

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred Senate Bill No. 198 entitled “An act relating to the regulation of
4 tobacco products and tobacco substitutes” respectfully reports that it has
5 considered the same and recommends that the House propose to the Senate that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

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

9 CHAPTER 40. TOBACCO PRODUCTS

10 § 1001. DEFINITIONS

11 As used in this chapter:

12 * * *

13 ~~(5) “Tobacco license” means a license issued by the Division of Liquor~~
14 ~~Control under this chapter permitting the licensee to engage in the importation,~~
15 ~~distribution, wholesale sale, or retail sale, or a combination of these, of tobacco~~
16 ~~products, tobacco substitutes, substances containing nicotine or otherwise~~
17 ~~intended for use with a tobacco substitute, or tobacco paraphernalia.~~

18 * * *

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

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

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

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

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

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

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

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

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

9 (12) “Wholesale outlet” means any premises where cigarettes, little
10 cigars, roll-your-own tobacco, snuff, new smokeless tobacco, or other tobacco
11 products are sold, transferred, displayed, or held for sale by a wholesale dealer.

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

15 § 1002. LICENSE REQUIRED FOR RETAIL SALE; APPLICATION;

16 FEE; ISSUANCE

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

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

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

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

10 (2) The licenses issued under this section shall be entitled **“LIQUOR**
11 **LICENSE,” “LIQUOR TOBACCO LICENSE,”** ~~or~~ **“TOBACCO LICENSE,”**
12 ~~as applicable. The~~ **and the** endorsements issued under this section shall be
13 entitled **“TOBACCO SUBSTITUTE ENDORSEMENT.”**

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

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

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

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

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

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

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

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

9 (2) The municipal clerk shall forward the application to the Division,
10 and the Division shall issue the tobacco license and the tobacco substitute
11 endorsement, as applicable, ~~and shall forward all fees to the Commissioner for~~
12 ~~deposit. Fees collected pursuant to this subsection shall be deposited~~ in the
13 Liquor Control Enterprise Fund.

14 (e) A person who sells tobacco products, tobacco substitutes, or tobacco
15 paraphernalia without obtaining a tobacco license and a tobacco substitute
16 endorsement, as applicable, in violation of this section shall be ~~guilty of a~~
17 ~~misdemeanor and fined~~ subject to a civil penalty of not more than \$200.00
18 \$2,000.00 for the first offense and not more than ~~\$500.00~~ \$5,000.00 for each
19 subsequent offense.

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

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

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

13 * * *

14 § 1002b. WHOLESALE DEALERS; LICENSE REQUIRED

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

1 (b) Application for and issuance of license.

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

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

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

17 (d) Term of license. Each license issued under the provisions of this
18 section shall be valid as long as the licensee continues to do business at the
19 place named unless revoked or suspended by the Division as provided in
20 subsection (e) of this section for one year from the date of issue. If the
21 business with respect to which the license was issued is sold or transferred or if

1 the licensee ceases to do business at the place named, the license shall
2 immediately be returned to the Division for cancellation.

3 (e) Revocation or suspension of license. The Division may revoke or
4 suspend the license of any licensed wholesale dealer for failure to comply with
5 any provision of this chapter, 11 V.S.A. chapter 15, 32 V.S.A. chapter 205, or
6 33 V.S.A. chapter 19, subchapter 1B.

7 * * *

8 § 1005. **PERSONS INDIVIDUALS** UNDER 21 YEARS OF AGE;
9 ~~POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING~~
10 ~~AGE OR PURCHASING~~ TO PURCHASE TOBACCO PRODUCTS;
11 PENALTY

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

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

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

1 than ~~\$100.00~~ \$150.00 for the first offense and not more than \$500.00 for any
2 subsequent offense, a civil penalty and license suspension or revocation as set
3 forth in subdivision (b)(2) of this section. An action under this section shall be
4 brought in the same manner as for a traffic violation pursuant to 23 V.S.A.
5 chapter 24 and shall be brought within 24 hours of following the occurrence of
6 the alleged violation.

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

12 (b)(1) The Division of Liquor Control shall conduct or contract for
13 compliance tests of tobacco licensees as frequently and as comprehensively as
14 necessary to ensure consistent statewide compliance with the prohibition on
15 sales to ~~persons~~ individuals under 21 years of age of at least 90 percent for
16 buyers who are between 17 and 20 years of age. An individual under 21 years
17 of age participating in a compliance test shall not be in violation of section
18 1005 of this title.

19 (2) Any violation by a tobacco licensee of subsection 1003(a) of this
20 title ~~and~~ or this section after a sale violation or during a compliance test
21 conducted within six months of after a previous violation shall be considered a

1 multiple violation and shall result in the following **civil administrative**
2 penalties and minimum license ~~suspension~~ suspensions or license revocation,
3 in addition to any other penalties available under this title. ~~Minimum license~~
4 ~~suspensions for multiple violations shall be assessed as follows:~~

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

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

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

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

17 * * *

18 § 1009. CONTRABAND AND SEIZURE

19 (a) Any cigarettes or other tobacco products or tobacco substitutes that
20 have been sold, offered for sale, or possessed for sale in violation of section
21 1003, 1010, or 1013 of this title; **20 V.S.A. § 2757;** **32 V.S.A. § 7786;** or **33**

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

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

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

18 § 1010. INTERNET SALES

19 * * *

20 (b) ~~(1) No~~ **Except as provided in subdivision (2) of this subsection, no**
21 person shall cause cigarettes, roll-your-own tobacco, little cigars, snuff,

1 tobacco substitutes, substances containing nicotine or otherwise intended for
2 use with a tobacco substitute, or tobacco paraphernalia, ordered or purchased
3 by mail or through a computer network, telephonic network, or other electronic
4 network, to be shipped to anyone other than a licensed wholesale dealer ~~or~~
5 ~~retail dealer~~ in this State.

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

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

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

12 (1) A knowing or intentional violation of this section shall be punishable
13 by imprisonment for not more than five years or a fine of not more than
14 \$5,000.00, or both.

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

1 tobacco substitute, or tobacco paraphernalia shall constitute a separate
2 violation.

3 * * *

4 § 1013. DECEPTIVE TOBACCO PRODUCTS AND TOBACCO

5 SUBSTITUTES PROHIBITED

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

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

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

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

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

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

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

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

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

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

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

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

1 * * *

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

3 § 3102. CONFIDENTIALITY OF TAX RECORDS

4 * * *

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

9 * * *

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

13 * * *

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

15 § 7702. DEFINITIONS

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

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

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

1 snuff, new smokeless tobacco as defined in this section, or cannabis products
2 as defined in 7 V.S.A. § 831.

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

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

12 * * *

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

14 § 7776. COLLECTION OF CIGARETTE TAX THROUGH
15 NONRESIDENT LICENSED WHOLESALE DEALERS

16 * * *

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

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

2 § 7821. CRIMINAL PENALTIES

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

14 Sec. 8. REDESIGNATION

15 32 V.S.A. § 7737 (licensed wholesale dealers; bonding) is redesignated as
16 32 V.S.A. § 7703.

17 Sec. 9. REPEALS

18 32 V.S.A. §§ 7731–7736 (licensure of wholesale dealers) are repealed.

19 Sec. 10. [Deleted.]

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

2 REPORT

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

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

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

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

1 Sec. 12. EFFECTIVE DATES

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

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

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

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

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17 (Committee vote: _____)

18

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Representative _____

20

FOR THE COMMITTEE