

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

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

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

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

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

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

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

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

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

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

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

7           § 1002. LICENSE REQUIRED FOR RETAIL SALE; APPLICATION;  
8                           FEE; ISSUANCE

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

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

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

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

1           (2) The licenses issued under this section shall be entitled “LIQUOR  
2        LICENSE,” ~~“LIQUOR TOBACCO LICENSE,” or “TOBACCO LICENSE,”~~  
3        ~~as applicable. The and the~~ endorsements issued under this section shall be  
4        entitled “TOBACCO SUBSTITUTE ENDORSEMENT.”

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

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

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

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

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

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

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

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

20           (2) The municipal clerk shall forward the application to the Division,  
21        and the Division shall issue the tobacco license and the tobacco substitute

1 endorsement, as applicable, ~~and shall forward all fees to the Commissioner for~~  
2 ~~deposit.~~ Fees collected pursuant to this subsection shall be deposited in the  
3 Liquor Control Enterprise Fund.

4 (e) A person who sells tobacco products, tobacco substitutes, or tobacco  
5 paraphernalia without obtaining a tobacco license and a tobacco substitute  
6 endorsement, as applicable, in violation of this section shall be ~~guilty of a~~  
7 ~~misdemeanor and fined~~ subject to a civil penalty of not more than \$200.00  
8 \$2,000.00 for the first offense and not more than ~~\$500.00~~ \$5,000.00 for each  
9 subsequent offense.

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

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

20 (h) This section shall not apply to a cannabis establishment licensed  
21 pursuant to chapter 33 of this title to engage in the retail sale of cannabis

1 products as defined in section 831 of this title but not engaged in the sale of  
2 tobacco products or tobacco substitutes.

3 \* \* \*

4 § 1002b. WHOLESALE DEALERS; LICENSE REQUIRED

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

10 (b) Application for and issuance of license.

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

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



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

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

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

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

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

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



1 (b)(1) The Division of Liquor Control shall conduct or contract for  
2 compliance tests of tobacco licensees as frequently and as comprehensively as  
3 necessary to ensure consistent statewide compliance with the prohibition on  
4 sales to ~~persons~~ individuals under 21 years of age of at least 90 percent for  
5 buyers who are between 17 and 20 years of age. An individual under 21 years  
6 of age participating in a compliance test shall not be in violation of section  
7 1005 of this title.

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

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

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

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







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

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

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

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

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

11          (b)(1) In addition to or in lieu of any other civil or criminal remedy  
12          provided by law, upon a determination that a person has violated this section,  
13          the Attorney General may impose a civil penalty in an amount not to exceed  
14          \$5,000.00 for each violation. For purposes of this subsection, each instance of  
15          marketing, promoting, labeling, branding, advertising, distributing, possessing  
16          for sale, offering for sale, or selling a deceptive tobacco product or tobacco  
17          substitute shall constitute a separate violation.

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



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

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

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

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

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



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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.

\* \* \*



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

2 § 7776. COLLECTION OF CIGARETTE TAX THROUGH

3 NONRESIDENT LICENSED WHOLESALE DEALERS

4 \* \* \*

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

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

11 § 7821. CRIMINAL PENALTIES

12 Any person who shall fail, neglect, or refuse to comply with or shall violate  
13 the provisions of this chapter relating to the tax on tobacco products or the  
14 rules adopted by the Commissioner under this chapter relating to such tax shall  
15 be guilty of a misdemeanor and upon conviction for a first offense shall be  
16 sentenced to pay a fine of not more than \$250.00 or to be imprisoned for not  
17 more than 60 days, or both, such fine and imprisonment in the discretion of the  
18 court, and for a second or subsequent offense shall be sentenced to pay a fine  
19 of not less than \$250.00 nor more than \$500.00 or be imprisoned for not more  
20 than six months, or both, such fine and imprisonment in the discretion of the

1 court. This section shall not apply to violations of ~~sections 7731–7734~~ and  
2 section 7776 of this title.

3 Sec. 8. REDESIGNATION

4 32 V.S.A. § 7737 (licensed wholesale dealers; bonding) is redesignated as  
5 32 V.S.A. § 7703.

6 Sec. 9. REPEALS

7 32 V.S.A. §§ 7731–7736 (licensure of wholesale dealers) are repealed.

8 Sec. 10. [Deleted.]

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

10 REPORT

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

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

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

