

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to  
3 which was referred Senate Bill No. 198 entitled “An act relating to the  
4 regulation and taxation of tobacco products and tobacco substitutes”  
5 respectfully reports that it has considered the same and recommends that the  
6 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**  
2           **be imported into the State any cigarettes, little cigars, roll-your-own**  
3           **tobacco, snuff, new smokeless tobacco, or other tobacco product for sale**  
4           **or who sells or furnishes any of these products to other wholesale dealers**  
5           **or retail dealers for the purpose of resale, but not by small quantity or**  
6           **parcel to consumers of these products.**

7           **(11) “Wholesale dealer’s license” means the license granted under**  
8           **the 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**  
11           **tobacco products are sold, transferred, displayed, or held for sale by a**  
12           **wholesale dealer.**

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

17           § 1002. LICENSE REQUIRED **FOR RETAIL SALE**; APPLICATION;  
18                           FEE; ISSUANCE

19           (a)(1) Except as provided in subsection (h) of this section, no person shall  
20           engage in the retail sale of tobacco products, tobacco substitutes, or tobacco

1 paraphernalia in the person’s place of business without a tobacco license  
2 obtained from the Division of Liquor Control.

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

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

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

12 (2) The licenses issued under this section shall be entitled “LIQUOR  
13 LICENSE;” ~~“LIQUOR TOBACCO LICENSE;”~~ or “TOBACCO LICENSE;”  
14 as applicable. The endorsements issued under this section shall be entitled  
15 “TOBACCO SUBSTITUTE ENDORSEMENT.”

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

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

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

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

7 (B) to the legislative body of the municipality, a fee of ~~\$110.00~~  
8 \$1,000.00 for a tobacco license or renewal; and

9 (C) to the legislative body of the municipality, a fee of ~~\$50.00~~  
10 \$1,000.00 for a tobacco substitute endorsement as provided in subdivision  
11 (a)(2) of this section.

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

16 (e) A person who sells tobacco products, tobacco substitutes, or tobacco  
17 paraphernalia without obtaining a tobacco license and a tobacco substitute  
18 endorsement, as applicable, in violation of this section shall be ~~guilty of a~~  
19 ~~misdemeanor and fined~~ subject to a civil penalty of not more than \$200.00  
20 \$2,000.00 for the first offense and not more than ~~\$500.00~~ \$5,000.00 for each  
21 subsequent offense.

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

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

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

15 \* \* \*

16 **§ 1002b. WHOLESALE DEALERS; LICENSE REQUIRED**

17 **(a) License required. Each wholesale dealer shall secure a license from**  
18 **the Division of Liquor Control before engaging in the business of selling**  
19 **cigarettes, roll-your-own tobacco, little cigars, snuff, new smokeless**  
20 **tobacco, or other tobacco products in this State. Licensed wholesale**

1 **dealers shall sell these products only to other Vermont licensed wholesale**  
2 **dealers or to retailers licensed pursuant to section 1002 of this chapter.**

3 **(b) Application for and issuance of license.**

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

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

15 **(c) Penalties for sales without license. Any licensed wholesale dealer**  
16 **who sells, offers for sale, or possesses with intent to sell any cigarettes,**  
17 **roll-your-own tobacco, little cigars, snuff, new smokeless tobacco, or other**  
18 **tobacco products, or any combination thereof, without having first**  
19 **obtained a license as provided in this section shall be fined not more than**

1 **\$25.00 for the first offense and not more than \$200.00 nor less than \$25.00**  
2 **for each subsequent offense.**

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

10 **(e) Revocation or suspension of license. The Division may revoke or**  
11 **suspend the license of any licensed wholesale dealer for failure to comply**  
12 **with any provision of this chapter, 11 V.S.A. chapter 15, 32 V.S.A. chapter**  
13 **205, or 33 V.S.A. chapter 19, subchapter 1B.**

14 \* \* \*

15 § 1005. ~~PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF~~  
16 ~~TOBACCO PRODUCTS; MISREPRESENTING AGE OR~~  
17 ~~PURCHASING TOBACCO PRODUCTS; PENALTY~~

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



1 § 1007. FURNISHING TOBACCO TO ~~PERSONS~~ INDIVIDUALS UNDER  
2 21 YEARS OF AGE; PENALTIES; REPORT

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

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

18 (2) Any violation by a tobacco licensee of subsection 1003(a) of this  
19 title ~~and or~~ or this section after a sale violation or during a compliance test  
20 conducted within six months ~~of~~ after a previous violation shall be considered a  
21 multiple violation and shall result in the following civil penalties and minimum

1 license ~~suspension~~ suspensions or license revocation, in addition to any other  
2 penalties available under this title. ~~Minimum license suspensions for multiple~~  
3 ~~violations shall be assessed as follows:~~

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

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

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

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

12 \* \* \*

13 § 1009. CONTRABAND AND SEIZURE

14 (a) Any cigarettes or other tobacco products or tobacco substitutes that  
15 have been sold, offered for sale, or possessed for sale in violation of section  
16 1003, 1010, or 1013 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33  
17 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or  
18 utilized in violation of section 1011 of this title, shall be deemed contraband  
19 and shall be subject to seizure by the Commissioner, the Commissioner's  
20 agents or employees, the Commissioner of Taxes, or any agent or employee of  
21 the Commissioner of Taxes, or by any law enforcement officer of this State

1 when directed to do so by ~~the~~ either Commissioner or by the Department of  
2 Liquor and Lottery. All ~~cigarettes or other tobacco products~~ items seized  
3 under this subsection shall be destroyed at the expense of the violator, and  
4 disposition shall be in compliance with the Agency of Natural Resources,  
5 Hazardous Waste Management Regulations (CVR 12-032-001).

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

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

13 § 1010. INTERNET SALES

14 \* \* \*

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

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

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

4 (1) A knowing or intentional violation of this section shall be punishable  
5 by imprisonment for not more than five years or a fine of not more than  
6 \$5,000.00, or both.

7 (2) In addition to or in lieu of any other civil or criminal remedy  
8 provided by law, upon a determination that a person has violated this section,  
9 the Attorney General may impose a civil penalty in an amount not to exceed  
10 \$5,000.00 for each violation. For purposes of this subsection, each shipment  
11 or transport of cigarettes, roll-your-own tobacco, little cigars, ~~or snuff, tobacco~~  
12 substitutes, substances containing nicotine or otherwise intended for use with a  
13 tobacco substitute, or tobacco paraphernalia shall constitute a separate  
14 violation.

15 \* \* \*

16 § 1013. DECEPTIVE TOBACCO PRODUCTS AND TOBACCO  
17 SUBSTITUTES PROHIBITED

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

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

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

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

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

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

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

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

13 ~~§ 1014. ENFORCEMENT~~

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

17 § 1014. USE OF FUNDS FROM LICENSING FEES, PENALTIES, AND

18 SETTLEMENTS

19           All penalties collected from violations of this chapter, all monies received  
20 by the State from settlements based on violations or alleged violations of  
21 Vermont laws relating to tobacco, and all revenue generated from licensing

1 fees established in this chapter that exceed the amounts necessary for  
2 administration and enforcement of this chapter shall be deposited in the  
3 Tobacco Trust Fund established in 18 V.S.A. § 9502 and used for tobacco  
4 cessation and prevention activities.

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

6 § 167a. COMPLEX LITIGATION SPECIAL FUND

7 \* \* \*

8 (b) The Fund shall consist of:

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

11 (2) Settlement monies other than consumer restitution collected by the  
12 Office of the Attorney General, except for those recoveries that by law are  
13 transferred or appropriated for other uses pursuant to 7 V.S.A. § 1014 or 9  
14 V.S.A. § 2458(b)(4), and subject to the Fund balance cap in subsection (c) of  
15 this section.

16 \* \* \*

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

18 § 9502. TOBACCO TRUST FUND

19 (a)(1) The Tobacco Trust Fund is established in the Office of the State  
20 Treasurer for the purposes of creating a self-sustaining, perpetual fund for

1 tobacco cessation and prevention that is not dependent upon tobacco sales  
2 volume.

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

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

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

8 (C) contributions from any other source.

9 \* \* \*

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

11 § 3102. CONFIDENTIALITY OF TAX RECORDS

12 \* \* \*

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

17 \* \* \*

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

21 \* \* \*

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

2 § 7702. DEFINITIONS

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

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

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

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

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

17 \* \* \*

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

20 \* \* \*





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

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

4 ~~§ 7734. PENALTIES FOR SALES WITHOUT LICENSE~~

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

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

14 ~~§ 7771. RATE OF TAX~~

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

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

19 ~~(2) in the course of transit and consigned to a licensed wholesale dealer~~

20 ~~or retail dealer; or~~

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

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

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

20           ~~(1) This tax shall not apply to:~~

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

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

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

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

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

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

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

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

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

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

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

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

10          ~~§ 7772. FORM AND SALE OF STAMPS~~

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

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

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

6 \* \* \*

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

8 ~~§ 7774. AFFIXING STAMPS~~

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

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

17 ~~§ 7775. RETAIL DEALERS~~

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

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

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

5 § 7776. COLLECTION OF CIGARETTE TAX THROUGH

6 NONRESIDENT LICENSED WHOLESALE DEALERS

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

20 \* \* \*

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

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

7 ~~§ 7777. RECORDS REQUIRED; INSPECTION AND EXAMINATION;~~

8 ~~ASSESSMENT OF TAX DEFICIENCY~~

9 ~~(a) Each licensed wholesale dealer and each retail dealer shall keep~~  
10 ~~complete and accurate records of all cigarettes, tobacco substitutes, little~~  
11 ~~cigars, and roll your own tobacco manufactured, produced, purchased,~~  
12 ~~transferred, and sold by the dealer. The records shall be of such kind and in~~  
13 ~~such form as the Commissioner may prescribe and shall be safely preserved for~~  
14 ~~six years in such manner as to ensure permanency and accessibility for~~  
15 ~~inspection by the Commissioner and authorized agents. The Commissioner or~~  
16 ~~authorized agents of the Commissioner may enter in or upon any premises~~  
17 ~~where the Commissioner or they have reason to believe that cigarettes, tobacco~~  
18 ~~substitutes, little cigars, or roll your own tobacco are possessed, stored, or~~  
19 ~~sold, for the purpose of determining whether the provisions of this chapter or~~  
20 ~~33 V.S.A. chapter 19, subchapter 1A or 1B are being obeyed and may examine~~  
21 ~~and copy the books, papers, records, and the stock of any licensed wholesale~~

1 ~~dealer or retail dealer, for the purpose of determining whether the tax imposed~~  
2 ~~by this chapter has been fully paid.~~

3 ~~(b) If the Commissioner determines that a licensed wholesale dealer has not~~  
4 ~~purchased sufficient stamps to cover sales of cigarettes, tobacco substitutes,~~  
5 ~~and little cigars, or that a retail dealer has made sales of unstamped cigarettes,~~  
6 ~~tobacco substitutes, or little cigars or untaxed roll your own tobacco, the~~  
7 ~~Commissioner shall thereupon assess the deficiency in tax, plus interest and~~  
8 ~~penalties as provided in section 3202 of this title.~~

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

18 \* \* \*

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

2 ~~§ 7779. SEIZURE~~

3 ~~(a) Any cigarettes or tobacco substitutes found at any place in this State~~  
4 ~~without stamps affixed thereto to them as required by this chapter or any~~  
5 ~~tobacco products found at any place in this State upon which the tax imposed~~  
6 ~~by this chapter has not been paid, are declared to be contraband goods and may~~  
7 ~~be seized without a warrant by the Commissioner, the Commissioner's agents~~  
8 ~~or employees, or by any peace the Commissioner of Liquor and Lottery, or any~~  
9 ~~agent or employee of the Commissioner of Liquor and Lottery, or by any law~~  
10 ~~enforcement officer of this State when directed by the either Commissioner to~~  
11 ~~do so, unless such cigarettes, tobacco substitutes, or tobacco products shall be~~  
12 ~~in the possession of a licensed wholesale dealer, or unless they shall be in the~~  
13 ~~course of transit and consigned to a licensed wholesale dealer or a retail dealer,~~  
14 ~~or unless they shall have been received by a retail dealer within 24 hours.~~

15 ~~Nothing herein in this section shall be construed to require the either~~  
16 ~~Commissioner, agent, employee, or law enforcement officer to confiscate~~  
17 ~~unstamped cigarettes, tobacco substitutes, or tobacco products when the~~  
18 ~~Commissioner shall have, agent, employee, or law enforcement officer has~~  
19 ~~reason to believe that the owner thereof has possession of the same them for~~

1 ~~personal consumption or is not willfully or intentionally evading the tax~~  
2 ~~imposed by this chapter.~~

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

10 ~~(c) Any cigarettes, tobacco substitutes, or tobacco products seized under~~  
11 ~~the provisions of this chapter shall be destroyed by the Commissioner at the~~  
12 ~~expense of the violator, and disposition shall be in compliance with the Agency~~  
13 ~~of Natural Resources, Hazardous Waste Management Regulations (CVR 12-~~  
14 ~~032-001). The seizure of any cigarettes or tobacco products under the~~  
15 ~~provisions of this section shall not relieve any person from a fine or other~~  
16 ~~penalty for violation of this chapter.~~

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

18 ~~§ 7780. HEARING~~

19 ~~When any cigarettes, tobacco substitutes, or tobacco products shall have~~  
20 ~~been seized under the provisions of section 7779 of this title, any person~~  
21 ~~claiming an interest in such cigarettes, tobacco substitutes, or tobacco products~~

1 who has not previously been heard or who has not waived hearing may make  
2 written application to the Commissioner for a hearing, stating an interest in the  
3 cigarettes, tobacco substitutes, or tobacco products and reasons why they  
4 should not be forfeited. Further proceedings on such application for hearing  
5 shall be taken as provided in sections 7782 and 7783 of this title. No  
6 cigarettes, tobacco substitutes, or tobacco products seized under the provisions  
7 of section 7779 of this title shall be destroyed while an application for a  
8 hearing is pending before the Commissioner, but the pendency of an appeal  
9 under the provisions of section 7783 of this title shall not prevent destruction  
10 of the cigarettes, tobacco substitutes, or tobacco products unless the appellant  
11 shall post a satisfactory bond, with surety, in an amount double the estimated  
12 value of the cigarettes, tobacco substitutes, or tobacco products conditioned  
13 upon the successful termination of the appeal.

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

15 § 7782. APPLICATION FOR HEARING

16 Any person aggrieved by any action of the Commissioner or his or her the  
17 Commissioner's authorized agent under this chapter for which hearing is not  
18 elsewhere provided may apply in writing to the Commissioner within 10 days  
19 after the notice of such the action is delivered or mailed to him or her the  
20 person for a hearing, setting forth the reasons why such the hearing should be  
21 granted and the manner of relief sought. The Commissioner shall promptly

1 ~~consider each such application and may grant or deny the hearing requested. If~~  
2 ~~the hearing be request is denied, the applicant shall be notified thereof of the~~  
3 ~~denial forthwith. If it be is granted, the Commissioner shall notify the~~  
4 ~~applicant of the time and place fixed for such the hearing. After such the~~  
5 ~~hearing, the Commissioner may make such order in the premises as may~~  
6 ~~appear to him or her the Commissioner just and lawful and shall furnish a copy~~  
7 ~~of such the order to the applicant. The Commissioner may, at any time and by~~  
8 ~~notice in writing, order a hearing on his or her the Commissioner's own~~  
9 ~~initiative and require the taxpayer or any other individual whom he or she the~~  
10 ~~Commissioner believes to be in possession of information concerning any~~  
11 ~~manufacture, importation, possession, or sale of cigarettes, tobacco substitutes,~~  
12 ~~or tobacco products, or both a combination of these, which have escaped~~  
13 ~~taxation to appear before him or her the Commissioner or his or her the~~  
14 ~~Commissioner's duly authorized agent with any specific books of account,~~  
15 ~~paper, or other documents related to the matter for examination relative~~  
16 ~~thereto.~~

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

18 § 7821. CRIMINAL PENALTIES

19 Any person who shall fail, neglect, or refuse to comply with or shall violate  
20 the provisions of this chapter relating to the tax on tobacco products or the  
21 rules adopted by the Commissioner under this chapter relating to such tax shall

1 be guilty of a misdemeanor and upon conviction for a first offense shall be  
2 sentenced to pay a fine of not more than \$250.00 or to be imprisoned for not  
3 more than 60 days, or both, such fine and imprisonment in the discretion of the  
4 court, and for a second or subsequent offense shall be sentenced to pay a fine  
5 of not less than \$250.00 nor more than \$500.00 or be imprisoned for not more  
6 than six months, or both, such fine and imprisonment in the discretion of the  
7 court. This section shall not apply to violations of ~~sections 7731–7734 and~~  
8 ~~section~~ 7776 of this title.

9 **Sec. 8. REDESIGNATION**

10 **32 V.S.A. § 7737 (licensed wholesale dealers; bonding) is redesignated**  
11 **as 32 V.S.A. § 7703.**

12 **Sec. 9. REPEALS**

13 **32 V.S.A. §§ 7731–7736 (licensure of wholesale dealers) are repealed.**

14 Sec. 10. INVESTIGATOR POSITION CREATED; APPROPRIATION;  
15 REPORT

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

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

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

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

18       (d)(1) On or before March 15, 2027, the Department of Liquor and Lottery  
19       shall provide an update to the House Committees on Government Operations  
20       and Military Affairs and on Human Services and the Senate Committees on  
21       Economic Development, Housing and General Affairs and on Health and

1 Welfare regarding the status of its implementation of the new Investigator  
2 position.

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

10 Sec. 18. TAXATION OF CIGARETTES AND TOBACCO PRODUCTS;

11 LICENSURE OF WHOLESALE DEALERS; REPORT

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

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**  
5 **consultation with wholesale dealers and other interested stakeholders,**  
6 **shall:**

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

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

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

