

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means to which was referred Senate Bill No.
3 18 entitled “An act relating to banning flavored tobacco products and e-
4 liquids” respectfully reports that it has considered the same and recommends
5 that the report of the Committee on Human Services be amended as follows:

6 First: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (7) in its
7 entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

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

14 Second: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (22) in its
15 entirety and inserting in lieu thereof a new subdivision (22) to read as follows:

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

19 (i) a product, including an electronic ~~cigarettes~~ cigarette or other
20 electronic or battery-powered ~~devices~~ device, or any component, part, or
21 accessory thereof, that ~~contain or are~~ contains or is designed to deliver nicotine

1 ~~or other substances~~ into the body through the inhalation or other absorption of
2 aerosol, vapor, or other emission and that ~~have~~ has not been approved by the
3 U.S. Food and Drug Administration for tobacco cessation or other medical
4 purposes; or

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

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

12 Third: In Sec. 2, by striking out 7 V.S.A. § 1005 in its entirety and inserting
13 in lieu thereof a new 7 V.S.A. § 1005 to read as follows:

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

19 (a)(1) Prohibited conduct. A person under 21 years of age shall not
20 possess, purchase, or attempt to purchase tobacco products, tobacco
21 substitutes, e-liquids, or tobacco 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) Offense. A person who possesses tobacco products, tobacco
10 substitutes, e-liquids, or tobacco paraphernalia in violation of subsection (a) of
11 this section commits a civil violation and shall be subject to having the tobacco
12 products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately
13 confiscated and shall be ~~further subject to a civil penalty of \$25.00. An action~~
14 ~~under this subsection shall be brought in the same manner as a traffic violation~~
15 pursuant to 23 V.S.A. chapter 24 referred to the Court Diversion Program for
16 the purpose of enrollment in a tobacco cessation program approved by the
17 Department of Health. A person who fails to complete the program shall be
18 subject to a civil penalty of \$50.00.

19 (c) Issuance of notice of violation. A law enforcement officer shall issue a
20 person who violates this section a notice of violation, in a form approved by
21 the Court Administrator. The notice of violation shall require the person to

1 provide the person’s name and address and shall explain procedures under this
2 section, including that:

3 (1) the person shall contact the Diversion Program in the county where
4 the offense occurred within 15 days;

5 (2) failure to contact the Diversion Program within 15 days will result in
6 the case being referred to the Judicial Bureau, where the person, if found liable
7 for the violation, will be subject to a civil penalty;

8 (3) no money should be submitted to pay any penalty until after
9 adjudication; and

10 (4) the person shall notify the Diversion Program if the person’s address
11 changes.

12 (d) Summons and complaint. When a person is issued a notice of violation
13 under this section, the law enforcement officer shall complete a summons and
14 complaint for the offense and send it to the Diversion Program in the county
15 where the offense occurred. The summons and complaint shall not be filed
16 with the Judicial Bureau at that time.

17 (e) Registration in tobacco cessation program. Within 15 days after
18 receiving a notice of violation, the person shall contact the Diversion Program
19 in the county where the offense occurred and register for a tobacco cessation
20 program approved by the Department of Health. If the person fails to do so,
21 the Diversion Program shall file the summons and complaint with the Judicial

1 Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program
2 shall provide a copy of the summons and complaint to the law enforcement
3 officer who issued the notice of violation and shall provide two copies to the
4 person charged with the violation.

5 (f) Notice to report to Diversion. Upon receipt from a law enforcement
6 officer of a summons and complaint completed under this section, the
7 Diversion Program shall send the person a notice to report to the Diversion
8 Program. The notice to report shall provide that:

9 (1) the person is required to complete the tobacco cessation program;

10 (2) if the person does not satisfactorily complete the tobacco cessation
11 program, the case will be referred to the Judicial Bureau, where the person, if
12 found liable for the violation, will be subject to a civil penalty; and

13 (3) if the person satisfactorily completes the tobacco cessation program,
14 no penalty shall be imposed.

15 (g) Diversion Program requirements.

16 (1) Upon being contacted by a person who has been issued a notice of
17 violation, the Diversion Program shall register the person in a tobacco
18 cessation program approved by the Department of Health.

19 (2) When a person has satisfactorily completed the tobacco cessation
20 program, the Diversion Program shall do all of the following:

21 (A) Void the summons and complaint with no penalty due.

1 (B) Send copies of the voided summons and complaint to the Judicial
2 Bureau and to the law enforcement officer who completed them. Before
3 sending copies of the voided summons and complaint to the Judicial Bureau
4 under this subdivision, the Diversion Program shall redact all language
5 containing the person’s name, address, Social Security number, and any other
6 information that identifies the person.

7 (3) If a person does not satisfactorily complete the tobacco cessation
8 program or if the person fails to pay the Diversion Program any required
9 program fees, the Diversion Program shall file the summons and complaint
10 with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The
11 Diversion Program shall provide a copy of the summons and complaint to the
12 law enforcement officer who issued the notice of violation and shall provide
13 two copies to the person charged with the violation.

14 (4) A person aggrieved by a decision of the Diversion Program or of the
15 tobacco cessation program may seek review of that decision pursuant to Rule
16 75 of the Vermont Rules of Civil Procedure.

17 (e)(h) Confiscation of false identification. A In addition to the procedures
18 set forth in subsections (b)–(g) of this section, a person under 21 years of age
19 who misrepresents ~~his or her~~ the person’s age by presenting false identification
20 to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco
21 paraphernalia shall ~~be fined not more than \$50.00 or provide up to 10 hours of~~

1 ~~community service, or both~~ have the person’s false identification immediately
2 confiscated.

3 Fourth: By striking out Sec. 15, effective dates, in its entirety and inserting
4 in lieu thereof a new Sec. 15 to read as follows:

5 Sec. 15. EFFECTIVE DATES

6 (a) Secs. 2 (7 V.S.A. chapter 40), 3 (4 V.S.A. § 1102(b); Judicial Bureau
7 jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use
8 prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse
9 Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702; definition
10 for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition for medical
11 assistance statutes) shall take effect on January 1, 2026.

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

18 (Committee vote: _____)

19 _____

20 Representative _____

21 FOR THE COMMITTEE