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Unedited draft amendment

TO THE HOUSE OF REPRESENTATIVES:

The Committee on Human Services to which was referred Senate Bill No. 18 entitled “An act relating to banning flavored tobacco products and e-liquids” respectfully reports that it has considered the same and recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Tobacco use is costly. Vermont spends more than \$400 million annually to treat tobacco-caused illnesses, including more than \$90 million each year in Medicaid expenses. This translates into a tax burden each year of over \$1,000 per Vermont household. Smoking-related productivity losses add another \$576 million in additional costs each year.

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

1 **(3)** Eliminating the sale of menthol tobacco products promotes health
2 equity. Menthol cigarette use is more prevalent among persons of color who
3 smoke than among white persons who smoke and is more common among
4 lesbian, gay, bisexual, and transgender smokers than among heterosexual
5 smokers. Eighty-five percent of African-American adult smokers use menthol
6 cigarettes, and of black youths 12–17 years of age who smoke, seven out of 10
7 use menthol cigarettes. Tobacco industry documents show a concerted effort
8 to target African-Americans through specific advertising efforts.

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

10 § 1001. DEFINITIONS

11 As used in this chapter:

12 **(1)** “Bidis” or “Beedies” means a product containing tobacco that is
13 wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros*
14 exculpra), or any other product that is offered to, or purchased by, consumers
15 as bidis or beedies. (was § 1001(6))

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

17 **(3)** “Characterizing flavor” means a taste or aroma, other than the taste
18 or aroma of tobacco, imparted either prior to or during consumption of a
19 tobacco product or tobacco substitute, or a component part or byproduct of a
20 tobacco product or tobacco substitute. The term includes tastes or aromas
21 relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert,

1 alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or
2 drink, or to any conceptual flavor that imparts a taste or aroma that is
3 distinguishable from tobacco flavor but may not relate to any particular known
4 flavor. The term also includes induced sensations, such as those produced by
5 synthetic cooling agents, regardless of whether the agent itself imparts any
6 taste or aroma.

7 (4) “Cigarette” means:

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

10 (B) any roll of tobacco wrapped in substance containing tobacco that,
11 because of its appearance, the type of tobacco used in the filler, or its
12 packaging and labeling, is likely to be offered to, or purchased by, consumers
13 as a cigarette described in subdivision (A) of this subdivision (4). (from 32

14 V.S.A. § 7702)

15 ~~(2)~~(5) “Commissioner” means the Commissioner of Liquor and Lottery.

16 (6) “E-liquid” means the solution, substance, or other material used in or
17 with a tobacco substitute that is heated or otherwise acted upon to produce an
18 aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the
19 user, regardless of whether the solution, substance, or other material contains
20 nicotine. **The term does not include cannabis products as defined in**

1 **section 831 of this title or products that are regulated by the Cannabis**
2 **Control Board.**

3 (7) **“E-liquid container or other container holding a liquid or gel**
4 **substance containing nicotine”** means a bottle or other container of **an e-**
5 **liquid containing nicotine or** a nicotine liquid or other substance containing
6 nicotine that is sold, marketed, or intended for use in a tobacco substitute. The
7 term does not include a container containing nicotine in a cartridge that is sold,
8 marketed, or intended for use in a tobacco substitute if the cartridge is prefilled
9 and sealed by the manufacturer and not intended to be opened by the
10 consumer. **(moved from § 1012)**

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

17 (9) “Flavored tobacco product” means any tobacco product with a
18 characterizing flavor. A tobacco product shall be presumed to be a flavored
19 tobacco product if a licensee, a manufacturer, or a licensee’s or manufacturer’s
20 agent or employee has made a statement or claim directed to consumers or the

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

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

9 (11) “Licensed wholesale dealer” means a wholesale dealer licensed
10 under 32 V.S.A. chapter 205. (revised from 32 V.S.A. § 7702)

11 (12) “Little cigars” means any rolls of tobacco wrapped in leaf tobacco
12 or any substance containing tobacco, other than any roll of tobacco that is a
13 cigarette, and as to which 1,000 units weigh not more than three pounds. (from
14 § 1003)

15 (13) “Proper proof of age” means a valid authorized form of
16 identification as defined in section 589 of this title. (from § 1004)

17 (14) “Retail dealer” means a person licensed pursuant to section 1102 of
18 this title. (revised from 32 V.S.A. § 7702)

19 (15) “Roll-your-own tobacco” means any tobacco that, because of its
20 appearance, type, packaging, or labeling, is suitable for use and likely to be

1 offered to, or purchased by, consumers as tobacco for making cigarettes. (from
2 32 V.S.A. § 7702)

3 (16) “Snuff” means any finely cut, ground, or powdered tobacco that is
4 not intended to be smoked, has a moisture content of not less than 45 percent,
5 and is not offered in individual single-dose tablets or other discrete single-use
6 units. (from 32 V.S.A. § 7702)

7 ~~(5)(17)~~ “Tobacco license” means a license issued by the Division of
8 Liquor Control under this chapter permitting the licensee to engage in the retail
9 sale of tobacco products.

10 ~~(7)(18)~~ “Tobacco paraphernalia” means any device used, intended for
11 use, or designed for use in smoking, inhaling, ingesting, or otherwise
12 introducing tobacco products or tobacco substitutes, or both, into the human
13 body, or for preparing tobacco for smoking, inhaling, ingesting, or otherwise
14 introducing into the human body, including devices for holding tobacco,
15 rolling paper, wraps, cigarette rolling machines, pipes, water pipes, carburetion
16 devices, bongs, and hookahs, and clothing or accessories adapted for use
17 with a tobacco product or tobacco substitute.

18 ~~(3)(19)~~ “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 ~~(8)(20)~~(A) “Tobacco substitute” means ~~products~~ any product, including
4 an electronic cigarettes cigarette or other electronic or battery-powered ~~devices~~
5 device, or any component, part, or accessory thereof, that ~~contain or are~~
6 contains or is designed to deliver nicotine or other substances into the body
7 through the inhalation or other absorption of aerosol, vapor, or other emission
8 and that ~~have~~ has not been approved by the U.S. Food and Drug
9 Administration for tobacco cessation or other medical purposes.

10 **(B) “Tobacco substitute” also means any oral nicotine product or**
11 **any other item that is designed to deliver nicotine into the body through a**
12 **product that is not a tobacco product.**

13 (C) **Cannabis products as defined in section 831 of this title or**
14 products that have been approved by the U.S. Food and Drug Administration
15 for tobacco cessation or other medical purposes shall not be considered to be
16 tobacco substitutes.

17 ~~(4)(21)~~ “Vending machine” means any mechanical, electronic, or other
18 similar device that dispenses tobacco products for money.

19 (22) “Wholesale dealer” means a person who imports or causes to be
20 imported into the State any cigarettes, little cigars, roll-your-own tobacco,
21 snuff, new smokeless tobacco, or other tobacco product for sale or who sells or

1 furnishes any of these products to other wholesale dealers or retail dealers for
2 the purpose of resale, but not by small quantity or parcel to consumers thereof.

3 (from 32 V.S.A. § 7702)

4 § 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

5 (a)(1) Except as provided in subsection (h) of this section, no person shall
6 engage in the retail sale of tobacco products, tobacco substitutes, e-liquids, or
7 tobacco paraphernalia in the person's place of business without a tobacco
8 license obtained from the Division of Liquor Control.

9 * * *

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

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

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

1 ~~nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or
2 tobacco paraphernalia from a licensed wholesale dealer.

3 § 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;

4 **E-LIQUIDS; TOBACCO PARAPHERNALIA; REQUIREMENTS;**

5 **PROHIBITIONS**

6 (a) **(1)** A person shall not:

7 **(A)** sell or provide tobacco products, tobacco substitutes, e-liquids, or
8 tobacco paraphernalia to any person under 21 years of age; or

9 **(B) knowingly enable the usage of tobacco products, tobacco**
10 **substitutes, or e-liquids by a person under 21 years of age.**

11 **(2) A person that sells or furnishes tobacco products, tobacco**
12 **substitutes, e-liquids, or tobacco paraphernalia to a person under 21 years of**
13 **age in violation who violates subdivision (1) of this subsection shall be**
14 **subject to a civil penalty of not more than \$100.00 for the first offense and not**
15 **more than \$500.00 for any subsequent offense less than \$500.00 nor more**
16 **than \$2,000.00. An action under this section shall be brought in the same**
17 **manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be**
18 **brought within 24 hours of the occurrence of the alleged violation. For a**
19 **retail sale in violation of subdivision (1) of this subsection, the penalty**
20 **shall be assessed on the individual retail dealer or agent or employee of**
21 **the retail dealer who made the sale.**

1 (b) All vending machines selling tobacco products, **tobacco substitutes, or**
2 **e-liquids, or a combination of these,** are prohibited.

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

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

7 (B) in a locked container.

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

9 (A) a display of tobacco products, tobacco substitutes, or e-liquids
10 that is located in a commercial establishment in which by law no person under
11 21 years of age is permitted to enter at any time;

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

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

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

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

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

14 § 1004. PROOF OF AGE FOR THE SALE OF TOBACCO PRODUCTS;
15 TOBACCO SUBSTITUTES; E-LIQUIDS; TOBACCO
16 PARAPHERNALIA

17 **(a)** A person shall exhibit proper proof of ~~his or her~~ the person’s age upon
18 demand of a person licensed under this chapter, an employee of a licensee, or a
19 law enforcement officer. If the person fails to provide proper proof of age, the
20 licensee shall be entitled to refuse to sell tobacco products, tobacco substitutes,
21 e-liquids, or tobacco paraphernalia to the person. The sale or furnishing of

1 tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to a
2 person exhibiting proper proof of age shall be prima facie evidence of a
3 licensee’s compliance with section 1007 of this title.

4 ~~(b) As used in this section, “proper proof of age” means a valid authorized~~
5 ~~form of identification as defined in section 589 of this title. (moved to § 1001)~~

6 § 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF
7 TOBACCO PRODUCTS; MISREPRESENTING AGE ~~OR~~ FOR
8 PURCHASING TOBACCO PRODUCTS; PENALTY

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

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

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

17 (2) A person under 21 years of age shall not misrepresent ~~his or her~~ the
18 person’s age to purchase or attempt to purchase tobacco products, tobacco
19 substitutes, e-liquids, or tobacco paraphernalia.

20 (b) A person who possesses tobacco products, tobacco substitutes, e-
21 liquids, or tobacco paraphernalia in violation of subsection (a) of this section

1 shall be subject to having the tobacco products, tobacco substitutes, e-liquids,
2 or tobacco paraphernalia immediately confiscated and shall be further subject
3 to a civil penalty of \$25.00. An action under this subsection shall be brought
4 in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

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

9 § 1006. POSTING OF SIGNS

10 (a) A person licensed under this chapter shall post in a conspicuous place
11 on the premises identified in the tobacco license a warning sign stating that the
12 sale of tobacco products, tobacco substitutes, e-liquids, and tobacco
13 paraphernalia to persons under 21 years of age is prohibited. The Board shall
14 prepare the sign and make it available with the license forms issued under this
15 chapter. The sign may include information about the health effects of tobacco
16 and tobacco cessation services. The Board, in consultation with a
17 representative of the licensees when appropriate, is authorized to change the
18 design of the sign as needed to maintain its effectiveness.

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

1 § 1007. FURNISHING TOBACCO TO PERSONS UNDER 21 YEARS OF
2 AGE; REPORT

3 (a) ~~A person that sells or furnishes tobacco products, tobacco substitutes, or~~
4 ~~tobacco paraphernalia to a person under 21 years of age shall be subject to a~~
5 ~~civil penalty of not more than \$100.00 for the first offense and not more than~~
6 ~~\$500.00 for any subsequent offense. An action under this section shall be~~
7 ~~brought in the same manner as for a traffic violation pursuant to 23 V.S.A.~~
8 ~~chapter 24 and shall be brought within 24 hours of the occurrence of the~~
9 ~~alleged violation. [Repealed.] (moved to § 1003)~~

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

17 (2) Any violation by a tobacco licensee of subsection 1003(a) of this
18 title and this section after a sale violation or during a compliance test
19 conducted within six months of a previous violation shall be considered a
20 multiple violation and shall result in the minimum license suspension in

1 addition to any other penalties available under this title. Minimum license
2 suspensions for multiple violations shall be assessed as follows:

- 3 (A) Two violations two weekdays;
- 4 (B) Three violations 15-day suspension;
- 5 (C) Four violations 90-day suspension;
- 6 (D) Five violations one-year suspension.

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

15 * * *

16 § 1009. CONTRABAND AND SEIZURE

17 (a) Any cigarettes or other tobacco products, tobacco substitutes, e-liquids,
18 or tobacco paraphernalia that have been sold, offered for sale, or possessed for
19 sale in violation of section 1003, 1010, or 1013 of this title, 20 V.S.A. § 2757,
20 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling
21 machines possessed or utilized in violation of section 1011 of this title, shall be

1 deemed contraband and shall be subject to seizure by the Commissioner, the
2 Commissioner’s agents or employees, the Commissioner of Taxes or any agent
3 or employee of the Commissioner of Taxes, or by any law enforcement officer
4 of this State when directed to do so by the Commissioner. All ~~cigarettes or~~
5 ~~other tobacco products~~ items seized under this subsection shall be destroyed.

6 * * *

7 § 1010. INTERNET SALES

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

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

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

11 (3) ~~“Licensed wholesale dealer” has the same meaning as in 32 V.S.A.~~
12 ~~§ 7702(5).~~

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

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

15 (6) ~~“Roll your own tobacco” has the same meaning as in 32 V.S.A.~~
16 ~~§ 7702(11).~~

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

18 ~~[Repealed.]~~

19 (b) No person shall cause cigarettes, roll-your-own tobacco, little cigars,
20 snuff, tobacco substitutes, ~~substances containing nicotine or otherwise intended~~
21 ~~for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia, ordered or

1 purchased by mail or through a computer network, telephonic network, or
2 other electronic network, to be shipped to anyone other than a licensed
3 wholesale dealer or retail dealer in this State.

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

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

7 (1) A knowing or intentional violation of this section shall be punishable
8 by imprisonment for not more than five years or a fine of not more than
9 \$5,000.00, or both.

10 (2) In addition to or in lieu of any other civil or criminal remedy
11 provided by law, upon a determination that a person has violated this section,
12 the Attorney General may impose a civil penalty in an amount not to exceed
13 \$5,000.00 for each violation. For purposes of this subsection, each shipment
14 or transport of cigarettes, roll-your-own tobacco, little cigars, ~~or snuff, tobacco~~
15 substitutes, e-liquids, or tobacco paraphernalia shall constitute a separate
16 violation.

17 * * *

18 § 1012. ~~LIQUID NICOTINE~~ E-LIQUIDS AND OTHER SUBSTANCES
19 CONTAINING NICOTINE; PACKAGING

20 (a) Unless specifically preempted by federal law, no person shall
21 manufacture, regardless of location, for sale in; offer for sale in; sell in or into

1 the stream of commerce in; or otherwise introduce into the stream of
2 commerce in Vermont:

3 (1) any **e-liquid containing nicotine or any other** liquid or gel
4 substance containing nicotine unless that product is contained in child-resistant
5 packaging; or

6 (2) any ~~nicotine liquid e-liquid~~ container **or other container holding a**
7 **liquid or gel substance containing nicotine** unless that container constitutes
8 child-resistant packaging.

9 (b) As used in this section:

10 ~~(1) “Child resistant, child-resistant~~ **child-resistant** packaging” means packaging that is
11 designed or constructed to be significantly difficult for children under five
12 years of age to open or obtain a toxic or harmful amount of the substance in the
13 container within a reasonable time and not difficult for normal adults to use
14 properly, but does not mean packaging that all children under five years of age
15 cannot open or obtain a toxic or harmful amount of the substance in the
16 container within a reasonable time.

17 ~~(2) “Nicotine liquid container” means a bottle or other container of a~~
18 **nicotine liquid or other substance containing nicotine that is sold, marketed, or**
19 **intended for use in a tobacco substitute. The term does not include a container**
20 **containing nicotine in a cartridge that is sold, marketed, or intended for use in a**

1 ~~tobacco substitute if the cartridge is prefilled and sealed by the manufacturer~~
2 ~~and not intended to be opened by the consumer.~~

3 § 1013. FLAVORED TOBACCO PRODUCTS, FLAVORED TOBACCO
4 SUBSTITUTES, AND FLAVORED E-LIQUIDS PROHIBITED

5 (a)(1) No person shall engage in the retail sale of any flavored tobacco
6 product, flavored e-liquid, or flavored tobacco substitute.

7 (2) Notwithstanding subdivision (1) of this subsection, retail sales of
8 menthol [cigarettes/tobacco products] shall be permitted until [date].

9 (b) If a ~~tobacco retailer or a tobacco retailer's retail dealer or the~~ agent or
10 employee ~~of a retail dealer violates makes a retail sale in violation of~~
11 subsection (a) of this section, the ~~tobacco retailer individual retail dealer,~~
12 agent, or employee shall be subject to a civil penalty of not more than \$100.00
13 for a first offense and not more than \$500.00 for any subsequent offense. An
14 action under this section shall be brought in the same manner as for a traffic
15 violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24
16 hours after the occurrence of the alleged violation.

17 § 1014. SALE OF DISCOUNTED TOBACCO PRODUCTS
18 PROHIBITED

19 (a) As used in this section, “price reduction instrument” means any coupon,
20 voucher, rebate, card, paper, note, form, statement, ticket, image, or other
21 issue, whether in paper, digital, or any other form, used for commercial

1 purposes to receive an article, product, service, or accommodation without
2 charge or at a discounted price.

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

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

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

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

12 (c) A person who violates subsection (b) of this section shall be subject to a
13 civil penalty of [amount].

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

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

16 * * *

17 (5) Violations of 7 V.S.A. **§ 1007 1013(b)**, relating to **furnishing**
18 **tobacco products to a person under 21 years of age** **the sale of flavored**
19 **tobacco products, flavored e-liquids, and flavored tobacco substitutes.**

20 * * *

1 ~~(33) Violations of 7 V.S.A. § 1013(b), relating to flavored tobacco~~
2 ~~products, flavored e-liquids, and flavored tobacco substitutes.~~

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

4 (c) The provisions of subsection (b) of this section shall not apply to a
5 violation of subsection 1005(a) of this title, relating to purchase of tobacco
6 products, tobacco substitutes, e-liquids, or tobacco paraphernalia by a person
7 under 21 years of age.

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

9 § 140. TOBACCO USE PROHIBITED ON PUBLIC SCHOOL GROUNDS

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

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

16 **§ 4226. MINORS; TREATMENT; CONSENT**

17 (a)(1) If a minor 12 years of age or older is suspected to ~~be dependent upon~~
18 have a substance use disorder, including a dependence on regulated drugs as
19 defined in section 4201 of this title, on alcohol, on nicotine, or on tobacco
20 products or tobacco substitutes as defined in 7 V.S.A. § 1001, or to have
21 venereal disease, or to be an alcoholic as defined in section 8401 of this title a

1 sexually transmitted infection, and the finding of such ~~dependency, disease, or~~
2 ~~alcoholism~~ substance use disorder or infection is verified by a licensed
3 ~~physician~~ health care professional, the minor may give:

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

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

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

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

20 (c) As used in this section, “health care professional” means an individual
21 licensed as a physician under 26 V.S.A. chapter 23 or 33, an individual

1 licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual
2 licensed as a registered nurse or advanced practice registered nurse under 26
3 V.S.A. chapter 28.

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

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

14 (1) alcohol;

15 (2) cannabis;

16 (3) controlled substances, such as opioids, cocaine, and
17 methamphetamines; and

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

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

1 § 7702. DEFINITIONS

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

3 * * *

4 (15) “Other tobacco products” means any product manufactured from,
5 derived from, or containing tobacco that is intended for human consumption
6 by smoking, by chewing, or in any other manner, ~~including~~. The term also
7 includes products sold as a tobacco substitute, as defined in 7 V.S.A.

8 § 1001(8), ~~and including any liquids, whether nicotine based or not, or; e-~~
9 liquids, as defined in 7 V.S.A. § 1001(9); and delivery devices sold separately
10 for use with a tobacco substitute or e-liquid, but shall not include cigarettes,
11 little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined
12 in this section, or cannabis products as defined in 7 V.S.A. § 831.

13 * * *

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

15 § 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

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

20 (b) The Department shall establish goals for reducing adult and youth
21 smoking rates, including performance measures for each goal in conjunction

1 with the Substance Misuse Prevention Oversight and Advisory Council
2 established pursuant to section 4803 of this title. The services provided by a
3 quitline approved by the Department of Health shall be offered and made
4 available to any minor, upon ~~his or her~~ **the minor's** consent, who is a smoker
5 or user of tobacco products, **tobacco substitutes, or e-liquids**, as **those terms**
6 **are** defined in 7 V.S.A. § 1001.

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

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

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

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

14 § 1900. DEFINITIONS

15 As used in this subchapter, unless otherwise indicated:

16 * * *

17 (10) “Tobacco” means all **of the** products listed in **the definition of**
18 **“tobacco products” in** 7 V.S.A. § 1001~~(3)~~.

19 * * *

20 **Sec. 11. HEALTH EQUITY ADVISORY COMMISSION; MENTHOL**

21 **TOBACCO PRODUCT BAN; REPORT**

1 (a) The General Assembly finds that:

2 (1) Menthol cigarette use is more prevalent among persons of color who
3 smoke than among white persons who smoke and is more common among
4 lesbian, gay, bisexual, and transgender smokers than among heterosexual
5 smokers.

6 (2) There are differing views regarding whether enacting a ban on the
7 sale of menthol cigarettes and other menthol tobacco products would be
8 supportive of persons of color, who have been disproportionately targeted by
9 the marketing of menthol products, resulting in Black individuals dying at
10 disproportionately high rates from tobacco-related diseases when compared
11 with other racial and ethnic groups, or whether a ban would be racist or would
12 discriminate against persons of color and members of other marginalized
13 communities by depriving them of their preferred cigarettes and other menthol
14 tobacco products.

15 (b) On or before January 15, 2025, in its annual report due pursuant to 18
16 V.S.A. § 252(e), the Health Equity Advisory Commission shall recommend to
17 the General Assembly whether the sale of tobacco products containing
18 menthol, including menthol cigarettes, should be banned in Vermont.

19 Sec. 12. **TOBACCO SUBSTITUTES, E-LIQUIDS, AND NICOTINE**
20 **PRODUCTS**; ADVERTISING RESTRICTIONS; REPORT

1 On or before **December 1, 2023**, the Office of the Attorney General shall
2 report to the House Committees on Commerce and Economic Development
3 and on Human Services and the Senate Committees on Economic
4 Development, Housing and General Affairs and on Health and Welfare
5 regarding whether and to what extent Vermont may legally restrict advertising
6 and regulate the content of labels for products in this State.

7 Sec. 13. DEPARTMENT OF HEALTH; VERMONT YOUTH RISK
8 BEHAVIOR SURVEY; **TOBACCO SALES**; REPORT

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

17 **Sec. 14. DEPARTMENT OF HEALTH; SCHOOL-BASED USAGE AND**
18 **CESSATION EFFORTS; REPORT**

19 **The Department of Health shall collaborate with relevant school and**
20 **community partners to survey and report on the use of tobacco products,**
21 **tobacco substitutes, and e-liquids, as well as on nicotine and tobacco**

1 **cessation efforts, in Vermont’s schools. On or before [date], the**
2 **Department shall report to the House Committees on Human Services and**
3 **on Education and the Senate Committees on Health and Welfare and on**
4 **Education with its findings and any recommendations for legislative**
5 **action.**

6 Sec. 15. EFFECTIVE DATE

7 This act shall take effect on September 1, 2023.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE