

Comparison of S.18, An act relating to banning flavored tobacco products and e-liquids, as passed by Senate and House

	S.18 as passed by Senate	S.18 as passed by House
Findings	(Sec. 1) 10 findings about tobacco use	(Sec. 1) Three findings about tobacco use: As passed by Senate findings #1, 2, and (most of) 8
Sec. 2: 7 V.S.A. chapter 40 7 V.S.A. § 1001 – Definitions	Amends definitions of “tobacco products,” “tobacco substitute,” and “e-liquid”	<ul style="list-style-type: none"> • Reorganizes definitions section, including moving definitions found throughout the chapter into the definitions section, mirroring certain definitions from Title 32’s tobacco taxes chapter, updating terminology, and putting definitions in alphabetical order • Adds new definitions, including definitions for: <ul style="list-style-type: none"> ○ Characterizing flavor, e-liquid, flavored e-liquid, flavored tobacco product, flavored tobacco substitute, and nicotine • Broadens definition of “tobacco substitute” but limits to products containing nicotine, and adds oral nicotine products and other products designed to deliver nicotine into the body • Expands definition of “tobacco paraphernalia,” including adding clothing or accessories adapted for use with tobacco products, tobacco substitutes, and e-liquids
7 V.S.A. § 1002 – License required; application; fee; issuance	Updates terminology to use “e-liquids”	<ul style="list-style-type: none"> • Updates terminology to use “e-liquids” • Removes now unnecessary cross-reference to definition in Title 32
7 V.S.A. § 1003 – Sale of tobacco products; tobacco substitutes; e-liquids; tobacco paraphernalia; requirements; prohibitions	Updates terminology to use “e-liquids”	<ul style="list-style-type: none"> ○ Adds prohibition on knowingly enabling the usage of tobacco products, tobacco substitutes, or e-liquids by a person under age 21 <ul style="list-style-type: none"> ▪ In addition to existing prohibition on selling to a person under age 21 ○ Moves penalties for selling or providing items to minors from § 1007 to § 1003, applies penalty to knowingly enabling minors’ usage of items <ul style="list-style-type: none"> ▪ Increases penalties from up to \$100 for first offense and up to \$500 for subsequent offense to up to \$500

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		<p>for first offense and up to \$2,000 for subsequent offense</p> <ul style="list-style-type: none"> ▪ Adds penalty of up to \$100 for first offense and up to \$500 for subsequent offense on employee of a retail dealer in addition to the penalty for the retail dealer ○ Updates terminology to use “e-liquids” ○ Expands prohibition on vending machines to include machines selling or dispensing tobacco substitutes, e-liquids, and tobacco paraphernalia ○ Revises penalties for sale or purchase of bidis; same penalties for retailers and purchasers ○ Deletes a definition moved to § 1001 and adds definition of “enable the usage of tobacco products, tobacco substitutes, or e-liquids”
7 V.S.A. § 1004 – Proof of age for the sale of tobacco products; tobacco substitutes; e-liquids; tobacco paraphernalia	Adds e-liquids throughout section	Adds e-liquids throughout section and deletes definition that was moved to § 1001
7 V.S.A. § 1005 – Persons under 21 years of age; possession or purchase of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia prohibited	Adds e-liquids throughout section	Revises section heading and adds e-liquids throughout section
7 V.S.A. § 1006 – Posting of signs	Adds e-liquids to section	Same
7 V.S.A. § 1007 – Furnishing tobacco to persons under 21 years of age; report	Updates name of Council	<ul style="list-style-type: none"> • Deletes penalty for sale to minor because it was moved to § 1003 • Updates names of entities receiving annual compliance testing reports

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7 V.S.A. § 1009 – Contraband and seizure	Adds tobacco substitutes, e-liquids, and tobacco paraphernalia to list of items subject to seizure and destruction if sold, offered, or possessed for sale in violation of statutory provisions; updates list of statutes that prohibit sale, offer, and possession for sale	Same
7 V.S.A. § 1010 – Internet sales	<ul style="list-style-type: none"> • Adds e-liquids to section • Specifies that each prohibited shipment of tobacco substitutes, e-liquids, and tobacco paraphernalia, in addition to shipments of other products, is a separate violation 	<ul style="list-style-type: none"> • Adds e-liquids to section • Specifies that each prohibited shipment of tobacco substitutes, e-liquids, and tobacco paraphernalia, in addition to shipments of other products, is a separate violation • Deletes definitions that were moved to § 1001
7 V.S.A. § 1012 – E-liquids and other substances containing nicotine; packaging	Updates language to use “e-liquid”	<ul style="list-style-type: none"> • Revises language for consistency with updated terminology in bill • Deletes definitions that were moved to § 1001
7 V.S.A. § 1013 – Flavored tobacco substitutes, flavored e-liquids, and menthol tobacco products prohibited	<ul style="list-style-type: none"> • Adds definitions of “characterizing flavor,” “flavored e-liquid,” “flavored tobacco product,” “flavored tobacco substitute,” and “tobacco retailer” • Prohibits retail sale of any flavored tobacco product, flavored e-liquid, or flavored tobacco substitute, effective September 1, 2023 • Penalties on retailer up to \$100 for first offense and up to \$500 for subsequent offense 	<ul style="list-style-type: none"> • Prohibits retail sale of flavored tobacco substitutes, flavored e-liquids, and menthol-flavored tobacco products, effective January 1, 2026 • Violation of ban on flavored items is subject to civil penalty up to \$200 for a first offense and up to \$500 for a subsequent offense
7 V.S.A. § 1014 – Sale of discounted tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia prohibited	No similar provision	<ul style="list-style-type: none"> • Prohibits selling or offering tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia at a lower price than seller purchased from wholesaler • Prohibits selling or offering these items through multipackage discount

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		<ul style="list-style-type: none"> Prohibits honoring or accepting price reduction instrument for sale of these items Violations subject to civil penalty up to \$200 for a first offense and up to \$500 for a subsequent offense
4 V.S.A. § 1102(b)	(Sec. 3) Amends Judicial Bureau jurisdiction to add violation of ban on sale of flavored products	(Sec. 3) Amends Judicial Bureau jurisdiction to update provision on violation of ban on sale of tobacco products to minors and to add violations of bans on sale of flavored products and on sale of discounted tobacco products
7 V.S.A. § 661(c)	(Sec. 4) Makes conforming change to add “e-liquids” to description of 7 V.S.A. § 1005(a)	(Sec. 4) Same
16 V.S.A. § 140	(Sec. 5) Adds e-liquids to existing ban on using tobacco products and tobacco substitutes on public school grounds	(Sec. 5) <ul style="list-style-type: none"> Adds e-liquids to existing ban on using tobacco products and tobacco substitutes on public school grounds Updates section heading and clarifies reference Deletes permissive language regarding public school board adoption of policies that include confiscation and appropriate referrals to law enforcement
18 V.S.A. § 4226	No similar provision	(Sec. 6) <ul style="list-style-type: none"> Allows minors 12 years of age or older to consent to treatment for dependence on nicotine, tobacco products, or tobacco substitutes Updates language in existing minor consent statute regarding treatment for substance use disorder or a sexually transmitted infection
18 V.S.A. § 4803e(a)	(Sec. 6) Makes conforming language change regarding e-liquids in statute on duties of Substance Misuse Prevention Oversight and Advisory Council	(Sec. 7) Same
32 V.S.A. § 7702	(Sec. 7) Makes conforming language changes to definition of “other tobacco products” in tobacco tax statutes to reflect updated language in 7 V.S.A. chapter 40	(Sec. 8) Same

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18 V.S.A. § 9503	No similar provision	(Sec. 9) Amends Department of Health tobacco prevention and treatment section to specify that a minor’s use of a quitline can be based on the minor’s use of tobacco substitutes or e-liquids
33 V.S.A. § 1900	No similar provision	(Sec. 10) Updates reference to 7 V.S.A. § 1001 definition for purposes of statutes dealing with the master settlement agreement with tobacco manufacturers and related issues
Health Equity Advisory Commission; menthol tobacco product ban; report	No similar provision	(Sec. 11) Requires Health Equity Advisory Commission to include in its annual report due in January 2025 a recommendation on whether the sale of menthol tobacco products, including menthol cigarettes, should be banned in Vermont
Tobacco substitutes and e-liquids; advertising restrictions; report	(Sec. 8) Requires Office of the Attorney General to report by December 1, 2023, on whether and to what extent Vermont can legally restrict advertising and regulate label content for e-cigarettes and other vaping products in Vermont	(Sec. 12) Similar language requires Office of the Attorney General to report by December 1, 2024, on whether and to what extent Vermont can legally restrict advertising and regulate label content for tobacco substitutes, including oral nicotine products, and e-liquids in Vermont
Department of Health; Vermont Youth Risk Behavior Survey; tobacco sales; report	(Sec. 9) Requires Department of Health to report by March 1, 2027, on results of the 2025 Vermont Youth Risk Behavior Survey relating to youth use of tobacco products, tobacco substitutes, and e-liquids and compare to prior surveys	(Sec. 13) Same, but also requires data on sales of tobacco products, tobacco substitutes, and e-liquids in 2024-2026
Department of Health; school-based usage and cessation efforts; report	No similar provision	(Sec. 14) <ul style="list-style-type: none"> • Requires Department of Health to collaborate with school and community partners to survey and report on use of tobacco products, tobacco substitutes, and e-liquids, and on nicotine and tobacco cessation efforts, in Vermont schools • Requires Department of Health, in consultation with Division of Liquor Control and Court Diversion Program, to develop options for diversion to a tobacco cessation program for persons under 21 as an alternative to civil penalties and fines • Report due by January 15, 2026

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New investigator position created at Department of Liquor and Lottery	No similar provision	(Sec. 14a) <ul style="list-style-type: none"> • Creates a new investigator position at the Department of Liquor and Lottery to investigate and enforce laws on direct-to-consumer sales and delivery of alcohol and tobacco products • Appropriates \$160,000 from Tobacco Litigation Settlement Fund in fiscal year 2025 for position • Expresses intent to use Tobacco Litigation Settlement Fund money to fund the position in FYs 2025 and 2026, with position built into Department’s base budget starting in FY 2027 and paid for with revenue from Investigator’s activities; remainder of revenue goes into General Fund • Report on position due March 15, 2025, with annual reporting by December 15 on the impact of the investigator’s role on compliance with direct-to-consumer laws
Effective dates	(Sec. 10) September 1, 2023	(Sec. 15) <ul style="list-style-type: none"> • January 1, 2026: changes to tobacco statutes in Sec. 2; Judicial Bureau jurisdiction in Sec. 3; conforming changes in Secs. 4, 5, 7, 8, and 10 • On passage: findings, minor consent to treatment for nicotine and tobacco use in Secs. 6 and 9, reports in Secs. 11-14 • July 1, 2024: new investigator position and appropriation; first annual report due in 2025