

1 S.198

2 Introduced by Senators Lyons and Clarkson

3 Referred to Committee on

4 Date:

5 Subject: Tobacco; taxation; tobacco products; tobacco substitutes; Department  
6 of Liquor and Lottery; Department of Taxes

7 Statement of purpose of bill as introduced: This bill proposes to expand the  
8 scope of businesses required to obtain a tobacco license, increase the license  
9 fees, and decouple tobacco licensure from liquor licensure. The bill would  
10 expand the definition of a tobacco substitute to specifically include nicotine  
11 pouches and increase the monetary penalties for selling tobacco products and  
12 tobacco substitutes without a license and for selling these items to minors. It  
13 would eliminate prohibitions on and penalties for minors' purchase, use, and  
14 possession of tobacco products, tobacco substitutes, or tobacco paraphernalia.  
15 The bill would require contraband tobacco products and tobacco substitutes to  
16 be destroyed at the violator's expense in compliance with hazardous waste  
17 rules. It would direct that all funds received by the State from violations of  
18 tobacco laws, from tobacco-related settlements, and from increased tobacco  
19 licensing fees be deposited in the Tobacco Trust Fund and used for tobacco  
20 cessation and prevention activities. The bill would require tax stamps for  
21 tobacco substitutes and would impose a higher tax on tobacco substitutes with

1 a nicotine concentration of five milligrams or more per gram. The bill would  
2 also create a new investigator position in the Department of Liquor and Lottery  
3 to enforce, and to investigate potential violations of, Vermont laws relating to  
4 direct-to-consumer sales and delivery of alcohol and tobacco products.  
5 Finally, the bill would direct the Departments of Taxes and of Liquor and  
6 Lottery to report on whether responsibility for tobacco taxes and licensure of  
7 wholesale dealers should transition from the Department of Taxes to the  
8 Department of Liquor and Lottery.

9 An act relating to the regulation and taxation of tobacco products and  
10 tobacco substitutes

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

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

13 CHAPTER 40. TOBACCO PRODUCTS

14 § 1001. DEFINITIONS

15 As used in this chapter:

16 \* \* \*

17 (5) “Tobacco license” means a license issued by the Division of Liquor  
18 Control under this chapter permitting the licensee to engage in the importation,  
19 distribution, wholesale sale, or retail sale, or a combination of these, of tobacco

1 products, tobacco substitutes, substances containing nicotine or otherwise  
2 intended for use with a tobacco substitute, or tobacco paraphernalia.

3 \* \* \*

4 (8)(A) “Tobacco substitute” means ~~products, including~~ any product that  
5 meets all of the following conditions:

6 (i) The product is manufactured from, is derived from, or contains  
7 tobacco or nicotine, whether natural or synthetic, including nicotine alkaloids  
8 and nicotine analogs.

9 (ii) The product is intended for human consumption by smoking,  
10 chewing, inhaling, sucking, absorbing, or consuming in any other manner.

11 (iii) The product is not a tobacco product, as defined in this  
12 section.

13 (B) The term “tobacco substitute” includes electronic cigarettes ~~or~~  
14 and other electronic or battery-powered devices; that contain or are designed to  
15 deliver nicotine or other substances into the body through the inhalation of  
16 vapor and that have not been approved by the U.S. Food and Drug  
17 Administration for tobacco cessation or other medical purposes. The term also  
18 includes nicotine pouches and any liquids, whether nicotine based or not, and  
19 delivery devices sold separately for use with a tobacco substitute.

20 (C) Cannabis products as defined in section 831 of this title or  
21 products that have been approved by the U.S. Food and Drug Administration

1 for tobacco cessation or other medical purposes shall not be considered to be  
2 tobacco substitutes.

3 § 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

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

8 (2) No person shall engage in the retail sale of tobacco substitutes  
9 without also obtaining a tobacco substitute endorsement from the Division of  
10 Liquor Control.

11 (3) Tobacco licenses and tobacco substitute endorsements shall expire at  
12 midnight, April 30, of each year.

13 (b)(1) The Board shall prepare and issue tobacco license and tobacco  
14 substitute endorsement forms and applications. ~~These shall be incorporated~~  
15 ~~into the liquor license forms and applications prepared and issued under this~~  
16 ~~title.~~

17 (2) The licenses issued under this section shall be entitled "LIQUOR  
18 LICENSE," ~~"LIQUOR TOBACCO LICENSE,"~~ or "TOBACCO LICENSE,"  
19 as applicable. The endorsements issued under this section shall be entitled  
20 "TOBACCO SUBSTITUTE ENDORSEMENT."

1           (3) The Board shall also provide simple instructions for licensees,  
2           designed to assist them in complying with the provisions of this chapter.

3           (c) Each tobacco license and tobacco substitute endorsement shall be  
4           prominently displayed on the premises identified in the license.

5           (d)(1) For a license or endorsement required under this section, a person  
6           shall apply to the legislative body of the municipality and shall pay the  
7           following fees:

8                   (A) to the Division of Liquor Control, the applicable liquor license  
9           fee provided in section 204 of this title for a liquor license and a tobacco  
10          license;

11                   (B) to the legislative body of the municipality, a fee of ~~\$110.00~~  
12          \$1,000.00 for a tobacco license or renewal; and

13                   (C) to the legislative body of the municipality, a fee of ~~\$50.00~~  
14          \$1,000.00 for a tobacco substitute endorsement as provided in subdivision  
15          (a)(2) of this section.

16           (2) The municipal clerk shall forward the application to the Division,  
17           and the Division shall issue the tobacco license and the tobacco substitute  
18           endorsement, as applicable, and shall forward all fees to the Commissioner for  
19           deposit in the Liquor Control Enterprise Fund.

20           (e) A person who sells tobacco products, tobacco substitutes, or tobacco  
21           paraphernalia without obtaining a tobacco license and a tobacco substitute

1 endorsement, as applicable, in violation of this section shall be ~~guilty of a~~  
2 ~~misdemeanor and fined~~ subject to a civil penalty of not more than ~~\$200.00~~  
3 \$2,000.00 for the first offense and not more than ~~\$500.00~~ \$5,000.00 for each  
4 subsequent offense.

5 (f) No individual under 16 years of age may sell tobacco products, tobacco  
6 substitutes, or tobacco paraphernalia.

7 (g) No person shall engage in the importation, distribution, wholesale sale,  
8 or retail sale, or a combination of these, of tobacco products, tobacco  
9 substitutes, substances containing nicotine or otherwise intended for use with a  
10 tobacco substitute, or tobacco paraphernalia in the State unless the person is a  
11 licensed wholesale dealer as defined in 32 V.S.A. § 7702 or has purchased the  
12 tobacco products, tobacco substitutes, substances containing nicotine or  
13 otherwise intended for use with a tobacco substitute, or tobacco paraphernalia  
14 from a licensed wholesale dealer.

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

19 \* \* \*

1     § 1005. ~~PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF~~  
2             ~~TOBACCO PRODUCTS; MISREPRESENTING AGE OR~~  
3             ~~PURCHASING TOBACCO PRODUCTS; PENALTY~~

4             ~~(a)(1) A person under 21 years of age shall not possess, purchase, or~~  
5             ~~attempt to purchase tobacco products, tobacco substitutes, or tobacco~~  
6             ~~paraphernalia unless:~~

7                 ~~(A) the person is an employee of a holder of a tobacco license and is~~  
8             ~~in possession of tobacco products, tobacco substitutes, or tobacco~~  
9             ~~paraphernalia to effect a sale in the course of employment; or~~

10                ~~(B) the person is in possession of tobacco products or tobacco~~  
11             ~~paraphernalia in connection with Indigenous cultural tobacco practices.~~

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

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

[Repealed.]

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

(b)(1) The Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to persons under 21 years of age of at least 90 percent for buyers who are between 17 and 20 years of age. An individual under 21 years of age



1 participating in a compliance test shall not be in violation of section 1005 of  
2 this title.

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

10 (A) ~~two violations~~ second violation: suspension for two consecutive  
11 weekdays and \$1,000.00 civil penalty;

12 (B) ~~three violations 15 day~~ third violation: suspension for 15  
13 consecutive days and \$2,000.00 civil penalty;

14 (C) ~~four violations 90 day~~ fourth violation: suspension for 90  
15 consecutive days and \$3,500.00 civil penalty; and

16 (D) ~~five violations one year suspension~~ fifth violation: revocation of  
17 license and \$5,000.00 civil penalty.

18 \* \* \*

19 § 1009. CONTRABAND AND SEIZURE

20 (a) Any cigarettes or other tobacco products or tobacco substitutes that  
21 have been sold, offered for sale, or possessed for sale in violation of section

## § 1010. INTERNET SALES

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1 (b) No person shall cause cigarettes, roll-your-own tobacco, little cigars,  
2 snuff, tobacco substitutes, substances containing nicotine or otherwise intended  
3 for use with a tobacco substitute, or tobacco paraphernalia, ordered or  
4 purchased by mail or through a computer network, telephonic network, or  
5 other electronic network, to be shipped to anyone other than a licensed  
6 wholesale dealer ~~or retail dealer~~ in this State.

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

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

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

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

21 \* \* \*

1     § 1013. DECEPTIVE TOBACCO PRODUCTS AND TOBACCO

2             SUBSTITUTES PROHIBITED

3             No person shall market, promote, label, brand, advertise, distribute, offer  
4     for sale, or sell a tobacco product or tobacco substitute by:

5             (1) imitating a product that is not a tobacco product or tobacco  
6     substitute, including:

7             (A) a food or brand of food commonly marketed to minors, including  
8     candy, desserts, cereal, and beverages;

9             (B) school supplies commonly used by minors, including erasers,  
10    highlighters, pens, and pencils;

11            (C) portable devices, including smartphones, smartwatches, video  
12    games or video game consoles, and inhalers; and

13            (D) a product based on or depicting a character, personality, or  
14    symbol known to appeal to minors, including a celebrity; a character in a  
15    comic book, movie, television show, or video game; or a mythical creature;

16            (2) concealing the nature of the tobacco product or tobacco substitute; or

17            (3) using terms for, describing, or depicting a product described in  
18    subdivision (1) of this section.

1     § 1014. ENFORCEMENT

2           The Department of Liquor and Lottery shall have the same powers and  
3     authority to enforce the provisions of this chapter as the Department has for  
4     enforcement of laws relating to alcoholic beverages under this title.

5     § 1015. USE OF FUNDS FROM LICENSING FEES, PENALTIES, AND  
6           SETTLEMENTS

7           All penalties collected from violations of this chapter, all monies received  
8     by the State from settlements based on violations or alleged violations of  
9     Vermont laws relating to tobacco, and all revenue generated from licensing  
10    fees established in this chapter that exceed the amounts necessary for  
11    administration and enforcement of this chapter shall be deposited in the  
12    Tobacco Trust Fund established in 18 V.S.A. § 9502 and used for tobacco  
13    cessation and prevention activities.

14    Sec. 2. 3 V.S.A. § 167a is amended to read:

15    § 167a. COMPLEX LITIGATION SPECIAL FUND

16                                   \* \* \*

17           (b) The Fund shall consist of:

18               (1) Such sums as may be appropriated or transferred by the General  
19     Assembly.

20               (2) Settlement monies other than consumer restitution collected by the  
21     Office of the Attorney General, except for those recoveries that by law are

1 transferred or appropriated for other uses pursuant to 7 V.S.A. § 1015 or 9  
2 V.S.A. § 2458(b)(4), and subject to the Fund balance cap in subsection (c) of  
3 this section.

4 \* \* \*

5 Sec. 3. 18 V.S.A. § 9502 is amended to read:

6 § 9502. TOBACCO TRUST FUND

7 (a)(1) The Tobacco Trust Fund is established in the Office of the State  
8 Treasurer for the purposes of creating a self-sustaining, perpetual fund for  
9 tobacco cessation and prevention that is not dependent upon tobacco sales  
10 volume.

11 (2) The Trust Fund shall be composed of:

12 (A) transfers made by the General Assembly; ~~and~~

13 (B) penalties and settlement amounts for violations or alleged  
14 violations of tobacco laws and tobacco licensing fees pursuant to 7 V.S.A.  
15 § 1015; and

16 (C) contributions from any other source.

17 \* \* \*

18 Sec. 4. 32 V.S.A. § 3102 is amended to read:

19 § 3102. CONFIDENTIALITY OF TAX RECORDS

20 \* \* \*

1 (e) The Commissioner may, in the Commissioner's discretion and subject  
2 to such conditions and requirements as the Commissioner may provide,  
3 including any confidentiality requirements of the Internal Revenue Service,  
4 disclose a return or return information:

5 \* \* \*

6 (25) To the Department of Liquor and Lottery, if such return or  
7 information is for purposes of investigating potential violations of and  
8 enforcing 7 V.S.A. chapter 40.

9 \* \* \*

10 Sec. 5. 32 V.S.A. § 7702 is amended to read:

11 § 7702. DEFINITIONS

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

13 (1) "Cigarette" means any product that contains nicotine, is intended to  
14 be burned or heated under ordinary conditions of use, and consists of or  
15 contains:

16 (A) any roll of tobacco wrapped in paper or in any substance not  
17 containing tobacco; ~~and~~

18 (B) tobacco, in any form, that is functional in the product, which,  
19 because of its appearance, the type of tobacco used in the filler, or its  
20 packaging and labeling, is likely to be offered to, or purchased by, consumers  
21 as a cigarette; or

\* \* \*

\* \* \*

(16) “Wholesale dealer” means a person who imports or causes to be imported into the State any cigarettes, ~~tobacco substitutes~~, little cigars, roll-



1 your-own tobacco, snuff, new smokeless tobacco, or other tobacco product for  
2 sale or who sells or furnishes any of these products to other wholesale dealers  
3 or retail dealers for the purpose of resale, but not by small quantity or parcel to  
4 consumers thereof.

5 \* \* \*

6 (18) “Wholesale outlet” ~~shall mean~~ means any premises where  
7 cigarettes, tobacco substitutes, little cigars, roll-your-own tobacco, snuff, new  
8 smokeless tobacco, or other tobacco products are sold, transferred, displayed,  
9 or held for sale by a wholesale dealer.

10 (19) “Wholesale price” means the price at which a licensed wholesale  
11 dealer sells or furnishes cigarettes, tobacco substitutes, little cigars, roll-your-  
12 own tobacco, snuff, new smokeless tobacco, or other tobacco products to any  
13 retail dealer.

14 \* \* \*

15 (22) “Tobacco substitute” has the same meaning as in 7 V.S.A. § 1001.

16 Sec. 6. 32 V.S.A. § 7731 is amended to read:

17 § 7731. LICENSE REQUIRED

18 Each wholesale dealer shall secure a license from the Commissioner of  
19 Taxes before engaging in the business of selling cigarettes, tobacco substitutes,  
20 roll-your-own tobacco, little cigars, snuff, new smokeless tobacco, or other  
21 tobacco products in this State. Licensed wholesale dealers shall sell these

1 products only to other Vermont licensed wholesale dealers or to retailers  
2 licensed pursuant to 7 V.S.A. § 1002.

3 Sec. 7. 32 V.S.A. § 7734 is amended to read:

4 § 7734. PENALTIES FOR SALES WITHOUT LICENSE

5 Any licensed wholesale dealer who shall sell, offer for sale, or possess with  
6 intent to sell any cigarettes, tobacco substitutes, roll-your-own tobacco, little  
7 cigars, snuff, new smokeless tobacco, or other tobacco products, or any  
8 combination thereof, without having first obtained a license as provided in this  
9 subchapter, shall be ~~fined~~ subject to a civil penalty imposed by the Department  
10 of Liquor and Lottery or the Department of Taxes of not more than \$25.00  
11 \$2,000.00 for the first offense and not more than ~~\$200.00~~ nor less than \$25.00  
12 \$5,000.00 for each subsequent offense.

13 Sec. 8. 32 V.S.A. § 7771 is amended to read:

14 § 7771. RATE OF TAX

15 (a) A tax is imposed on all cigarettes, tobacco substitutes, little cigars, and  
16 roll-your-own tobacco held in this State by any person for sale, unless such  
17 products shall be:

18 (1) in the possession of a licensed wholesale dealer;

19 (2) in the course of transit and consigned to a licensed wholesale dealer  
20 or retail dealer; or

1           (3) in the possession of a retail dealer who has held the products for 24  
2 hours or less.

3           (b) Payment of the tax on cigarettes and tobacco substitutes under this  
4 section shall be evidenced by the affixing of stamps to the packages containing  
5 the cigarettes or the tobacco substitutes. Where practicable, the Commissioner  
6 may also require that stamps be affixed to packages containing little cigars or  
7 roll-your-own tobacco. Any cigarette, tobacco substitute, little cigar, or roll-  
8 your-own tobacco on which the tax imposed by this section has been paid,  
9 such payment being evidenced by the affixing of such stamp or such evidence  
10 as the Commissioner may require, shall not be subject to a further tax under  
11 this chapter. Nothing contained in this chapter shall be construed to impose a  
12 tax on any transaction the taxation of which by this State is prohibited by the  
13 ~~constitution of the United States~~ U.S. Constitution. The amount of taxes  
14 advanced and paid by a licensed wholesale dealer as ~~herein~~ provided in this  
15 section shall be added to and collected as part of the retail sale price on the  
16 cigarettes, tobacco substitutes, little cigars, or roll-your-own tobacco.

17           (c) A tax is also imposed on all cigarettes, tobacco substitutes, little cigars,  
18 and roll-your-own tobacco possessed in this State by any person for any  
19 purpose other than sale as follows:

20           (1) This tax shall not apply to:

21           (A) Products bearing a stamp affixed pursuant to this chapter.

1 (B) Products bearing a tax stamp affixed pursuant to the laws of  
2 another jurisdiction with a tax rate equal to or greater than the rate set forth in  
3 this subsection (c).

4 (C) Products purchased outside the State by an individual in  
5 quantities of 400 or fewer cigarettes, little cigars, and ~~0.0325 ounce~~ 0.0325-  
6 ounce units of roll-your-own tobacco, and brought into the State for that  
7 individual's own use or consumption. Products that are ordered from a source  
8 outside the State and delivered into this State are not "purchased outside the  
9 State" within the meaning of this subsection (c).

10 (2) There is allowed a credit against the tax under this subsection for  
11 cigarette, tobacco substitute, little ~~cigars~~ cigar, or roll-your-own tobacco tax  
12 paid to another jurisdiction and evidenced by tax stamps affixed to the subject  
13 products pursuant to the laws of that jurisdiction.

14 (3) A person taxable under this section shall, within 30 days ~~of~~ after first  
15 possessing the products in this State, file a return with the Commissioner  
16 showing the quantity of products brought into the State. The return must be  
17 made in the form and manner prescribed by the Commissioner and be  
18 accompanied by remittance of the tax due.

19 (d)(1) The tax imposed under this section shall be at the rate of:

20 (A) ~~154 mills~~ \$0.154 per cigarette or little cigar ~~and;~~

21 (B) \$0.154 for each 0.0325 ounces of roll-your-own tobacco;

1           (C) for a tobacco substitute with a nicotine concentration of less than  
2           five milligrams per gram, 92 percent of the wholesale price of the tobacco  
3           substitute; and

4           (D) for a tobacco substitute with a nicotine concentration of five  
5           milligrams per gram or higher, 100 percent of the wholesale price of the  
6           tobacco substitute.

7           (2) The interest and penalty provisions of section 3202 of this title shall  
8           apply to liabilities under this section.

9           Sec. 9. 32 V.S.A. § 7772 is amended to read:

10          § 7772. FORM AND SALE OF STAMPS

11          (a) The Commissioner shall secure stamps of such designs and  
12          denominations as ~~he or she~~ the Commissioner shall prescribe to be affixed to  
13          packages of cigarettes and tobacco substitutes as evidence of the payment ~~to~~ of  
14          the tax imposed by this chapter. The Commissioner shall sell ~~such~~ the stamps  
15          to licensed wholesale dealers at a discount of two and three-tenths percent of  
16          their face value for payment at time of sale.

17          (b) At the purchaser's request, the Commissioner may sell stamps to be  
18          affixed to packages of cigarettes and tobacco substitutes as evidence of the  
19          payment ~~to~~ of the tax imposed by this chapter to licensed wholesale dealers for  
20          payment within 10 days, at a discount of one and five-tenths percent of their  
21          face value if timely paid. In determining whether to sell stamps for payment

1 within 10 days, the Commissioner shall consider the credit history of the dealer  
2 and the filing and payment history, with respect to any tax administered by the  
3 Commissioner, of the dealer or any individual, corporation, partnership, or  
4 other legal entity with which the dealer is or was associated as principal,  
5 partner, officer, director, employee, agent, or incorporator.

6 \* \* \*

7 Sec. 10. 32 V.S.A. § 7774 is amended to read:

8 § 7774. AFFIXING STAMPS

9 Each licensed wholesale dealer shall affix or cause to be affixed to each  
10 individual package of cigarettes or tobacco substitutes sold or distributed by  
11 ~~him or her~~ the dealer stamps of the proper denomination as required by section  
12 7771 of this title and in such manner as the Commissioner may specify in  
13 ~~regulations issued~~ rules adopted pursuant to this chapter. The stamps may be  
14 affixed by a licensed wholesale dealer at any time before the cigarettes or  
15 tobacco substitutes are transferred out of ~~his or her~~ the dealer's possession.

16 Sec. 11. 32 V.S.A. § 7775 is amended to read:

17 § 7775. RETAIL DEALERS

18 Within 24 hours after coming into possession of any cigarettes or tobacco  
19 substitutes not bearing proper stamps evidencing payment of the tax imposed  
20 by this chapter and before selling the same, each retail dealer shall affix or  
21 cause to be affixed stamps of the proper denomination to each individual

1 package of cigarettes or tobacco substitutes as required by section 7771 of this  
2 title and in such manner as the Commissioner may specify in ~~regulations~~  
3 ~~issued~~ rules adopted pursuant to this chapter.

4 Sec. 12. 32 V.S.A. § 7776 is amended to read:

5 § 7776. COLLECTION OF ~~CIGARETTE~~ TAX THROUGH

6 NONRESIDENT LICENSED WHOLESALE DEALERS

7 (a) ~~When~~ If the Commissioner of Taxes finds that ~~the~~ doing so would  
8 facilitate collection of the tax imposed by this chapter ~~would be facilitated~~  
9 ~~thereby~~, the Commissioner may, in the Commissioner's discretion, authorize  
10 any resident or nonresident person engaged in the business of manufacturing  
11 cigarettes or tobacco substitutes or any resident or nonresident person who  
12 ships cigarettes or tobacco substitutes into this State for sale to retail dealers in  
13 this State as defined in section 7702 of this title and who qualifies as a licensed  
14 wholesale dealer as defined in section 7702 of this title, but need not have a  
15 place of business in this State, upon complying with the requirements of the  
16 Commissioner, to affix or cause to be affixed the stamps required by this  
17 chapter on behalf of the purchasers of such cigarettes or tobacco substitutes  
18 who would otherwise be taxable therefor, and the Commissioner may sell such  
19 stamps to such person as provided in section 7772 of this title.

20 \* \* \*

1       Sec. 13. 32 V.S.A. § 7777 is amended to read:

2       § 7777. RECORDS REQUIRED; INSPECTION AND EXAMINATION;  
3               ASSESSMENT OF TAX DEFICIENCY

4           (a) Each licensed wholesale dealer and each retail dealer shall keep  
5       complete and accurate records of all cigarettes, tobacco substitutes, little  
6       cigars, and roll-your-own tobacco manufactured, produced, purchased,  
7       transferred, and sold by the dealer. The records shall be of such kind and in  
8       such form as the Commissioner may prescribe and shall be safely preserved for  
9       six years in such manner as to ensure permanency and accessibility for  
10      inspection by the Commissioner and authorized agents. The Commissioner or  
11      authorized agents of the Commissioner may enter in or upon any premises  
12      where the Commissioner or they have reason to believe that cigarettes, tobacco  
13      substitutes, little cigars, or roll-your-own tobacco are possessed, stored, or  
14      sold, for the purpose of determining whether the provisions of this chapter or  
15      33 V.S.A. chapter 19, subchapter 1A or 1B are being obeyed and may examine  
16      and copy the books, papers, records, and ~~the~~ stock of any licensed wholesale  
17      dealer or retail dealer, for the purpose of determining whether the tax imposed  
18      by this chapter has been fully paid.

19          (b) If the Commissioner determines that a licensed wholesale dealer has not  
20      purchased sufficient stamps to cover sales of cigarettes, tobacco substitutes,  
21      and little cigars, or that a retail dealer has made sales of unstamped cigarettes,



1 tobacco substitutes, or little cigars or untaxed roll-your-own tobacco, the  
2 Commissioner shall thereupon assess the deficiency in tax, plus interest and  
3 penalties as provided in section 3202 of this title.

4 (c) In any case in which a licensed wholesale dealer cannot produce  
5 evidence of sufficient stamp purchases to cover the dealer's receipts and sales  
6 or other disposition of cigarettes, tobacco substitutes, or little cigars, it shall be  
7 presumed that the cigarettes, tobacco substitutes, or little cigars were sold  
8 without having the proper stamps affixed. In any case in which a licensed  
9 wholesale dealer cannot produce proper evidence of payment of the tax on roll-  
10 your-own tobacco to cover the dealer's receipts and sales or other disposition  
11 of roll-your-own tobacco, it shall be presumed that the roll-your-own tobacco  
12 was sold without the proper tax having been paid.

13 \* \* \*

14 Sec. 14. 32 V.S.A. § 7779 is amended to read:

15 § 7779. SEIZURE

16 (a) Any cigarettes or tobacco substitutes found at any place in this State  
17 without stamps affixed ~~thereto~~ to them as required by this chapter or any  
18 tobacco products found at any place in this State upon which the tax imposed  
19 by this chapter has not been paid, are declared to be contraband goods and may  
20 be seized without a warrant by the Commissioner, the Commissioner's agents  
21 or employees, ~~or by any peace~~ the Commissioner of Liquor and Lottery, or any

1 agent or employee of the Commissioner of Liquor and Lottery, or by any law  
2 enforcement officer of this State when directed by ~~the~~ either Commissioner to  
3 do so, unless such cigarettes, tobacco substitutes, or tobacco products shall be  
4 in the possession of a licensed wholesale dealer, or unless they shall be in the  
5 course of transit and consigned to a licensed wholesale dealer or a retail dealer,  
6 or unless they shall have been received by a retail dealer within 24 hours.

7 Nothing ~~herein~~ in this section shall be construed to require ~~the~~ either  
8 Commissioner, agent, employee, or law enforcement officer to confiscate  
9 unstamped cigarettes, tobacco substitutes, or tobacco products when the  
10 Commissioner ~~shall have~~, agent, employee, or law enforcement officer has  
11 reason to believe that the owner ~~thereof~~ has possession of ~~the same~~ them for  
12 personal consumption or is not willfully or intentionally evading the tax  
13 imposed by this chapter.

14 (b) Any cigarettes or tobacco substitutes found at any place in this State  
15 with stamps affixed thereto which stamps have not been paid for as required by  
16 this chapter, are declared to be contraband goods and may be seized without a  
17 warrant by the Commissioner, the Commissioner's agents or employees, ~~or by~~  
18 ~~any peace~~ the Commissioner of Liquor and Lottery, or any agent or employee  
19 of the Commissioner of Liquor and Lottery, or by any law enforcement officer  
20 of this State when directed by ~~the~~ either Commissioner to do so.

1 (c) Any cigarettes, tobacco substitutes, or tobacco products seized under  
2 the provisions of this chapter shall be destroyed ~~by the Commissioner~~ at the  
3 expense of the violator, and disposition shall be in compliance with the Agency  
4 of Natural Resources, Hazardous Waste Management Regulations (CVR 12-  
5 032-001). The seizure of any cigarettes or tobacco products under the  
6 provisions of this section shall not relieve any person from a fine or other  
7 penalty for violation of this chapter.

8 Sec. 15. 32 V.S.A. § 7780 is amended to read:

9 § 7780. HEARING

10 When any cigarettes, tobacco substitutes, or tobacco products shall have  
11 been seized under the provisions of section 7779 of this title, any person  
12 claiming an interest in such cigarettes, tobacco substitutes, or tobacco products  
13 who has not previously been heard or who has not waived hearing may make  
14 written application to the Commissioner for a hearing, stating an interest in the  
15 cigarettes, tobacco substitutes, or tobacco products and reasons why they  
16 should not be forfeited. Further proceedings on such application for hearing  
17 shall be taken as provided in sections 7782 and 7783 of this title. No  
18 cigarettes, tobacco substitutes, or tobacco products seized under the provisions  
19 of section 7779 of this title shall be destroyed while an application for a  
20 hearing is pending before the Commissioner, but the pendency of an appeal  
21 under the provisions of section 7783 of this title shall not prevent destruction

1 of the cigarettes, tobacco substitutes, or tobacco products unless the appellant  
2 shall post a satisfactory bond, with surety, in an amount double the estimated  
3 value of the cigarettes, tobacco substitutes, or tobacco products conditioned  
4 upon the successful termination of the appeal.

5 Sec. 16. 32 V.S.A. § 7782 is amended to read:

6 § 7782. APPLICATION FOR HEARING

7 Any person aggrieved by any action of the Commissioner or ~~his or her~~ the  
8 Commissioner's authorized agent under this chapter for which hearing is not  
9 elsewhere provided may apply in writing to the Commissioner within 10 days  
10 after the notice of ~~such~~ the action is delivered or mailed to ~~him or her~~ the  
11 person for a hearing, setting forth the reasons why ~~such~~ the hearing should be  
12 granted and the manner of relief sought. The Commissioner shall promptly  
13 consider each such application and may grant or deny the hearing requested. If  
14 the hearing ~~be~~ request is denied, the applicant shall be notified ~~thereof~~ of the  
15 denial forthwith. If it ~~be~~ is granted, the Commissioner shall notify the  
16 applicant of the time and place fixed for ~~such~~ the hearing. After ~~such~~ the  
17 hearing, the Commissioner may make such order in the premises as may  
18 appear to ~~him or her~~ the Commissioner just and lawful and shall furnish a copy  
19 of ~~such~~ the order to the applicant. The Commissioner may, at any time and by  
20 notice in writing, order a hearing on ~~his or her~~ the Commissioner's own  
21 initiative and require the taxpayer or any other individual whom ~~he or she~~ the

1 Commissioner believes to be in possession of information concerning any  
2 manufacture, importation, possession, or sale of cigarettes, tobacco substitutes,  
3 or tobacco products, or ~~both~~ a combination of these, which have escaped  
4 taxation to appear before ~~him or her~~ the Commissioner or ~~his or her~~ the  
5 Commissioner's duly authorized agent with any specific books of account,  
6 paper, or other documents related to the matter for examination ~~relative~~  
7 ~~thereto~~.

8 Sec. 17. INVESTIGATOR POSITION CREATED; APPROPRIATION;  
9 REPORT

10 (a) One new permanent classified position, Investigator, is established in  
11 the Department of Liquor and Lottery to enforce, and to investigate potential  
12 violations of, Vermont laws relating to direct-to-consumer sales and delivery  
13 of alcohol and tobacco products, including 7 V.S.A. §§ 277, 279, 280, and  
14 1010.

15 (b)(1) The sum of \$160,000.00 is appropriated to the Department of Liquor  
16 and Lottery from the Tobacco Litigation Settlement Fund in fiscal year 2027 to  
17 fund the Investigator position established in subsection (a) of this section.

18 (2) It is the intent of the General Assembly that the position established  
19 in subsection (a) of this section should be funded from the Tobacco Litigation  
20 Settlement Fund for fiscal years 2027 and 2028. It is also the intent of the  
21 General Assembly that, beginning in fiscal year 2029, the funding for the

1 Investigator position should be built into base funding for the Department of  
2 Liquor and Lottery's budget, with the amount of the salary and benefits for the  
3 Investigator position offset by an equivalent amount of the revenue generated  
4 to the Department or to the Office of the Attorney General, or both, by the  
5 Investigator's activities in enforcing and in investigating violations of Vermont  
6 law, with the remainder of the revenue deposited into the General Fund.

7 (c) If the revenue generated by the Investigator's activities becomes  
8 insufficient to cover the cost of the position in the future, the Department of  
9 Liquor and Lottery shall propose eliminating the position as part of its next  
10 budget or budget adjustment presentation to the General Assembly.

11 (d)(1) On or before March 15, 2027, the Department of Liquor and Lottery  
12 shall provide an update to the House Committees on Government Operations  
13 and Military Affairs and on Human Services and the Senate Committees on  
14 Economic Development, Housing and General Affairs and on Health and  
15 Welfare regarding the status of its implementation of the new Investigator  
16 position.

17 (2) Annually on or before December 15, the Department of Liquor and  
18 Lottery shall report to the House Committees on Government Operations and  
19 Military Affairs and on Human Services and the Senate Committees on  
20 Economic Development, Housing and General Affairs and on Health and  
21 Welfare on the impact of the Investigator's activities on compliance with

1 Vermont's laws relating to direct-to-consumer sales and delivery of alcohol  
2 and tobacco products.

3 Sec. 18. TAXATION OF CIGARETTES AND TOBACCO PRODUCTS;  
4 LICENSURE OF WHOLESALE DEALERS; REPORT

5 The Department of Taxes and the Department of Liquor and Lottery shall  
6 consider the existing process for regulation and taxation of cigarettes and  
7 tobacco products and analyze whether responsibility for taxation and licensure  
8 of wholesale dealers should be transitioned from the Department of Taxes to  
9 the Department of Liquor and Lottery. On or before January 15, 2027, the  
10 Departments shall provide their joint findings and recommendations to the  
11 House Committees on Government Operations and Military Affairs, on Human  
12 Services, and on Ways and Means and the Senate Committees on Government  
13 Operations, on Health and Welfare, and on Finance.

14 Sec. 19. EFFECTIVE DATE

15 This act shall take effect on July 1, 2026, with the first report under Sec.  
16 17(d)(2) due on or before December 15, 2027.