

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 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.

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 endorsements issued under this section shall be entitled
13 “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 \$1,000.00 for a tobacco license or renewal; and

6 (C) to the legislative body of the municipality, a fee of ~~\$50.00~~
7 \$1,000.00 for a tobacco substitute endorsement as provided in subdivision
8 (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 in the Liquor Control Enterprise Fund.

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

19 (f) No individual under 16 years of age may sell tobacco products, tobacco
20 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.

5 (2) A wholesale license shall be issued by the Division upon application
6 without charge, on forms prescribed by the Division, stating the name and
7 address of the applicant, the address of the place of business at which the
8 applicant proposes to engage in the wholesale business, the type of business,
9 and such other information as the Division may require for the proper
10 administration of this chapter. Each license issued pursuant to this section
11 shall be prominently 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 fined not more than \$2,000.00 for the first offense and not
16 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. If the business with respect to which the license
21 was issued is sold or transferred or if the licensee ceases to do business at the

1 place named, the license shall immediately be returned to the Division for
2 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 UNDER 21 YEARS OF AGE; POSSESSION OF~~
9 ~~TOBACCO PRODUCTS; MISREPRESENTING AGE OR~~
10 ~~PURCHASING TOBACCO PRODUCTS; PENALTY~~

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

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

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

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

1 violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24
2 hours ~~of~~ following the occurrence of the alleged violation.

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

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

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

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

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

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

8 § 1010. INTERNET SALES

9 * * *

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

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

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

19 (1) A knowing or intentional violation of this section shall be punishable
20 by imprisonment for not more than five years or a fine of not more than
21 \$5,000.00, or both.

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(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

1 packaging and labeling, is likely to be offered to, or purchased by, consumers
2 as a cigarette; or

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

7 * * *

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

10 * * *

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

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

12 Sec. 8. REDESIGNATION

13 32 V.S.A. § 7737 (licensed wholesale dealers; bonding) is redesignated as
14 32 V.S.A. § 7703.

15 Sec. 9. REPEALS

16 32 V.S.A. §§ 7731–7736 (licensure of wholesale dealers) are repealed.

17 Sec. 10. INVESTIGATOR POSITION CREATED; APPROPRIATION;

18 REPORT

19 (a) One new permanent classified position, Investigator, is established in
20 the Department of Liquor and Lottery to enforce, and to investigate potential
21 violations of, Vermont laws relating to online sales and other direct-to-

1 consumer sales and delivery of alcohol and tobacco products, including 7
2 V.S.A. §§ 277, 279, 280, and 1010.

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

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

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

20 (d)(1) On or before March 15, 2027, the Department of Liquor and Lottery
21 shall provide an update to the House Committees on Government Operations

1 and Military Affairs and on Human Services and the Senate Committees on
2 Economic Development, Housing and General Affairs and on Health and
3 Welfare regarding the status of its implementation of the new Investigator
4 position.

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

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

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

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

20 (2) evaluate the continued use of tax stamps as evidence of payment of
21 the excise tax on cigarettes, little cigars, and roll-your-own tobacco in this

1 State and consider the advantages and disadvantages of alternative approaches
2 of certifying tax compliance.

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

10 Sec. 12. EFFECTIVE DATES

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

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

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

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

19 (4) the first report under Sec. 10(d)(2) shall be due on or before
20 December 15, 2027.

1 and that after passage the title of the bill be amended to read: “An act relating
2 to the regulation of tobacco products and tobacco substitutes”
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17 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE