, whether in paper, digital, or any other form, used for commercial
10 purposes to receive an article, product, service, or accommodation without
11 charge or at a discounted price.

12 (b) No person shall do any of the following:

13 (1) sell or offer for sale a tobacco product, tobacco substitute, e-liquid,
14 or tobacco paraphernalia to a consumer at a price lower than the price that was
15 in effect at the time the seller purchased the item from the wholesale dealer;

16 (2) sell or offer for sale a tobacco product, tobacco substitute, e-liquid,
17 or tobacco paraphernalia through any multipackage discount; or

18 (3) honor or accept a price reduction instrument in any transaction
19 related to the sale of a tobacco product, tobacco substitute, e-liquid, or tobacco
20 paraphernalia to a consumer.

1 (c) A person who violates subsection (b) of this section shall be subject to a
2 civil penalty of not more than \$200.00 for the first offense and not more than
3 \$500.00 for any subsequent offense. An action under this section shall be
4 brought in the same manner as for a traffic violation pursuant to 23 V.S.A.
5 chapter 24 and shall be brought within 24 hours after the occurrence of the
6 alleged violation.

7 Sec. 3. 4 V.S.A. § 1102(b) is amended to read:

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

9 * * *

10 (5) Violations of 7 V.S.A. § ~~4007~~ 1003(a), relating to furnishing tobacco
11 products, tobacco substitutes, e-liquids, and tobacco paraphernalia to a person
12 under 21 years of age.

13 * * *

14 (33) Violations of 7 V.S.A. § 1013, relating to sale of flavored tobacco
15 substitutes, flavored e-liquids, and menthol-flavored tobacco products.

16 (34) Violations of 7 V.S.A. § 1014, relating to sale of discounted
17 tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia.

18 Sec. 4. 7 V.S.A. § 661(c) is amended to read:

19 (c) The provisions of subsection (b) of this section shall not apply to a
20 violation of subsection 1005(a) of this title, relating to purchase of tobacco

1 products, tobacco substitutes, e-liquids, or tobacco paraphernalia by a person
2 under 21 years of age.

3 Sec. 5. 16 V.S.A. § 140 is amended to read:

4 § 140. ~~TOBACCO USE OF TOBACCO PRODUCTS, TOBACCO~~
5 SUBSTITUTES, AND E-LIQUIDS PROHIBITED ON PUBLIC
6 SCHOOL GROUNDS

7 No person shall be permitted to use tobacco products ~~or~~ tobacco
8 substitutes, or e-liquids, as those terms are defined in 7 V.S.A. § 1001, on
9 public school grounds or at public school sponsored functions. ~~Public school~~
10 ~~boards may adopt policies that include confiscation and appropriate referrals to~~
11 ~~law enforcement authorities.~~

12 Sec. 6. 18 V.S.A. § 4226 is amended to read:

13 § 4226. MINORS; TREATMENT; CONSENT

14 (a)(1) If a minor 12 years of age or older is suspected to ~~be dependent upon~~
15 have a substance use disorder, including a dependence on regulated drugs as
16 defined in section 4201 of this title, on alcohol, on nicotine, or on tobacco
17 products or tobacco substitutes as defined in 7 V.S.A. § 1001, or to have
18 ~~venereal disease, or to be an alcoholic as defined in section 8401 of this title a~~
19 sexually transmitted infection, and the finding of such ~~dependency, disease, or~~
20 ~~alcoholism~~ substance use disorder or infection is verified by a licensed
21 ~~physician~~ health care professional, the minor may give:

1 (A) ~~his or her~~ consent to ~~medical treatment~~ health care services and
2 hospitalization; and

3 (B) in the case of a ~~drug dependent or alcoholic person~~ an individual
4 who has a substance use disorder, consent to nonmedical inpatient or
5 outpatient treatment at a program approved by the Agency of Human Services
6 to provide treatment for ~~drug dependency or alcoholism~~ substance use disorder
7 if deemed necessary by the examining ~~physician for diagnosis or treatment of~~
8 ~~such dependency or disease or alcoholism~~ health care professional.

9 (2) Consent under this section shall not be subject to disaffirmance due
10 to minority of the person consenting. The consent of the parent or legal
11 guardian of a minor consenting under this section shall not be necessary to
12 authorize care as described in this subsection.

13 (b) The parent, parents, or legal guardian shall be notified by the physician
14 if the condition of a minor child requires immediate hospitalization as the
15 result of drug ~~usage, alcoholism, or alcohol use~~ or for the treatment of a
16 ~~venereal disease~~ sexually transmitted infection.

17 (c) As used in this section, “health care professional” means an individual
18 licensed as a physician under 26 V.S.A. chapter 23 or 33, an individual
19 licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual
20 licensed as a registered nurse or advanced practice registered nurse under 26
21 V.S.A. chapter 28.

1 Sec. 7. 18 V.S.A. § 4803(a) is amended to read:

2 (a) Creation. There is created the Substance Misuse Prevention Oversight
3 and Advisory Council within the Department of Health to improve the health
4 outcomes of all Vermonters through a consolidated and holistic approach to
5 substance misuse prevention that addresses all categories of substances. The
6 Council shall provide advice to the Governor and General Assembly for
7 improving prevention policies and programming throughout the State and to
8 ensure that population prevention measures are at the forefront of all policy
9 determinations. The Advisory Council's prevention initiatives shall
10 encompass all substances at risk of misuse, including:

11 (1) alcohol;

12 (2) cannabis;

13 (3) controlled substances, such as opioids, cocaine, and
14 methamphetamines; and

15 (4) tobacco products ~~and, tobacco substitutes, and e-liquids, as those~~
16 terms are defined in 7 V.S.A. § 1001 ~~and substances containing nicotine or that~~
17 ~~are otherwise intended for use with a tobacco substitute.~~

18 Sec. 8. 32 V.S.A. § 7702 is amended to read:

19 § 7702. DEFINITIONS

20 As used in this chapter unless the context otherwise requires:

21 * * *

1 (15) “Other tobacco products” means any product manufactured from,
2 derived from, or containing tobacco that is intended for human consumption
3 by smoking, by chewing, or in any other manner, ~~including~~. The term also
4 includes products sold as a tobacco substitute, as defined in 7 V.S.A.
5 § 1001(8), ~~and including any liquids, whether nicotine based or not, or: e-~~
6 liquids, as defined in 7 V.S.A. § 1001; and delivery devices sold separately for
7 use with a tobacco substitute or e-liquid, but shall not include cigarettes, little
8 cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in
9 this section, or cannabis products as defined in 7 V.S.A. § 831.

10 * * *

11 Sec. 9. 18 V.S.A. § 9503 is amended to read:

12 § 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

13 (a) Except as otherwise specifically provided, the tobacco prevention and
14 treatment program shall be administered and coordinated statewide by the
15 Department of Health, pursuant to the provisions of this chapter. The program
16 shall be comprehensive and research-based.

17 (b) The Department shall establish goals for reducing adult and youth
18 smoking rates, including performance measures for each goal in conjunction
19 with the Substance Misuse Prevention Oversight and Advisory Council
20 established pursuant to section 4803 of this title. The services provided by a
21 quitline approved by the Department of Health shall be offered and made

1 available to any minor, upon ~~his or her~~ the minor's consent, who is a smoker or
2 user of tobacco products, tobacco substitutes, or e-liquids, as those terms are
3 defined in 7 V.S.A. § 1001.

4 (c) The Department of Liquor and Lottery shall administer the component
5 of the program that relates to enforcement activities.

6 (d) The Agency of Education shall administer school-based programs.

7 (e) The Department shall pay all fees and costs of the surveillance and
8 evaluation activities, including the costs associated with hiring a contractor to
9 conduct an independent evaluation of the program.

10 Sec. 10. 33 V.S.A. § 1900 is amended to read:

11 § 1900. DEFINITIONS

12 As used in this subchapter, unless otherwise indicated:

13 * * *

14 (10) "Tobacco" means all of the products listed in the definition of
15 "tobacco products" in 7 V.S.A. § 1001(3).

16 * * *

17 Sec. 11. HEALTH EQUITY ADVISORY COMMISSION; MENTHOL

18 TOBACCO PRODUCT BAN; REPORT

19 On or before January 15, 2025, in its annual report due pursuant to 18
20 V.S.A. § 252(e), the Health Equity Advisory Commission shall recommend to

1 the General Assembly whether the sale of tobacco products containing
2 menthol, including menthol cigarettes, should be banned in Vermont.

3 Sec. 12. TOBACCO SUBSTITUTES AND E-LIQUIDS; ADVERTISING
4 RESTRICTIONS; REPORT

5 On or before December 1, 2024, the Office of the Attorney General shall
6 report to the House Committees on Commerce and Economic Development
7 and on Human Services and the Senate Committees on Economic
8 Development, Housing and General Affairs and on Health and Welfare
9 regarding whether and to what extent Vermont may legally restrict advertising
10 and regulate the content of labels for tobacco substitutes, including oral
11 nicotine products, and e-liquids in this State.

12 Sec. 13. DEPARTMENT OF HEALTH; VERMONT YOUTH RISK
13 BEHAVIOR SURVEY; TOBACCO SALES; REPORT

14 On or before March 1, 2027, the Department of Health shall report to the
15 House Committee on Human Services and the Senate Committee on Health
16 and Welfare the results of the 2025 Vermont Youth Risk Behavior Survey that
17 relate to youth use of tobacco products, tobacco substitutes, and e-liquids,
18 along with a comparison of the rates of use from previous Vermont Youth Risk
19 Behavior Surveys. In its report, the Department shall also provide data on
20 retail sales of tobacco products, tobacco substitutes, and e-liquids during
21 calendar years 2024, 2025, and 2026.

1 Sec. 14. DEPARTMENT OF HEALTH; SCHOOL-BASED USAGE AND
2 CESSATION EFFORTS; DIVERSION TO TOBACCO
3 CESSATION PROGRAM; REPORT

4 (a) The Department of Health shall collaborate with relevant school and
5 community partners to survey and report on the use of tobacco products,
6 tobacco substitutes, and e-liquids, as well as on nicotine and tobacco cessation
7 efforts, in Vermont's schools.

8 (b) The Department of Health, in consultation with the Division of Liquor
9 Control and the Court Diversion Program, shall develop one or more options
10 for diversion to a tobacco cessation program as an alternative to the existing
11 civil penalties and fines for a person under 21 years of age who possesses,
12 purchases, or uses false identification to purchase tobacco products, tobacco
13 substitutes, e-liquids, or tobacco paraphernalia under 7 V.S.A. § 1005.

14 (c) On or before January 15, 2026, the Department shall report to the
15 House Committees on Human Services, on Education, and on Judiciary and the
16 Senate Committees on Health and Welfare, on Education, and on Judiciary
17 with its findings and recommendations regarding the use of tobacco products,
18 tobacco substitutes, and e-liquids in schools; cessation efforts in schools; and
19 options for one or more diversion programs as set forth in subsections (a) and
20 (b) of this section.

1 Sec. 14a. INVESTIGATOR POSITION CREATED; APPROPRIATION;
2 REPORT

3 (a) One new permanent classified position, Investigator, is established in
4 the Department of Liquor and Lottery to enforce, and to investigate potential
5 violations of, Vermont laws relating to direct-to-consumer sales and delivery
6 of alcohol and tobacco products, including 7 V.S.A. §§ 277, 279, 280, and
7 1010.

8 (b)(1) The sum of \$160,000.00 is appropriated to the Department of Liquor
9 and Lottery from the Tobacco Litigation Settlement Fund in fiscal year 2025 to
10 fund the Investigator position established in subsection (a) of this section.

11 (2) It is the intent of the General Assembly that the position established
12 in subsection (a) of this section should be funded from the Tobacco Litigation
13 Settlement Fund for fiscal years 2025 and 2026. It is also the intent of the
14 General Assembly that, beginning in fiscal year 2027, the funding for the
15 Investigator position should be built into base funding for the Department of
16 Liquor and Lottery's budget, with the amount of the salary and benefits for the
17 Investigator position offset by an equivalent amount of the revenue generated
18 to the Department or to the Office of the Attorney General, or both, by the
19 Investigator's activities in enforcing and in investigating violations of Vermont
20 law, with the remainder of the revenue deposited into the General Fund.

1 (c) If the revenue generated by the Investigator’s activities becomes
2 insufficient to cover the cost of the position in the future, the Department of
3 Liquor and Lottery shall propose eliminating the position as part of its next
4 budget or budget adjustment presentation to the General Assembly.

5 (d)(1) On or before March 15, 2025, the Department of Liquor and Lottery
6 shall provide an update to the House Committees on Government Operations
7 and Military Affairs and on Human Services and the Senate Committees on
8 Economic Development, Housing and General Affairs and on Health and
9 Welfare regarding the status of its implementation of the new Investigator
10 position.

11 (2) Annually on or before December 15, the Department of Liquor and
12 Lottery shall report to the House Committees on Government Operations and
13 Military Affairs and on Human Services and the Senate Committees on
14 Economic Development, Housing and General Affairs and on Health and
15 Welfare on the impact of the Investigator’s activities on compliance with
16 Vermont’s laws relating to direct-to-consumer sales and delivery of alcohol
17 and tobacco products.

18 Sec. 15. EFFECTIVE DATES

19 (a) Secs. 2 (7 V.S.A. chapter 40), 3 (4 V.S.A. § 1102(b); Judicial Bureau
20 jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use
21 prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse

1 Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702; definition
2 for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition for medical
3 assistance statutes) shall take effect on January 1, 2026.

4 (b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment), 9
5 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity
6 Advisory Commission; menthol ban; report), 12 (advertising restrictions;
7 report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14
8 (school-based usage and cessation efforts; report) and this section shall take
9 effect on passage.

10 (c) Sec. 14a (Investigator position created; appropriation; report) shall take
11 effect on July 1, 2024, with the first report under subdivision (d)(2) due on or
12 before December 15, 2025.