

1 S.198

2 Introduced by Senators Lyons and Clarkson

3 Referred to Committee on Econ. Development, Housing & General Affairs

4 Date: January 6, 2026

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.~~

*An act relating to the regulation of tobacco products and tobacco
substitutes*

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

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

14 CHAPTER 40. TOBACCO PRODUCTS

15 § 1001. DEFINITIONS

16 As used in this chapter:

17 * * *

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

1 ~~tobacco products, tobacco substitutes, substances containing nicotine or~~
2 ~~otherwise 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 ~~(2) The Board shall also provide simple instructions for licenses,~~
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

~~1005. PERSONS UNDER 21 YEARS OF AGE, POSSESSION OF
TOBACCO PRODUCTS; MISREPRESENTING AGE OR
PURCHASING TOBACCO PRODUCTS; PENALTY~~

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

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

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

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

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

1 ~~(c) 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

9 (a) A person that sells or furnishes tobacco products, tobacco substitutes, or
10 tobacco paraphernalia to a person under 21 years of age shall be subject to a
11 civil penalty of not more than ~~\$100.00~~ \$1,000.00 for the first offense and ~~not~~
12 ~~more than \$500.00,~~ for any subsequent offense, a civil penalty and license
13 suspension or revocation as set forth in subdivision (b)(2) of this section. An
14 action under this section shall be brought in the same manner as for a traffic
15 violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24
16 hours ~~of following~~ the occurrence of the alleged violation.

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
7 ~~minimum license suspension~~ suspensions or license revocation, in addition to
8 any other penalties available under this title. ~~Minimum license suspensions for~~
9 ~~multiple 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
17 of 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 1012 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~~ 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

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
11 punishable by imprisonment for not more than five years or a fine of not more
12 than \$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.

§ 1015. DECEPTIVE TOBACCO PRODUCTS AND TOBACCO

SUBSTITUTES PROHIBITED

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

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

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

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

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

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

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

or

(3) using terms for, describing, or depicting a product described in

subdivision (1) of this section.

~~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.~~

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

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

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

§ 167a. COMPLEX LITIGATION SPECIAL FUND

* * *

(b) The Fund shall consist of:

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

(2) Settlement monies other than consumer restitution collected by the 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

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~~
17 ~~tobacco substitute,~~ but shall not include cigarettes, tobacco substitutes, little
18 cigars, roll-your-own tobacco, snuff, new smokeless tobacco as defined in this
19 section, 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 ~~roll-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 ~~(2) 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 cigar, 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
15 first 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~~
2 dealer and the filing and payment history, with respect to any tax administered
3 by the Commissioner, of the dealer or any individual, corporation, partnership,
4 or 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.

1 ~~Sec. 13. 33 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
9 for 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
20 not purchased sufficient stamps to cover sales of cigarettes, tobacco
21 ~~substitutes, and little cigars, or that a retail dealer has made sales of unstamped~~

1 ~~cigarettes, tobacco substitutes, or little cigars or untaxed roll-your-own~~

2 tobacco, the Commissioner shall thereupon assess the deficiency in tax, plus
3 interest and 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
10 roll-your-own tobacco to cover the dealer's receipts and sales or other
11 disposition of roll-your-own tobacco, it shall be presumed that the roll-your-
12 own tobacco 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 officer, 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~~
4 ~~Agency of Natural Resources, Hazardous Waste Management Regulations~~
5 ~~(CVR 12-032-001). The seizure of any cigarettes or tobacco products under~~
6 ~~the 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.
14 If 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 or 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 of
13 alcohol and tobacco products, including 7 V.S.A. §§ 277, 279, 280, and 1010.

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

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

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

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

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

16 (2) Annually on or before December 15, the Department of Liquor and
17 Lottery shall report to the House Committees on Government Operations and
18 Military Affairs and on Human Services and the Senate Committees on
19 Economic Development, Housing and General Affairs and on Health and
20 ~~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
12 Human Services, and on Ways and Means and the Senate Committees on
13 Government 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.~~

~~Sec. 17 V.S.A. chapter 40 is amended to read:~~

~~CHAPTER 40. TOBACCO PRODUCTS~~

~~§ 1001. DEFINITIONS~~

~~As used in this chapter:~~

~~* * *~~

~~(5) "Tobacco license" means a license issued by the Division of Liquor Control under this chapter permitting the licensee to engage in the importation, distribution, wholesale sale, or retail sale, or a combination of~~

~~these, of tobacco products, tobacco substitutes, substances containing nicotine or otherwise intended for use with a tobacco substitute, or tobacco paraphernalia.~~

~~* * *~~

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

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

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

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

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

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

~~(9) “Licensed wholesale dealer” means a wholesale dealer licensed under the provisions of this chapter.~~

~~(10) “Wholesale dealer” means a person who imports or causes to be imported into the State any cigarettes, little cigars, roll-your-own tobacco, snuff, new smokeless tobacco, or other tobacco product for sale or who sells or furnishes any of these products to other wholesale dealers or retail dealers for the purpose of resale, but not by small quantity or parcel to consumers of these products.~~

~~(11) “Wholesale dealer’s license” means the license granted under the provisions of this chapter to a wholesale dealer for a wholesale outlet.~~

~~(12) “Wholesale outlet” means any premises where cigarettes, little cigars, roll your own tobacco, snuff, new smokeless tobacco, or other tobacco~~

~~products are sold, transferred, displayed, or held for sale by a wholesale dealer.~~

~~(13) "Wholesale price" means the price at which a licensed wholesale dealer sells or furnishes cigarettes, little cigars, roll-your-own tobacco, snuff, new smokeless tobacco, or other tobacco products to any retail dealer.~~

~~§ 1002. LICENSE REQUIRED FOR RETAIL SALE; APPLICATION;
FEE, ISSUANCE~~

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

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

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

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

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

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

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

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

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

~~(B) to the legislative body of the municipality, a fee of \$110.00 or \$1,000.00, whichever is greater, for each license or endorsement.~~

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

~~(B) to the legislative body of the municipality, a fee of ~~\$110.00~~
~~\$150.00~~ for a tobacco license or renewal; and~~

~~(C) to the legislative body of the municipality, a fee of ~~\$50.00~~ \$75.00
for a tobacco substitute endorsement as provided in subdivision (a)(2) of this
section.~~

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

~~(e) A person who sells tobacco products, tobacco substitutes, or tobacco
paraphernalia without obtaining a tobacco license and a tobacco substitute
endorsement, as applicable, in violation of this section shall be ~~guilty of a
misdemeanor and fined~~ subject to a civil penalty of not more than \$200.00
\$2,000.00 for the first offense and ~~not more than \$500.00~~ \$5,000.00 for each
subsequent offense.~~

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

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

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

* * *

§ 1002b. WHOLESALE DEALERS; LICENSE REQUIRED

~~(a) License required. Each wholesale dealer shall secure a license from the
Division of Liquor Control before engaging in the business of selling tobacco
products or tobacco substitutes in this State. Licensed wholesale dealers shall~~

~~sell these products only to other Vermont licensed wholesale dealers or to retailers licensed pursuant to section 1002 of this chapter.~~

~~(a) Application for and issuance of license.~~

~~(1) A separate application and license shall be required for each wholesale outlet when a wholesale dealer owns or controls more than one such outlet.~~

~~(2) A wholesale license shall be issued by the Division upon application without charge, on forms prescribed by the Division, stating the name and address of the applicant, the address of the place of business at which the applicant proposes to engage in the wholesale business, the type of business, and such other information as the Division may require for the proper administration of this chapter. Each license issued pursuant to this section shall be prominently displayed on the premises covered by the license.~~

~~(b) Application for and issuance of license.~~

~~(1) A separate application and license shall be required for each wholesale outlet when a wholesale dealer owns or controls more than one such outlet. The license fee shall be \$1,245.00 for each outlet.~~

~~(2) A wholesale license shall be issued by the Division upon application on forms prescribed by the Division, stating the name and address of the applicant, the address of the place of business at which the applicant proposes to engage in the wholesale business, the type of business, and such other information as the Division may require for the proper administration of this chapter. Each license issued pursuant to this section shall be prominently displayed on the premises covered by the license.~~

~~(c) Penalties for sales without license. Any licensed wholesale dealer who sells, offers for sale, or possesses with intent to sell tobacco products or tobacco substitutes without having first obtained a license as provided in this section shall be ~~fine~~ subject to a civil penalty of not more than \$2,000.00 for the first offense and not more than \$5,000.00 for each subsequent offense.~~

~~(d) Term of license. Each license issued under the provisions of this section shall be valid as long as the licensee continues to do business at the place named unless revoked or suspended by the Division as provided in subsection (e) of this section. If the business with respect to which the license was issued is sold or transferred or if the licensee ceases to do business at the place named, the license shall immediately be returned to the Division for cancellation.~~

~~(e) Revocation or suspension of license. The Division may revoke or suspend the license of any licensed wholesale dealer for failure to comply with~~

~~any provision of this chapter, 11 V.S.A. chapter 15, 32 V.S.A. chapter 205, or 33 V.S.A. chapter 19, subchapter 1B.~~

~~* * *~~

~~§ 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TO PURCHASE TOBACCO PRODUCTS; PENALTY~~

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

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

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

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

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

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

~~§ 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TO PURCHASE TOBACCO PRODUCTS; PENALTY~~

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

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

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

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

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

~~(e) A person under 21 years of age who misrepresents the person's age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be subject to a civil penalty of not more than ~~\$50.00~~ \$100.00 or provide up to 10 hours of community service, or both. An action under this section shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.~~

* * *

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

~~(a) A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 21 years of age shall be subject to a civil penalty of not more than ~~\$100.00~~ \$1,000.00 for the first offense and not more than ~~\$500.00~~, for any subsequent offense, a civil penalty and license suspension or revocation as set forth in subdivision (b)(2) of this section. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of following the occurrence of the alleged violation.~~

~~(a) A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person an individual under 21 years of age shall be subject to a civil penalty of not more than ~~\$100.00~~ \$150.00 for the first offense and not more than ~~\$500.00~~, for any subsequent offense, a civil penalty and license suspension or revocation as set forth in subdivision (b)(2) of this section. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of following the occurrence of the alleged violation.~~

~~(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 participating in a compliance test shall not be in violation of section 1005 of this title.~~

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

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

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

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

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

~~***~~

~~§ 1009. CONTRABAND AND SEIZURE~~

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

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

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

~~§ 1010. INTERNET SALES~~

~~* * *~~

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

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

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

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

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

~~* * *~~

~~§ 1013. DECEPTIVE TOBACCO PRODUCTS AND TOBACCO
SUBSTITUTES PROHIBITED~~

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

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

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

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

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

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

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

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

~~§ 1014. USE OF FUNDS FROM LICENSING FEES, PENALTIES, AND SETTLEMENTS~~

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

Sec. 1a. 4 V.S.A. § 1102(b) is amended to read:

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

* * *

~~(4) Violations of 7 V.S.A. § 1005, relating to possession and procurement of tobacco products misrepresentation of age by a person under 21 years of age to purchase tobacco products.~~

* * *

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

~~§ 167a. COMPLEX LITIGATION SPECIAL FUND~~

* * *

(b) The Fund shall consist of:

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

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

~~§ 2458(b)(4), and subject to the Fund balance cap in subsection (c) of this section.~~

~~***~~

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

~~§ 9502. TOBACCO TRUST FUND~~

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

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

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

~~(B) penalties and settlement amounts for violations or alleged violations of tobacco laws and tobacco licensing fees pursuant to 7 V.S.A. § 1014; and~~

~~(C) contributions from any other source.~~

~~Sec. 2. [Deleted.]~~

~~Sec. 3. [Deleted.]~~

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

~~§ 3102. CONFIDENTIALITY OF TAX RECORDS~~

~~***~~

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

~~***~~

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

~~***~~

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

~~§ 7702. DEFINITIONS~~

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

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

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

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

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

~~***~~

~~(5) "Licensed wholesale dealer" ~~shall mean~~ means a wholesale dealer licensed under the provisions of this chapter 7 V.S.A. § 1002b.~~

~~***~~

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

~~(16) "Wholesale dealer" means a person who imports or causes to be imported into the State any cigarettes, little cigars, roll-your-own tobacco, snuff, new smokeless tobacco, or other tobacco product for sale or who sells or furnishes any of these products to other wholesale dealers or retail dealers for the purpose of resale, but not by small quantity or parcel to consumers thereof of these products.~~

~~(17) "Wholesale dealer's license" ~~shall mean~~ means the license granted under the provisions of this chapter 7 V.S.A. § 1002b to a wholesale dealer for ~~a wholesale outlet.~~~~

~~***~~

~~Sec. 6. 32 V.S.A. § 7776 is amended to read:~~

~~§ 7776. COLLECTION OF CIGARETTE TAX THROUGH
NONRESIDENT LICENSED WHOLESALE DEALERS~~

~~***~~

~~(d) Any person complying with the provisions of this section shall thereupon become a licensed wholesale dealer within the meaning of 7 V.S.A. chapter 40 and this chapter and shall be subject to all provisions of ~~the chapter~~ both chapters applicable to wholesale dealers, including the furnishing of a bond specified in ~~subchapter 2~~ section 7703 of this chapter.~~

~~Sec. 7. 32 V.S.A. § 7821 is amended to read:~~

~~§ 7821. CRIMINAL PENALTIES~~

~~Any person who shall fail, neglect, or refuse to comply with or shall violate the provisions of this chapter relating to the tax on tobacco products or the rules adopted by the Commissioner under this chapter relating to such tax shall be guilty of a misdemeanor and upon conviction for a first offense shall be sentenced to pay a fine of not more than \$250.00 or to be imprisoned for not more than 60 days, or both, such fine and imprisonment in the discretion of the court, and for a second or subsequent offense shall be sentenced to pay a fine of not less than \$250.00 nor more than \$500.00 or be imprisoned for not more than six months, or both, such fine and imprisonment in the discretion of the court. This section shall not apply to violations of ~~sections 7731–7734 and section 7776~~ of this title.~~

~~Sec. 8. REDESIGNATION~~

~~32 V.S.A. § 7737 (licensed wholesale dealers; bonding) is redesignated as 32 V.S.A. § 7703.~~

~~Sec. 9. REPEALS~~

~~32 V.S.A. §§ 7731–7736 (licensure of wholesale dealers) are repealed.~~

~~Sec. 10. INVESTIGATOR POSITION CREATED; APPROPRIATION;
REPORT~~

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

and Lottery from the Tobacco Litigation Settlement Fund in fiscal year 2027 to fund the Investigator position established in subsection (a) of this section.

(b) It is the intent of the General Assembly that the position established in subsection (a) of this section should be funded from the Tobacco Litigation Settlement Fund for fiscal years 2027 and 2028. It is also the intent of the General Assembly that, beginning in fiscal year 2029, the funding for the Investigator position should be built into base funding for the Department of Liquor and Lottery's budget, with the amount of the salary and benefits for the Investigator position offset by an equivalent amount of the revenue generated to the Department or to the Office of the Attorney General, or both, by the Investigator's activities in enforcing and in investigating violations of Vermont law, with the remainder of the revenue deposited into the General Fund.

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

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

(2) Annually on or before December 15, the Department of Liquor and Lottery shall report to the House Committees on Government Operations and Military Affairs and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare on the impact of the Investigator's activities on compliance with Vermont's laws relating to direct-to-consumer sales and delivery of alcohol and tobacco products.

Sec. 10. [Deleted.]

Sec. 11. TAXATION OF TOBACCO SUBSTITUTES; TAX STAMPS;
REPORT

(a) The Department of Taxes, in collaboration with the Department of Liquor and Lottery and the Office of the Attorney General and in consultation with wholesale dealers and other interested stakeholders, shall:

(1) identify efficient and effective processes by which to impose taxes on tobacco substitutes, as defined in 7 V.S.A. § 1001, based on the concentration of nicotine they contain, and

~~(2) evaluate the continued use of tax stamps as evidence of payment of the excise tax on cigarettes, little cigars, and roll-your-own tobacco in this State and consider the advantages and disadvantages of alternative approaches of certifying tax compliance.~~

~~(b) On or before January 15, 2027, the Department of Taxes shall provide its findings and recommendations for taxing tobacco substitutes based on nicotine concentration and regarding the continued use of tax stamps, including proposed next steps and legislative needs, to the House Committees on Human Services and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs; on Finance; and on Health and Welfare.~~

~~Sec. 12. EFFECTIVE DATES~~

~~This act shall take effect on July 1, 2026, except that:~~

~~(1) in Sec. 1 (7 V.S.A. chapter 40), § 1002b (wholesale dealers; license required) shall take effect on July 1, 2027;~~

~~(2) in Sec. 5 (32 V.S.A. § 7702), the amendments to subdivisions (5) (definition of “licensed wholesale dealer”) and (17) (definition of “wholesale dealer’s license”) shall take effect on July 1, 2027; and~~

~~(3) Secs. 6 (32 V.S.A. § 7776), 7 (32 V.S.A. § 7821), 8 (reassignment), and 9 (repeals) shall take effect on July 1, 2027; and.~~

~~(4) any tax imposed under Sec. 10(d)(2) shall be due on or before December 15, 2027.~~

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

~~CHAPTER 40. TOBACCO PRODUCTS~~

~~§ 1001. DEFINITIONS~~

~~As used in this chapter:~~

~~* * *~~

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

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

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

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

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

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

(9) “Licensed wholesale dealer” means a wholesale dealer licensed under the provisions of this chapter.

(10) “Wholesale dealer” means a person who imports or causes to be imported into the State any tobacco products or tobacco substitutes for sale or who sells or furnishes any of these products to other wholesale dealers or retail dealers for the purpose of resale, but not by small quantity or parcel to consumers of these products.

(11) “Wholesale dealer’s license” means the license granted under the provisions of this chapter to a wholesale dealer for a wholesale outlet.

(12) “Wholesale outlet” means any premises where tobacco products or tobacco substitutes are sold, transferred, displayed, or held for sale by a wholesale dealer.

(13) “Wholesale price” means the price at which a licensed wholesale dealer sells or furnishes tobacco products or tobacco substitutes to any retail dealer.

§ 1002. LICENSE REQUIRED FOR RETAIL SALE; APPLICATION;
FEE; ISSUANCE

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

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

~~(3) Tobacco licenses and tobacco substitute endorsements shall expire at midnight, April 30, of each year be valid for one year from the date of issue.~~

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

~~(2) The licenses issued under this section shall be entitled "LIQUOR LICENSE," "LIQUOR-TOBACCO LICENSE," or "TOBACCO LICENSE," as applicable. The and the endorsements issued under this section shall be entitled "TOBACCO SUBSTITUTE ENDORSEMENT."~~

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

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

~~(d)(1) For a license or endorsement required under this section, a person shall apply to the legislative body of the municipality using the application provided by the Board in accordance with subdivision (b)(1) of this section and shall pay the following fees:~~

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

~~(B) to the legislative body of the municipality, a fee of \$110.00;~~

~~(A) \$150.00 for a tobacco license or renewal; and~~

~~(C) to the legislative body of the municipality, a fee of \$50.00~~

~~(B) \$75.00 for a tobacco substitute endorsement as provided in subdivision (a)(2) of this section.~~

~~(2) The municipal clerk shall forward the application to the Division; and, if the municipality's local control commissioners have approved the application for a tobacco license and, if applicable, a tobacco substitute endorsement, the Division shall issue the tobacco license and the tobacco substitute endorsement, as applicable, and shall forward all fees to the Commissioner for deposit. Fees collected pursuant to this subsection shall be deposited in the Liquor Control Enterprise Fund.~~

~~(e) A person who sells tobacco products, tobacco substitutes, or tobacco paraphernalia without obtaining a tobacco license and a tobacco substitute endorsement, as applicable, in violation of this section shall be guilty of a misdemeanor and fined subject to a civil penalty of not more than \$200.00~~

\$2,000.00 for the first offense and not more than ~~\$500.00~~ \$5,000.00 for each subsequent offense.

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

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

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

* * *

§ 1002b. WHOLESALE DEALERS; LICENSE REQUIRED

(a) License required. Each wholesale dealer shall secure a license from the Division of Liquor Control before engaging in the business of selling tobacco products or tobacco substitutes in this State. Licensed wholesale dealers shall sell these products only to other Vermont licensed wholesale dealers or to retailers licensed pursuant to section 1002 of this chapter.

(b) Application for and issuance of license.

(1) A separate application and license shall be required for each wholesale outlet when a wholesale dealer owns or controls more than one such outlet. The license fee shall be \$1,245.00 annually for each outlet.

(2) A wholesale license may be issued by the Division upon application on forms prescribed by the Division, stating the name and address of the applicant, the address of the place of business at which the applicant proposes to engage in the wholesale business, the type of business, and such other information as the Division may require for the proper administration of this chapter. Each license issued pursuant to this section shall be prominently displayed on the premises covered by the license.

(c) Penalties for sales without license. Any wholesale dealer who sells, offers for sale, or possesses with intent to sell tobacco products or tobacco substitutes without having first obtained a license as provided in this section

shall be subject to a civil penalty of not more than \$2,000.00 for the first offense and not more than \$5,000.00 for each subsequent offense.

(d) Term of license. Each license issued under the provisions of this section shall be valid for one year from the date of issue. If the business with respect to which the license was issued is sold or transferred or if the licensee ceases to do business at the place named, the license shall immediately be returned to the Division for cancellation.

(e) Revocation or suspension of license. The Division may revoke or suspend the license of any licensed wholesale dealer for failure to comply with any provision of this chapter, 11 V.S.A. chapter 15, 32 V.S.A. chapter 205, or 33 V.S.A. chapter 19, subchapter 1B.

* * *

§ 1005. PERSONS INDIVIDUALS UNDER 21 YEARS OF AGE;
POSSESSION OR PURCHASE OF TOBACCO PRODUCTS
PROHIBITED; PENALTY FOR MISREPRESENTING AGE OR
PURCHASING TOBACCO PRODUCTS; PENALTY

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

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

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

(2) A person An individual under 21 years of age shall not misrepresent his or her the individual's age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

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

(c) A person An individual under 21 years of age who misrepresents the person's individual's age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be subject to a civil penalty of not more than \$50.00 or provide offered the choice

of providing up to 10 hours of community service; or both participating in a nationally recognized youth tobacco cessation program to be determined by the Department of Health. An action under this section shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

* * *

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

(a)(1) A person that An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person an individual under 21 years of age shall be subject to a civil penalty of not more than \$100.00 \$150.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of following the occurrence of the alleged violation.

(2) In addition to the civil penalty imposed against an individual for a violation pursuant to subdivision (1) of this subsection, for any subsequent violation, the licensee may be subject to an administrative penalty and license suspension or revocation as set forth in subdivision (b)(2) of this section.

(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 individuals 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 participating in a compliance test shall not be in violation of section 1005 of this title.

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

(A) two violations second violation: suspension for two consecutive weekdays and an administrative penalty of not less than \$1,000.00;

(B) three violations 15-day third violation: suspension for 15 consecutive days and an administrative penalty of not less than \$2,000.00;

(C) four violations 90-day fourth violation: suspension for 90 consecutive days and an administrative penalty of not less than \$3,500.00; and

(D) ~~five violations~~ ~~one-year suspension~~ ~~fifth violation~~: ~~revocation of license and an administrative penalty of not less than \$5,000.00.~~

* * *

§ 1009. CONTRABAND AND SEIZURE

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

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

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

§ 1010. INTERNET SALES

* * *

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

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to a licensed wholesale dealer shipping directly to a licensed retail dealer in this State.

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

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

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

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

(e)(1) On or before January 15 of each year, the Department of Liquor and Lottery and the Office of the Attorney General shall each report to the House Committees on Commerce and Economic Development and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare regarding enforcement of Vermont laws relating to online sales of tobacco products, tobacco substitutes, and tobacco paraphernalia as set forth in this subsection.

(2) The Department of Liquor and Lottery shall report at least the following information for the previous 12-month period:

(A) the number of online compliance checks that the Department conducted;

(B) the number of cases relating to online sales activity that the Department referred to the Office of the Attorney General for further action; and

(C) the number of reports of unlawful online sales activity that the Department received from the public and the outcomes of those reports.

(3) The Office of the Attorney General shall report at least the following information for the previous 12-month period:

(A) the outcomes of cases related to online sales activity that were referred by the Department of Liquor and Lottery or any other governmental source;

(B) the number of reports of unlawful online sales activity that the Office received from the public and the outcomes of those reports; and

(C) the number and amounts of any monetary penalties imposed and other legal remedies executed by the Office related to online sales activity.

* * *

§ 1013. DECEPTIVE TOBACCO PRODUCTS AND TOBACCO
SUBSTITUTES PROHIBITED

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

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

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

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

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

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

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

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

(b)(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a person has violated this section, the Attorney General may impose a civil penalty in an amount not to exceed \$5,000.00 for each violation. For purposes of this subsection, each instance of marketing, promoting, labeling, branding, advertising, distributing, possessing for sale, offering for sale, or selling a deceptive tobacco product or tobacco substitute shall constitute a separate violation.

(2) In any action brought pursuant to this section, the State shall be entitled to recover the costs of investigation, of expert witness fees, and of the action, and reasonable attorney's fees.

(3) A person who violates this section commits an unfair and deceptive trade practice in commerce in violation of 9 V.S.A. § 2453.

(4) In addition to the penalties and remedies described in subdivisions (1)–(3) of this subsection, the Attorney General has the same authority as provided under 9 V.S.A. chapter 63, subchapter 1.

Sec. 2. 4 V.S.A. § 1102(b) is amended to read:

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

** * **

(4) Violations of 7 V.S.A. § 1005, relating to ~~possession and procurement of tobacco products~~ misrepresentation of age by a person under 21 years of age to purchase tobacco products.

** * **

Sec. 3. 7 V.S.A. § 210 is amended to read:

*§ 210. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT;
ADMINISTRATIVE PENALTY*

(a)(1) The control commissioners, as applicable, or the Board of Liquor and Lottery shall have power to suspend or revoke any permit or license granted pursuant to this title in the event the person holding the permit or license shall at any time during the term of the permit or license conduct its business in violation of this title, the conditions pursuant to which the permit or license was granted, or any rule prescribed by the Board of Liquor and Lottery.

(2) No revocation shall be made until the permittee or licensee has been notified and given a hearing before the Board of Liquor and Lottery, unless the permittee or licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title.

(3) In the case of a suspension, the permittee or licensee shall be notified and given a hearing before the Board of Liquor and Lottery or the local control commissioners, whichever applies.

(4) Any decision to suspend or revoke a license shall be issued in writing and set forth the reasons for the suspension or revocation and, if applicable, the duration of the suspension.

(5) ~~A tobacco license may not be suspended or revoked for a first-time violation.~~ Suspension or revocation of a tobacco license shall not affect any liquor license held by the licensee.

(b)(1) In addition to the authority to suspend or revoke any permit or license, the Board of Liquor and Lottery may impose an administrative penalty of up to \$7,500.00 per violation against a holder of a wholesale dealer's license ~~or~~; a holder of a first-, second-, or third-class license; or a holder of any tobacco license for a violation of the conditions of the license or of this title or of any rule adopted by the Board.

(2) The administrative penalty may be imposed after a hearing before the Board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title.

(3) ~~The Board may also impose an administrative penalty under this subsection against a holder of a tobacco license of up to \$250.00 for a first violation and up to \$2,500.00 for subsequent violations. [Repealed.]~~

(4) ~~For the first violation during a tobacco or alcohol compliance check during any three-year period, a licensee or permittee shall receive a warning and be required to attend a Division server training class. [Repealed.]~~

* * *

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

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

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

* * *

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

* * *

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

§ 7702. DEFINITIONS

As used in this chapter unless the context otherwise requires:

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

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

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

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

* * *

(5) “Licensed wholesale dealer” ~~shall mean~~ means a wholesale dealer licensed under the provisions of ~~this chapter~~ 7 V.S.A. § 1002b.

* * *

(15)(A) “Other tobacco products” means any product manufactured from, derived from, or containing tobacco or nicotine, whether natural or synthetic, including nicotine alkaloids and nicotine analogs, that is intended for human consumption by smoking, chewing, or in any other manner, including except as otherwise specified in subdivision (B) of this subdivision (15).

(B)(i) The term includes products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8), ~~and~~ including any liquids, whether nicotine based or not, ~~or~~ and delivery devices sold separately for use with a tobacco substitute, but ~~shall~~ not including nicotine pouches.

(ii) The term does not include cigarettes, little cigars, roll-your-own tobacco, snuff, new smokeless tobacco as defined in this section, or cannabis products as defined in 7 V.S.A. § 831.

(16) “Wholesale dealer” means a person who imports or causes to be imported into the State any cigarettes, little cigars, roll-your-own tobacco, snuff, new smokeless tobacco, or other tobacco product for sale or who sells or furnishes any of these products to other wholesale dealers or retail dealers for the purpose of resale, but not by small quantity or parcel to consumers ~~thereof~~ of these products.

(17) “Wholesale dealer’s license” ~~shall mean~~ means the license granted under the provisions of ~~this chapter~~ 7 V.S.A. § 1002b to a wholesale dealer for a wholesale outlet.

* * *

(20) “New smokeless tobacco” means any tobacco product manufactured from, derived from, or containing tobacco or nicotine, whether natural or synthetic, including nicotine alkaloids and nicotine analogs, that is not intended to be smoked, has a moisture content of less than 45 percent, or is offered in individual single-dose tablets or other discrete single-use units, and includes nicotine pouches.

* * *

Sec. 6. 32 V.S.A. § 7776 is amended to read:

*§ 7776. COLLECTION OF CIGARETTE TAX THROUGH
NONRESIDENT LICENSED WHOLESALE DEALERS*

* * *

(d) Any person complying with the provisions of this section shall thereupon become a licensed wholesale dealer within the meaning of 7 V.S.A. chapter 40 and this chapter and shall be subject to all provisions of ~~the chapter~~ both chapters applicable to wholesale dealers, including the furnishing of a bond specified in ~~subchapter 2~~ section 7703 of this chapter.

Sec. 7. 32 V.S.A. § 7821 is amended to read:

§ 7821. CRIMINAL PENALTIES

Any person who shall fail, neglect, or refuse to comply with or shall violate the provisions of this chapter relating to the tax on tobacco products or the rules adopted by the Commissioner under this chapter relating to such tax shall be guilty of a misdemeanor and upon conviction for a first offense shall be sentenced to pay a fine of not more than \$250.00 or to be imprisoned for not more than 60 days, or both, such fine and imprisonment in the discretion of the court, and for a second or subsequent offense shall be sentenced to pay a fine of not less than \$250.00 nor more than \$500.00 or be imprisoned for not more than six months, or both, such fine and imprisonment in the discretion of the court. This section shall not apply to violations of ~~sections 7731–7734~~ and section 7776 of this title.

Sec. 8. REDESIGNATION

32 V.S.A. § 7737 (licensed wholesale dealers; bonding) is redesignated as 32 V.S.A. § 7703.

Sec. 9. REPEALS

32 V.S.A. §§ 7731–7736 (licensure of wholesale dealers) are repealed.

Sec. 10. TOBACCO ENFORCEMENT CAPACITY; REPORT

(a) The General Assembly finds that the regulation of tobacco products, tobacco substitutes, and the deceptive devices prohibited by 7 V.S.A. § 1013, as added by this act, is a significant public health priority, especially with respect to protecting individuals under 21 years of age from being targeted or supplied with these products.

(b) On or before January 15, 2027, the Department of Liquor and Lottery, in consultation with the Office of the Attorney General, shall evaluate and

report to the House Committees on Human Services and on Commerce and Economic Development and the Senate Committees on Health and Welfare and on Economic Development, Housing and General Affairs regarding the following:

(1) the number of compliance checks that the Department conducted in fiscal years 2025 and 2026 with respect to tobacco products and tobacco substitutes;

(2) whether the Department's current enforcement staffing levels are sufficient to meet the compliance targets established in 7 V.S.A. § 1007(b)(1) and to adequately enforce 7 V.S.A. chapter 40 as amended by this act, including the prohibition on deceptive devices in 7 V.S.A. § 1013, the restrictions on internet sales in 7 V.S.A. § 1010, and the expanded wholesale licensure requirements;

(3) any unmet enforcement needs identified as a result of the expanded scope of regulation under this act; and

(4) whether additional staffing resources at the Department of Liquor and Lottery or the Office of the Attorney General, or both, would materially improve compliance with and enforcement of Vermont's tobacco laws.

**Sec. 11. TAXATION OF TOBACCO SUBSTITUTES; TAX STAMPS;
REPORT**

(a) The Office of the Attorney General, in collaboration with the Departments of Taxes and of Liquor and Lottery and in consultation with wholesale dealers and other interested stakeholders, shall:

(1) identify efficient and effective processes by which to impose taxes on tobacco products and tobacco substitutes, as defined in 7 V.S.A. § 1001, as amended by this act, including opportunities to base taxation on a product's nicotine concentration or on the volume of a product's nicotine tank, or both; and

(2) evaluate the continued use of tax stamps in this State as evidence of payment of the excise tax on tobacco products and tobacco substitutes, as defined in 7 V.S.A. § 1001, as amended by this act; explore the potential to transition to a more modern process, such as quick-response (QR) codes or other digitized systems; and consider the advantages and disadvantages of using alternative approaches for certifying tax compliance.

(b) On or before January 15, 2027, the Office of the Attorney General shall provide its findings and recommendations for the items set forth in subsection (a) of this section, including proposed next steps and legislative needs, to the House Committees on Commerce and Economic Development, on Human

Services, and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs; on Finance; and on Health and Welfare.

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2026, except that:

(1) in Sec. 1 (7 V.S.A. chapter 40), section 1002b (wholesale dealers; license required) shall take effect on July 1, 2027;

(2) in Sec. 5 (32 V.S.A. § 7702), the amendments to subdivisions (5) (definition of “licensed wholesale dealer”) and (17) (definition of “wholesale dealer’s license”) shall take effect on July 1, 2027; and

(3) Secs. 6 (32 V.S.A. § 7776), 7 (32 V.S.A. § 7821), 8 (redesignation), and 9 (repeals) shall take effect on July 1, 2027.