

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~~
~~into the liquor license forms and applications prepared and issued under this~~
15 ~~title.~~

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

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:

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.

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.~~

1 (e) A person under 21 years of age who misrepresents the person's age by
2 presenting false identification to purchase tobacco products, tobacco
3 substitutes, or tobacco paraphernalia shall be subject to a civil penalty of not
4 more than \$50.00 or provide up to 10 hours of community service, or both.

5 [Repealed.]

6 * * *

7 § 1007. FURNISHING TOBACCO TO PERSONS INDIVIDUALS UNDER
8 21 YEARS OF AGE; PENALTIES; REPORT

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

1 1003, 1010, or 1013 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33
2 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or
3 utilized in violation of section 1011 of this title, shall be deemed contraband
4 and shall be subject to seizure by the Commissioner, the Commissioner's
5 agents or employees, the Commissioner of Taxes, or any agent or employee of
6 the Commissioner of Taxes, or by any law enforcement officer of this State
7 when directed to do so by the either Commissioner or by the Department of
8 Liquor and Lottery. All ~~cigarettes or other tobacco products~~ items seized
9 under this subsection shall be destroyed at the expense of the violator, and
10 disposition shall be in compliance with the Agency of Natural Resources,
11 Hazardous Waste Management Regulations (CVR 12-032-001).

12 (b)(1) Any person in possession of property considered contraband under
13 this section shall be fined not more than \$1,000.00 nor less than \$500.00 per
14 item.

15 (2) Any vehicle, aircraft or watercraft, or other conveyance in which
16 property considered contraband under this section is found may be seized and
17 subject to forfeiture and condemnation pursuant to sections 570 and 572–574
18 of this title.

19 § 1010. INTERNET SALES

20 * * *

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:

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**

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

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

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 * * *

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:

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, consumer
21 as a cigarette; or

1 (C) any roll of tobacco wrapped in substance containing tobacco that,
2 because of its appearance, the type of tobacco used in the filler, or its
3 packaging and labeling, is likely to be offered to, or purchased by, consumers
4 as a cigarette described in subdivision (A) of this subdivision (1).

5 * * *

6 (7) “Manufacturer” means a person who manufactures and sells
7 cigarettes, tobacco substitutes, little cigars, roll-your-own tobacco, snuff, new
8 smokeless tobacco, and other tobacco products.

9 * * *

10 (15) “Other tobacco products” means any product manufactured from,
11 derived from, or containing tobacco or nicotine, whether natural or synthetic,
12 including nicotine alkaloids and nicotine analogs, that is intended for human
13 consumption by smoking, chewing, inhaling, sucking, absorbing, or
14 consuming in any other manner, ~~including products sold as a tobacco~~
15 ~~substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids, whether~~
16 ~~nicotine based or not, or delivery devices sold separately for use with a tobacco~~
17 ~~substitute~~, but shall not include cigarettes, tobacco substitutes, little cigars,
18 roll-your-own tobacco, snuff, new smokeless tobacco as defined in this section,
19 or cannabis products as defined in 7 V.S.A. § 831.

20 (16) “Wholesale dealer” means a person who imports or causes to be
21 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

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:

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 eigars 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.

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;

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.

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.

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

9 § 7780. HEARING

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