

Journal of the House

Thursday, March 14, 2024

At three o'clock in the afternoon, the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Tristan Roberts of Halifax.

Message from the Senate No. 30

A message was received from the Senate by Ms. Gradel, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 109. An act relating to Medicaid coverage for doula services.

S. 191. An act relating to New American educational grant opportunities.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 41. Joint resolution requesting that the U. S. Postal Service reestablish, as rapidly as possible, a full-service U.S. Post Office in downtown Montpelier.

In the adoption of which the concurrence of the House is requested.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time, and referred to committee as follows:

S. 187

Senate bill, entitled

An act relating to student application of sunscreen

To the Committee on Education.

S. 302

Senate bill, entitled

An act relating to public health outreach programs regarding dementia risk

To the Committee on Human Services.

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Notice Calendar, affecting the revenue of the State, pursuant to House Rule 35(a), were referred to the Committee on Ways and Means:

H. 622

House bill, entitled

An act relating to emergency medical services

H. 630

House bill, entitled

An act relating to boards of cooperative education services

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Notice Calendar, carrying appropriations, under House Rule 35(a), were referred to the Committee on Appropriations:

H. 10

House bill, entitled

An act relating to amending the Vermont Employment Growth Incentive Program

H. 140

House bill, entitled

An act relating to requirements for State-funded grants

H. 673

House bill, entitled

An act relating to Vermont's outdoor recreation economy

H. 706

House bill, entitled

An act relating to banning the use of neonicotinoid pesticides

Ceremonial Reading**H.C.R. 145**

House concurrent resolution congratulating the 2023 Harwood Union High School championship bass fishing team

Offered by: Representatives Stevens of Waterbury, Dolan of Waitsfield, Torre of Moretown, and Wood of Waterbury

Whereas, for the past six years, bass fishing has been a competitive high school sport in Vermont, and

Whereas, the students who participate are dedicated to the sport, and some of them subsequently compete on collegiate teams and pursue careers related to fishing, wildlife management, or outdoor recreation, and

Whereas, in 2023, the championship tournament, held in October, was launched from the John Guilmette Fishing Access Site in South Hero; 21 teams from across the State participated; each team was limited to six fish, all of which were subsequently released back into the water with the Department of Fish and Wildlife's assistance; and on board every team boat was the coach-boat captain, and

Whereas, the first-place Harwood fishing enthusiasts' catch weighed a total of 24 pounds, 9.9 ounces, a tournament-record weight and well ahead of second-place Middlebury's 21 pounds, 3 ounces, and

Whereas, the members of the 2023 Harwood bass fishing varsity team were Jordan Farr, Nate Conyers, Caleb Durand, Sid Ritzinger, Acer Thompson, Jackson Palermo, Tyler Bravin, and Sawyer Popowicz, and Head Coach-Captain Scott Green and Assistant Coach-Captain Rich Wilbur were outstanding, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly congratulates the 2023 Harwood Union High School championship bass fishing team, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Harwood Union High School.

Having been adopted in concurrence on Friday, February 2, 2024 in accord with Joint Rule 16b, was read.

Ceremonial Reading**H.C.R. 146**

House concurrent resolution congratulating the 2023 Harwood Union High School Division II boys' championship soccer team

Offered by: Representatives Stevens of Waterbury, Dolan of Waitsfield, Torre of Moretown, and Wood of Waterbury

Whereas, the team's focused concentration aptly highlighted the 2023 Division II boys' soccer championship game played at the Maxfield Sports Complex in Hartford between the third-seeded Harwood Union High School Highlanders and the ninth-ranked Green Knights of Rice Memorial High School, and

Whereas, despite repeated scoring attempts, the contest remained scoreless into the second overtime period, and

Whereas, a Highlander player took advantage of an opportunity to employ his left foot to direct the ball into the goal zone and clinch the game and title for Harwood, and afterward, while holding the ball tightly, he described his scoring experience as unreal, and

Whereas, the proficient Highlanders, whose 13–1–4 record included a 17-game undefeated streak, were Matthew Fiaschetti, Emmett Lisai, Lincoln Dice, Teighen Fils-Aime, Cole Shullenberger, Eamon Langlais, Eamon Knight, Caleb Brookens, Steele Nelson, Zachary Smith, Jackson McKay, Jack Greenwood, Owen Farr, Eli Herrington, Brycen Scharf, Dylan Rogers, Ollie Reilly, Tucker Buffum, Felix Kretz, Cody Milia, Finnegan Kramer, Dylan Mauro, Anthony Caforia, Will Andrus, Tyce Begin, and Tristan Lafayette, and

Whereas, Head Coach Joe Yalicki and assistant coaches Elan Shems and Lloyd Gotshall wisely advised the team throughout the soccer season, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly congratulates the 2023 Harwood Union High School Division II boys' championship soccer team, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Harwood Union High School.

Having been adopted in concurrence on Friday, February 2, 2024 in accord with Joint Rule 16b, was read.

**Second Reading; Consideration Interrupted; Amendments Offered;
Amendment Offered and Withdrawn; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 18

Rep. Brumsted of Shelburne, for the Committee on Human Services, to which had been referred Senate bill, entitled

An act relating to banning flavored tobacco products and e-liquids

Reported in favor of its passage in concurrence with proposal of amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Tobacco use is costly. Vermont spends more than \$400 million annually to treat tobacco-caused illnesses, including more than \$90 million each year in Medicaid expenses. This translates into a tax burden each year of over \$1,000.00 per Vermont household. Smoking-related productivity losses add another \$576 million in additional costs each year.

(2) Youth tobacco use is growing due to e-cigarettes. Seven percent of Vermont high school students smoke, but if e-cigarette use is included, 28 percent of Vermont youths use some form of tobacco product. More than one in four Vermont high school students now uses e-cigarettes. Use more than doubled among this age group, from 12 percent to 26 percent, between 2017 and 2019.

(3) Menthol cigarette use is more prevalent among persons of color who smoke than among white persons who smoke and is more common among lesbian, gay, bisexual, and transgender smokers than among heterosexual smokers. Eighty-five percent of African American adult smokers use menthol cigarettes, and of Black youths 12–17 years of age who smoke, seven out of 10 use menthol cigarettes. Tobacco industry documents show a concerted effort to target African Americans through specific advertising efforts.

Sec. 2. 7 V.S.A. chapter 40 is amended to read:

CHAPTER 40. TOBACCO PRODUCTS

§ 1001. DEFINITIONS

As used in this chapter:

(1) “Bidis” or “Beedies” means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros

exculpra), or any other product that is offered to, or purchased by, consumers as bidis or beedies.

(2) “Board” means the Board of Liquor and Lottery.

(3) “Characterizing flavor” means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or tobacco substitute, or a component part or byproduct of a tobacco product or tobacco substitute. The term includes tastes or aromas relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink, or to any conceptual flavor that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor. The term also includes induced sensations, such as those produced by synthetic cooling agents, regardless of whether the agent itself imparts any taste or aroma.

(4) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(5) “Cigarette” means:

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

(B) any roll of tobacco wrapped in a 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 (5).

~~(2)(6)~~ “Commissioner” means the Commissioner of Liquor and Lottery.

~~(3) “Tobacco products” means cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and other tobacco products as defined in 32 V.S.A. § 7702.~~

~~(4) “Vending machine” means any mechanical, electronic, or other similar device that dispenses tobacco products for money.~~

(7) “E-liquid” means the solution, substance, or other material used in or with a tobacco substitute that is heated or otherwise acted upon to produce an aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the user, regardless of whether the solution, substance, or other material contains

nicotine. The term does not include cannabis products as defined in section 831 of this title or products that are regulated by the Cannabis Control Board.

(8) “E-liquid container or other container holding a liquid or gel substance containing nicotine” means a bottle or other container of an e-liquid containing nicotine or a nicotine liquid or other substance containing nicotine that is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

(9) “Flavored e-liquid” means any e-liquid with a characterizing flavor. An e-liquid shall be presumed to be a flavored e-liquid if a licensee, a manufacturer, or a licensee’s or manufacturer’s agent or employee has made a statement or claim directed to consumers or the public, whether express or implied, that the product has a distinguishable taste or aroma other than the taste or aroma of tobacco.

(10) “Flavored tobacco product” means any tobacco product with a characterizing flavor. A tobacco product shall be presumed to be a flavored tobacco product if a licensee, a manufacturer, or a licensee’s or manufacturer’s agent or employee has made a statement or claim directed to consumers or the public, whether express or implied, that the product has a distinguishable taste or aroma other than the taste or aroma of tobacco.

(11) “Flavored tobacco substitute” means any tobacco substitute with a characterizing flavor. A tobacco substitute shall be presumed to be a flavored tobacco substitute if a licensee, a manufacturer, or a licensee’s or manufacturer’s agent or employee has made a statement or claim directed to consumers or the public, whether express or implied, that the product has a distinguishable taste or aroma other than the taste or aroma of tobacco.

(12) “Licensed wholesale dealer” means a wholesale dealer licensed under 32 V.S.A. chapter 205.

(13) “Little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco that is a cigarette, and as to which 1,000 units weigh not more than three pounds.

(14) “Nicotine” means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or C[10]H[14]N[2], including any salt or complex of nicotine, whether naturally or synthetically derived.

(15) “Proper proof of age” means a valid authorized form of identification as defined in section 589 of this title.

(16) “Retail dealer” means a person licensed pursuant to section 1002 of this title.

(17) “Roll-your-own tobacco” means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(18) “Snuff” means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of not less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

(5)(19) “Tobacco license” means a license issued by the Division of Liquor Control under this chapter permitting the licensee to engage in the retail sale of tobacco products.

(6) “Bidis” or “Beedies” means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as bidis or beedies.

(7)(20) “Tobacco paraphernalia” means any device used, intended for use, or designed for use in smoking, inhaling, ingesting, or otherwise introducing tobacco products, tobacco substitutes, e-liquids, or a combination of these, into the human body, or for preparing tobacco for smoking, inhaling, ingesting, or otherwise introducing into the human body, including devices for holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water pipes, carburetion devices, bong, and hookahs, and clothing or accessories adapted for use with a tobacco product, a tobacco substitute, an e-liquid, or tobacco paraphernalia.

(21) “Tobacco products” means cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and any other product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, by chewing, or in any other manner.

(8)(22)(A) “Tobacco substitute” means ~~products~~ any product that is not a tobacco product, as defined in subdivision (21) of this section, and that meets one or both of the following descriptions:

(i) a product, including ~~an~~ electronic ~~eigarettes~~ cigarette or other electronic or battery-powered ~~devices~~ device, or any component, part, or accessory thereof, that ~~contain or are~~ contains or is designed to deliver nicotine or other substances into the body through the inhalation or other absorption of aerosol, vapor, or other emission and that ~~have~~ has not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes; or

(ii) an oral nicotine product or any other item that is designed to deliver nicotine into the body, including a product or item containing or delivering nicotine that has been extracted from a tobacco plant or leaf.

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

(23) “Vending machine” means any mechanical, electronic, or other similar device that sells or dispenses tobacco products, tobacco substitutes, e-liquids, tobacco paraphernalia, or a combination of these.

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

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

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

* * *

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

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

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

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

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

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§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
E-LIQUIDS; TOBACCO PARAPHERNALIA; REQUIREMENTS;
PROHIBITIONS

(a)(1) A person shall not:

(A) sell or provide tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to any person under 21 years of age; or

(B) knowingly enable the usage of tobacco products, tobacco substitutes, or e-liquids by a person under 21 years of age.

(2)(A) Except as otherwise provided in subdivision (B) of this subdivision (2), a person, including a retail dealer, who violates subdivision (1) of this subsection (a) shall be subject to a civil penalty of not more than \$500.00 for the first offense and not more than \$2,000.00 for any subsequent offense.

(B) An employee of a retail dealer who violates subdivision (1) of this subsection (a) in the course of employment shall be subject to a civil penalty of not more than \$100.00 for a first offense and not more than \$500.00 for any subsequent offense. This penalty shall be in addition to the penalty imposed on the retail dealer pursuant to subdivision (A) of this subdivision (2).

(C) An action under this subsection (a) shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

(b) All vending machines selling or dispensing tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia, or a combination of these, are prohibited.

(c)(1) Persons holding a tobacco license may only display or store tobacco products ~~or~~, tobacco substitutes, and e-liquids:

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

(B) in a locked container.

(2) This subsection shall not apply to the following:

(A) a display of tobacco products, tobacco substitutes, or e-liquids that is located in a commercial establishment in which by law no person under 21 years of age is permitted to enter at any time;

(B) cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

(C) cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

(d) The sale and the purchase of bidis is prohibited. A person who holds a tobacco license who sells bidis as prohibited by this subsection ~~shall be fined not more than \$500.00.~~ A or a person who purchases bidis from any source shall be fined subject to a civil penalty of not more than \$250.00 for a first offense and not more than \$500.00 for a subsequent offense.

(e) No person holding a tobacco license shall sell cigarettes or little cigars individually or in packs that contain fewer than 20 cigarettes or little cigars.

(f) As used in this section, ~~“little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco that is a cigarette within the meaning of 32 V.S.A. § 7702(1), and as to which 1,000 units weigh not more than three pounds~~ “enable the usage of tobacco products, tobacco substitutes, or e-liquids” means creating a direct and immediate opportunity for a person to use tobacco products, tobacco substitutes, or e-liquids, or a combination of these.

§ 1004. PROOF OF AGE FOR THE SALE OF TOBACCO PRODUCTS;

TOBACCO SUBSTITUTES; E-LIQUIDS; TOBACCO

PARAPHERNALIA

(a) A person shall exhibit proper proof of ~~his or her~~ the person's age upon demand of a person licensed under this chapter, an employee of a licensee, or a law enforcement officer. If the person fails to provide proper proof of age, the licensee shall be entitled to refuse to sell tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to the person. The sale or furnishing of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to a person exhibiting proper proof of age shall be prima facie evidence of a licensee's compliance with section 1007 of this title.

~~(b) As used in this section, “proper proof of age” means a valid authorized form of identification as defined in section 589 of this title.~~

§ 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OR
PURCHASE OF TOBACCO PRODUCTS; MISREPRESENTING
AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY,
TOBACCO SUBSTITUTES, E-LIQUIDS, OR TOBACCO
PARAPHERNALIA PROHIBITED

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

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

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

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

~~(b)(1)~~ A person who possesses tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia in violation of subsection (a) of this section shall be subject to having the tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately confiscated and shall ~~be further subject to a civil penalty of \$25.00~~ complete a tobacco cessation program approved by the Department of Health.

~~(2)~~ Within 90 days following the date of confiscation, the person shall provide to the Division of Liquor Control a certificate or attestation of completion of the tobacco cessation program. If the person does not submit the certificate or attestation within 90 days, the person shall be subject to a civil penalty of up to \$50.00.

~~(3)~~ An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

~~(c)(1)~~ A person under 21 years of age who misrepresents ~~his or her~~ the person's age by presenting false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia shall be ~~fined not more than \$50.00 or provide up to 10 hours of community service, or both~~ subject to:

(A) having the tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately confiscated;

(B) having the false identification immediately confiscated; and

(C) completing a tobacco cessation program approved by the Department of Health.

(2) Within 90 days following the date of confiscation, the person shall provide to the Division of Liquor Control a certificate or attestation of completion of the tobacco cessation program. If the person does not submit the certificate or attestation within 90 days, the person shall be subject to a civil penalty of up to \$50.00.

(3) An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

§ 1006. POSTING OF SIGNS

(a) A person licensed under this chapter shall post in a conspicuous place on the premises identified in the tobacco license a warning sign stating that the sale of tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia to persons under 21 years of age is prohibited. The Board shall prepare the sign and make it available with the license forms issued under this chapter. The sign may include information about the health effects of tobacco and tobacco cessation services. The Board, in consultation with a representative of the licensees when appropriate, is authorized to change the design of the sign as needed to maintain its effectiveness.

(b) A person violating this section shall be guilty of a misdemeanor and fined not more than \$100.00.

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

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

(b)(1) The Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to persons under 21 years of age of at least 90 percent for buyers who are

between 17 and 20 years of age. An individual under 21 years of age participating in a compliance test shall not be in violation of section 1005 of this title.

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

- | | |
|----------------------|----------------------|
| (A) two violations | two weekdays; |
| (B) three violations | 15-day suspension; |
| (C) four violations | 90-day suspension; |
| (D) five violations | one-year suspension. |

(3) The Division shall report to the House Committee on ~~General, Housing, Government Operations~~ and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the ~~Tobacco Evaluation and Review Board~~ Substance Misuse Prevention Oversight and Advisory Council annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

* * *

§ 1009. CONTRABAND AND SEIZURE

(a) Any cigarettes or other tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia that have been sold, offered for sale, or possessed for sale in violation of section 1003, 1010, or 1013 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband and shall be subject to seizure by the Commissioner, the Commissioner's agents or employees, the Commissioner of Taxes or any agent or employee of the Commissioner of Taxes, or by any law enforcement officer of this State when directed to do so by the Commissioner. ~~All cigarettes or other tobacco products~~ items seized under this subsection shall be destroyed.

* * *

§ 1010. INTERNET SALES

(a) ~~As used in this section:~~

(1) ~~“Cigarette” has the same meaning as in 32 V.S.A. § 7702(1).~~

(2) ~~[Repealed.]~~

(3) ~~“Licensed wholesale dealer” has the same meaning as in 32 V.S.A. § 7702(5).~~

(4) ~~“Little cigars” has the same meaning as in 32 V.S.A. § 7702(6).~~

(5) ~~“Retail dealer” has the same meaning as in 32 V.S.A. § 7702(10).~~

(6) ~~“Roll-your-own tobacco” has the same meaning as in 32 V.S.A. § 7702(11).~~

(7) ~~“Snuff” has the same meaning as in 32 V.S.A. § 7702(13).
[Repealed.]~~

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

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

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

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

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

* * *

§ 1012. ~~LIQUID NICOTINE~~ E-LIQUIDS AND OTHER SUBSTANCES CONTAINING NICOTINE; PACKAGING

(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont:

(1) any e-liquid containing nicotine or any other liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or

(2) any ~~nicotine liquid e-liquid~~ container or other container holding a liquid or gel substance containing nicotine unless that container constitutes child-resistant packaging.

(b) As used in this section:

(1) ~~“Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.~~

(2) ~~“Nicotine liquid container” means a bottle or other container of a nicotine liquid or other substance containing nicotine that is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer. [Repealed.]~~

§ 1013. FLAVORED TOBACCO SUBSTITUTES, FLAVORED E-LIQUIDS, AND MENTHOL TOBACCO PRODUCTS PROHIBITED

(a) No person shall engage in the retail sale of:

(1) any flavored tobacco substitute;

(2) any flavored e-liquid; or

(3) any menthol-flavored tobacco product.

(b)(1) A person who violates subsection (a) of this section shall be subject to a civil penalty of not more than \$200.00 for the first offense and not more than \$500.00 for any subsequent offense.

(2) An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

§ 1014. SALE OF DISCOUNTED TOBACCO PRODUCTS, TOBACCO
SUBSTITUTES, E-LIQUIDS, AND TOBACCO
PARAPHERNALIA PROHIBITED

(a) As used in this section, “price reduction instrument” means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

(b) No person shall do any of the following:

(1) sell or offer for sale a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia to a consumer at a price lower than the price that was in effect at the time the seller purchased the item from the wholesale dealer;

(2) sell or offer for sale a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia through any multipackage discount; or

(3) honor or accept a price reduction instrument in any transaction related to the sale of a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia to a consumer.

(c) A person who violates subsection (b) of this section shall be subject to a civil penalty of not more than \$200.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

Sec. 3. 4 V.S.A. § 1102(b) is amended to read:

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

* * *

(5) Violations of 7 V.S.A. § ~~1007~~ 1003(a), relating to furnishing tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia to a person under 21 years of age.

* * *

(33) Violations of 7 V.S.A. § 1013, relating to sale of flavored tobacco substitutes, flavored e-liquids, and menthol-flavored tobacco products.

(34) Violations of 7 V.S.A. § 1014, relating to sale of discounted tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia.

Sec. 4. 7 V.S.A. § 661(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia by a person under 21 years of age.

Sec. 5. 16 V.S.A. § 140 is amended to read:

§ 140. ~~TOBACCO USE OF~~ TOBACCO PRODUCTS, TOBACCO
SUBSTITUTES, AND E-LIQUIDS PROHIBITED ON PUBLIC
SCHOOL GROUNDS

No person shall be permitted to use tobacco products ~~or~~ tobacco substitutes, or e-liquids, as those terms are defined in 7 V.S.A. § 1001, on public school grounds or at public school sponsored functions. ~~Public school boards may adopt policies that include confiscation and appropriate referrals to law enforcement authorities.~~

Sec. 6. 18 V.S.A. § 4226 is amended to read:

§ 4226. MINORS; TREATMENT; CONSENT

(a)(1) If a minor 12 years of age or older is suspected to ~~be dependent upon~~ have a substance use disorder, including a dependence on regulated drugs as defined in section 4201 of this title, on alcohol, on nicotine, or on tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001, or to have venereal disease, or to be an alcoholic as defined in section 8401 of this title a sexually transmitted infection, and the finding of such ~~dependency, disease, or alcoholism~~ substance use disorder or infection is verified by a licensed ~~physician~~ health care professional, the minor may give:

(A) ~~his or her consent to medical treatment~~ health care services and hospitalization; and

(B) ~~in the case of a drug-dependent or alcoholic person~~ an individual who has a substance use disorder, consent to nonmedical inpatient or outpatient treatment at a program approved by the Agency of Human Services to provide treatment for ~~drug dependency or alcoholism~~ substance use disorder if deemed necessary by the examining ~~physician for diagnosis or treatment of such dependency or disease or alcoholism~~ health care professional.

(2) Consent under this section shall not be subject to disaffirmance due to minority of the person consenting. The consent of the parent or legal guardian of a minor consenting under this section shall not be necessary to authorize care as described in this subsection.

(b) The parent, parents, or legal guardian shall be notified by the physician if the condition of a minor child requires immediate hospitalization as the result of drug usage, ~~alcoholism,~~ or alcohol use or for the treatment of a ~~venereal disease~~ sexually transmitted infection.

(c) As used in this section, “health care professional” means an individual licensed as a physician under 26 V.S.A. chapter 23 or 33, an individual licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as a registered nurse or advanced practice registered nurse under 26 V.S.A. chapter 28.

Sec. 7. 18 V.S.A. § 4803(a) is amended to read:

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council’s prevention initiatives shall encompass all substances at risk of misuse, including:

- (1) alcohol;
- (2) cannabis;
- (3) controlled substances, such as opioids, cocaine, and methamphetamines; and
- (4) tobacco products and tobacco substitutes, and e-liquids, as those terms are defined in 7 V.S.A. § 1001 ~~and substances containing nicotine or that are otherwise intended for use with a tobacco substitute.~~

Sec. 8. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

As used in this chapter unless the context otherwise requires:

* * *

(15) “Other tobacco products” means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, by chewing, or in any other manner, ~~including.~~ The term also includes products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids, whether nicotine based or not, or, e-liquids, as defined in 7 V.S.A. § 1001; and delivery devices sold separately for use with a tobacco substitute or e-liquid, but shall not include cigarettes, little

cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section, or cannabis products as defined in 7 V.S.A. § 831.

* * *

Sec. 9. 18 V.S.A. § 9503 is amended to read:

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based.

(b) The Department shall establish goals for reducing adult and youth smoking rates, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon ~~his or her~~ the minor's consent, who is a smoker or user of tobacco products, tobacco substitutes, or e-liquids, as those terms are defined in 7 V.S.A. § 1001.

(c) The Department of Liquor and Lottery shall administer the component of the program that relates to enforcement activities.

(d) The Agency of Education shall administer school-based programs.

(e) The Department shall pay all fees and costs of the surveillance and evaluation activities, including the costs associated with hiring a contractor to conduct an independent evaluation of the program.

Sec. 10. 33 V.S.A. § 1900 is amended to read:

§ 1900. DEFINITIONS

As used in this subchapter, unless otherwise indicated:

* * *

(10) "Tobacco" means all of the products listed in the definition of "tobacco products" in 7 V.S.A. § 1001(3).

* * *

Sec. 11. HEALTH EQUITY ADVISORY COMMISSION; MENTHOL
TOBACCO PRODUCT BAN; REPORT

On or before January 15, 2025, in its annual report due pursuant to 18 V.S.A. § 252(e), the Health Equity Advisory Commission shall recommend to

the General Assembly whether the sale of tobacco products containing menthol, including menthol cigarettes, should be banned in Vermont.

Sec. 12. TOBACCO SUBSTITUTES AND E-LIQUIDS; ADVERTISING
RESTRICTIONS; REPORT

On or before December 1, 2024, the Office of the Attorney General shall report to the House Committees on Commerce and Economic Development and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare regarding whether and to what extent Vermont may legally restrict advertising and regulate the content of labels for tobacco substitutes, including oral nicotine products, and e-liquids in this State.

Sec. 13. DEPARTMENT OF HEALTH; VERMONT YOUTH RISK
BEHAVIOR SURVEY; TOBACCO SALES; REPORT

On or before March 1, 2027, the Department of Health shall report to the House Committee on Human Services and the Senate Committee on Health and Welfare the results of the 2025 Vermont Youth Risk Behavior Survey that relate to youth use of tobacco products, tobacco substitutes, and e-liquids, along with a comparison of the rates of use from previous Vermont Youth Risk Behavior Surveys. In its report, the Department shall also provide data on retail sales of tobacco products, tobacco substitutes, and e-liquids during calendar years 2024, 2025, and 2026.

Sec. 14. DEPARTMENT OF HEALTH; SCHOOL-BASED USAGE AND
CESSATION EFFORTS; REPORT

The Department of Health shall collaborate with relevant school and community partners to survey and report on the use of tobacco products, tobacco substitutes, and e-liquids, as well as on nicotine and tobacco cessation efforts, in Vermont's schools. On or before January 15, 2026, the Department shall report to the House Committees on Human Services and on Education and the Senate Committees on Health and Welfare and on Education with its findings and any recommendations for legislative action.

Sec. 15. EFFECTIVE DATES

(a) Sec. 2 (7 V.S.A. chapter 40) shall take effect on January 1, 2025, except that 7 V.S.A. § 1013(a)(3) (prohibiting retail sale of menthol-flavored tobacco products) shall take effect on July 1, 2025.

(b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment), 9 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity Advisory Commission; menthol ban; report), 12 (advertising restrictions;

report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14 (school-based usage and cessation efforts; report) and this section shall take effect on passage.

(c) Secs. 3 (4 V.S.A. § 1102(b); Judicial Bureau jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702; definition for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition for medical assistance statutes) shall take effect on January 1, 2025.

Rep. Ode of Burlington, for the Committee on Ways and Means, recommended that the report of the Committee on Human Services be amended as follows:

First: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (7) in its entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) “E-liquid” means the solution, substance, or other material that contains nicotine and is used in or with a tobacco substitute, and that is heated or otherwise acted upon to produce an aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the user. The term does not include cannabis products as defined in section 831 of this title or products that are regulated by the Cannabis Control Board.

Second: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (22) in its entirety and inserting in lieu thereof a new subdivision (22) to read as follows:

(8)(22)(A) “Tobacco substitute” means ~~products~~ any product that is not a tobacco product, as defined in subdivision (21) of this section, and that meets one or both of the following descriptions:

(i) a product, including an ~~electronic e-cigarettes cigarette~~ or other electronic or battery-powered ~~devices~~ device, or any component, part, or accessory thereof, that ~~contain or are~~ contains or is designed to deliver nicotine or other substances into the body through the inhalation or other absorption of aerosol, vapor, or other emission and that ~~have~~ has not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes; or

(ii) an oral nicotine product or any other item that is designed to deliver nicotine into the body, including a product or item containing or delivering nicotine that has been extracted from a tobacco plant or leaf.

(B) Cannabis products as defined in section 831 of this title or products that have been approved by the U.S. Food and Drug Administration

for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

Third: In Sec. 2, by striking out 7 V.S.A. § 1005 in its entirety and inserting in lieu thereof a new 7 V.S.A. § 1005 to read as follows:

§ 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OR
PURCHASE OF TOBACCO PRODUCTS; ~~MISREPRESENTING~~
~~AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY,~~
TOBACCO SUBSTITUTES, E-LIQUIDS, OR TOBACCO
PARAPHERNALIA PROHIBITED

(a)(1) Prohibited conduct. A person under 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia unless:

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

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

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

(b) Offense. A person who possesses tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia in violation of subsection (a) of this section commits a civil violation and shall be subject to having the tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately confiscated and shall be ~~further subject to a civil penalty of \$25.00.~~ An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24 referred to the Court Diversion Program for the purpose of enrollment in a tobacco cessation program approved by the Department of Health. A person who fails to complete the program shall be subject to a civil penalty of \$50.00.

(c) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide the person's name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

(d) Summons and complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(e) Registration in tobacco cessation program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for a tobacco cessation program approved by the Department of Health. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(f) Notice to report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) the person is required to complete the tobacco cessation program;

(2) if the person does not satisfactorily complete the tobacco cessation program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty; and

(3) if the person satisfactorily completes the tobacco cessation program, no penalty shall be imposed.

(g) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in a tobacco cessation program approved by the Department of Health.

(2) When a person has satisfactorily completed the tobacco cessation program, the Diversion Program shall do all of the following:

(A) Void the summons and complaint with no penalty due.

(B) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(3) If a person does not satisfactorily complete the tobacco cessation program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(4) A person aggrieved by a decision of the Diversion Program or of the tobacco cessation program may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(e)(h) Confiscation of false identification. A In addition to the procedures set forth in subsections (b)–(g) of this section, a person under 21 years of age who misrepresents his or her the person's age by presenting false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both have the person's false identification immediately confiscated.

Fourth: By striking out Sec. 15, effective dates, in its entirety and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. EFFECTIVE DATES

(a) Secs. 2 (7 V.S.A. chapter 40), 3 (4 V.S.A. § 1102(b); Judicial Bureau jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702; definition for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition for medical assistance statutes) shall take effect on January 1, 2026.

(b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment), 9 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity Advisory Commission; menthol ban; report), 12 (advertising restrictions;

report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14 (school-based usage and cessation efforts; report) and this section shall take effect on passage.

The bill, having appeared on the Notice Calendar was taken up and read the second time.

At four o'clock and thirty-seven minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At five o'clock and twenty-four minutes in the afternoon, the Speaker called the House to order.

Pending the question, Shall the report of the Committee on Human Services be amended as recommended by the Committee on Ways and Means?, **Reps. Donahue of Northfield and Brumsted of Shelburne** moved to amend the report of the Committee on Ways and Means by striking out the third instance of amendment in its entirety and inserting in lieu thereof the following:

Third: [Deleted.]

Which was agreed to. Thereafter, the report of the Committee on Human Services was amended as recommended by the Committee on Ways and Means, as amended.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Human Services, as amended?, **Rep. Marcotte of Coventry** moved to further amend the report of the Committee on Human Services as follows:

First: By adding a new section to be Sec. 14a to read as follows:

Sec. 14a. INVESTIGATOR POSITION CREATED; APPROPRIATION;
REPORT

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

(b)(1) The sum of \$160,000.00 is appropriated to the Department of Liquor and Lottery from the Tobacco Litigation Settlement Fund in fiscal year 2025 to fund the Investigator position established in subsection (a) of this section.

(2) It is the intent of the General Assembly that the position established in subsection (a) of this section should be funded from the Tobacco Litigation Settlement Fund for fiscal years 2025 and 2026. It is also the intent of the

General Assembly that, beginning in fiscal year 2027, the funding for the Investigator position should be built into base funding for the Department of Liquor and Lottery's budget, with the amount of the salary and benefits for the Investigator position offset by an equivalent amount of the revenue generated to the Department or to the Office of the Attorney General, or both, by the Investigator's activities in enforcing and in investigating violations of Vermont law, with the remainder of the revenue deposited into the General Fund.

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

(d)(1) On or before March 15, 2025, the Department of Liquor and Lottery shall provide an update to the House Committees on Government Operations and Military Affairs and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare regarding the status of its implementation of the new Investigator position.

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

Second: In Sec. 15, effective dates, by adding a new subsection to be subsection (d) to read as follows:

(d) Sec. 14a (Investigator position created; appropriation; report) shall take effect on July 1, 2024, with the first report under subdivision (d)(2) due on or before December 15, 2025.

Which was agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Human Services, as amended?, **Rep. Maguire of Rutland City** moved to further amend the report of the Committee on Human Services, as follows:

First: In Sec. 2, 7 V.S.A. chapter 40, by striking out section 1013 in its entirety and inserting in lieu thereof the following:

§ 1013. FLAVORED TOBACCO SUBSTITUTES AND FLAVOREDE-LIQUIDS PROHIBITED

(a) No person shall engage in the retail sale of any flavored tobacco substitute or any flavored e-liquid.

(b)(1) A person who violates subsection (a) of this section shall be subject to a civil penalty of not more than \$200.00 for the first offense and not more than \$500.00 for any subsequent offense.

(2) An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

Second: In Sec. 3, 4 V.S.A. § 1102(b), in subdivision (33), by striking out the comma following “substitutes” and inserting in lieu thereof “and” and, following “e-liquids,” by striking out “, and menthol-flavored tobacco products”

Pending the question, Shall the report of the Committee on Human Services, as amended, be further amended as recommended by **Rep. Maguire of Rutland City?**, **Rep. Cina of Burlington** requested the vote be by division.

Thereupon, the amendment was disagreed to: Yeas, 54. Nays, 64.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Human Services, as amended?, **Rep. Galfetti of Barre Town** moved to further amend the report of the Committee on Human Services as follows:

In Sec. 2, in 7 V.S.A. chapter 40, section 1013, by adding a new subsection to be subsection (c) to read as follows:

(c) This section shall not apply to any product:

(1) that has received a marketing authorization order or similar order from the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j; or

(2) that was on the market in the United States as of August 8, 2016, for which the manufacturer submitted a premarket tobacco product application to the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j on or before September 9, 2020, and for which the application either remains under investigation by the U.S. Food and Drug Administration or a final decision on the application has not otherwise taken effect.

Which was disagreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Human Services, as amended?, **Rep. Walker of Swanton** moved to further amend the report of the Committee on Human Services as follows:

First: By adding Secs. 4a–4c to read as follows:

Sec. 4a. 7 V.S.A. § 831(3) is amended to read:

(3) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use ~~or consumption~~, including an ~~edible product~~, ointment, and tincture. Cannabis product ~~shall include~~ includes a vaporizer cartridge containing cannabis oil that is intended for use with a battery-powered device and any device designed to deliver cannabis into the body through inhalation of vapor that is sold at a cannabis establishment licensed pursuant to chapter 33 of this title. “Cannabis product” does not mean a “tobacco product” as defined in 32 V.S.A. § 7702, a “tobacco substitute” as defined in section 1001 of this title, or “tobacco paraphernalia” as defined in section 1001 of this title.

Sec. 4b. 7 V.S.A. § 868 is amended to read:

§ 868. PROHIBITED PRODUCTS

(a) The following are prohibited products and may not be cultivated, produced, or sold pursuant to a license issued under this chapter:

(1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

(2) flavored oil cannabis products sold prepackaged for use with battery-powered devices and any cannabis flower that contains characterizing flavor that is not naturally occurring in the cannabis;

(3) flavored oil cannabis products sold prepackaged for use with battery-powered devices and any cannabis flower that include a characterizing flavor in the name or description of the product;

(4) edible cannabis products;

(5) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and

(4)(6) any cannabis, cannabis products, or packaging of such items that are designed to make the product more appealing to persons under 21 years of age.

* * *

Sec. 4c. 7 V.S.A. § 972(3) is amended to read:

(3) ~~“Cannabis product” has the same meaning as provided in section 831 of this title~~ means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture. Cannabis product includes a vaporizer cartridge containing cannabis oil that is intended for use with a battery-powered device and any device designed to deliver cannabis into the body through inhalation of vapor that is sold at a cannabis establishment licensed pursuant to chapter 33 of this title. “Cannabis product” does not mean a “tobacco product” as defined in 32 V.S.A. § 7702, a “tobacco substitute” as defined in section 1001 of this title, or “tobacco paraphernalia” as defined in section 1001 of this title.

Second: In Sec. 15, effective dates, by inserting a new subsection to be subsection (d) to read as follows:

(d) Secs. 4a-4c shall take effect on January 1, 2026.

Thereupon, **Rep. Walker of Swanton** asked and was granted leave of the House to withdraw his amendment.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Human Services, as amended?, **Reps. Donahue of Northfield and Brumsted of Shelburne** moved to further amend the report of the Committee on Human Services as follows:

First: In Sec. 2, 7 V.S.A. chapter 40, by striking out § 1005 in its entirety and inserting in lieu thereof a new § 1005 to read as follows:

§ 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF
TOBACCO PRODUCTS, TOBACCO SUBSTITUTES, E-LIQUIDS,
OR TOBACCO PARAPHERNALIA; MISREPRESENTING AGE
OR PURCHASING TOBACCO PRODUCTS; PENALTY

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

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

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

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

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

(c) A person under 21 years of age who misrepresents ~~his or her~~ the person's age by presenting false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both.

Second: By striking out Sec. 14, Department of Health; school-based usage and cessation efforts; report, it its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. DEPARTMENT OF HEALTH; SCHOOL-BASED USAGE AND
CESSATION EFFORTS; DIVERSION TO TOBACCO
CESSATION PROGRAM; REPORT

(a) The Department of Health shall collaborate with relevant school and community partners to survey and report on the use of tobacco products, tobacco substitutes, and e-liquids, as well as on nicotine and tobacco cessation efforts, in Vermont's schools.

(b) The Department of Health, in consultation with the Division of Liquor Control and the Court Diversion Program, shall develop one or more options for diversion to a tobacco cessation program as an alternative to the existing civil penalties and fines for a person under 21 years of age who possesses, purchases, or uses of false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia under 7 V.S.A. § 1005.

(c) On or before January 15, 2026, the Department shall report to the House Committees on Human Services, on Education, and on Judiciary and the Senate Committees on Health and Welfare, on Education, and on Judiciary with its findings and recommendations regarding the use of tobacco products, tobacco substitutes, and e-liquids in schools; cessation efforts in schools; and options for one or more diversion programs as set forth in subsections (a) and (b) of this section.

Which was agreed to.

Pending the question, Shall the bill be amended as recommended by the Committee on Human Services, as amended?, **Rep. McCoy of Poultney** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by the Committee on Human Services, as amended?, was decided in the affirmative. Yeas, 83. Nays, 53.

Those who voted in the affirmative are:

Andrews of Westford	Durfee of Shaftsbury	Mrowicki of Putney
Arsenault of Williston	Elder of Starksboro	Notte of Rutland City
Austin of Colchester	Emmons of Springfield	Noyes of Wolcott
Bartholomew of Hartland	Garofano of Essex	Nugent of South Burlington
Birong of Vergennes	Goldman of Rockingham	O'Brien of Tunbridge
Bluemle of Burlington	Headrick of Burlington	Ode of Burlington
Bongartz of Manchester	Holcombe of Norwich	Pajala of Londonderry
Bos-Lun of Westminster	Hooper of Burlington	Patt of Worcester
Brady of Williston	Houghton of Essex Junction	Pouech of Hinesburg
Brown of Richmond	Howard of Rutland City	Priestley of Bradford
Brumsted of Shelburne	Hyman of South Burlington	Rachelson of Burlington
Burke of Brattleboro	James of Manchester	Rice of Dorset
Buss of Woodstock	Jerome of Brandon	Roberts of Halifax
Campbell of St. Johnsbury	Kornheiser of Brattleboro	Satcowitz of Randolph
Carpenter of Hyde Park	Krasnow of South Burlington	Scheu of Middlebury
Casey of Montpelier	Lalley of Shelburne	Sheldon of Middlebury
Chapin of East Montpelier	LaLonde of South Burlington	Sibilia of Dover
Chase of Chester	Lanpher of Vergennes	Small of Winooski
Chesnut-Tangerman of Middletown Springs	Leavitt of Grand Isle	Squirrell of Underhill
Coffey of Guilford	Long of Newfane	Stebbins of Burlington
Cole of Hartford	Masland of Thetford	Stevens of Waterbury
Conlon of Cornwall	McCann of Montpelier	Stone of Burlington
Cordes of Lincoln	McCarthy of St. Albans City	Surprenant of Barnard
Demrow of Corinth	McGill of Bridport	Taylor of Colchester
Dodge of Essex	Mihaly of Calais	Toleno of Brattleboro
Dolan of Essex Junction	Minier of South Burlington	Torre of Moretown
Dolan of Waitsfield		White of Bethel
Donahue of Northfield		Whitman of Bennington
		Wood of Waterbury *

Those who voted in the negative are:

Anthony of Barre City	Farlice-Rubio of Barnet	Morgan of Milton
Arrison of Weathersfield	Galfetti of Barre Town	Morris of Springfield
Bartley of Fairfax	Goslant of Northfield	Morrissey of Bennington
Berbeco of Winooski	Gregoire of Fairfield	Nicoll of Ludlow
Black of Essex	Hango of Berkshire	Parsons of Newbury *
Branagan of Georgia	Harrison of Chittenden	Pearl of Danville
Brennan of Colchester	Higley of Lowell	Peterson of Clarendon
Brownell of Pownal	Hooper of Randolph	Quimby of Lyndon
Burditt of West Rutland	Labor of Morgan	Sammis of Castleton *

Burrows of West Windsor	LaBounty of Lyndon	Shaw of Pittsford
Canfield of Fair Haven	LaMont of Morristown *	Sims of Craftsbury
Carroll of Bennington	Laroche of Franklin	Smith of Derby
Chase of Colchester	Lipsky of Stowe	Taylor of Milton
Christie of Hartford	Maguire of Rutland City	Walker of Swanton
Cina of Burlington	Marcotte of Coventry	Waters Evans of Charlotte
Clifford of Rutland City	Mattos of Milton	Williams of Barre City
Corcoran of Bennington	McCoy of Poultney	Williams of Granby
Demar of Enosburgh	McFaun of Barre Town	

Those members absent with leave of the House and not voting are:

Andriano of Orwell	Graham of Williamstown	Oliver of Sheldon
Beck of St. Johnsbury	Graning of Jericho	Page of Newport City
Boyden of Cambridge	Logan of Burlington	Templeman of Brownington
Dickinson of St. Albans Town	Mulvaney-Stanak of Burlington	Toof of St. Albans Town
		Troiano of Stannard

Rep. LaMont of Morristown explained her vote as follows:

“Madam Speaker:

I voted NO, because as I was writing this explanation, I realized how hypocritical it would be for me to vote yes. Although I want to protect children and eliminate access to harmful and illicit or illegal substances, this is not it. We talk about the expense of health care on the State, without mentioning chronic health conditions, maternal death, infancy death, mental health, exposure to unhealthy living environments, air and water quality, non-gun related suicide, violence, and other severe and pervasive harms that also cost the State significant money to address. When, if, and only when people have and can access quality care. Preventative care, improved quality of life, safely housed, well fed, positively contributing members of society should be the goal. NO to big tobacco. NO to big pharma, NO to big oil. Yes to protecting the children. Let us find another way.”

Rep. Parsons of Newbury explained his vote as follows:

“Madam Speaker:

Among other reasons, my no vote today was for my local general store that has never sold a flavored vape to a minor. Their ask? Could you please not give people one more reason to just drive by and go to New Hampshire?”

Rep. Sammis of Castleton explained his vote as follows:

“Madam Speaker:

I vote no today not due to a lack of desire to prevent youth nicotine use, but on the principle that Vermont business owners are being targeted and singled

out on an already heavily regulated product. Vermont businesses have been overwhelmingly compliant with age enforcement but are now being blamed for purchases made either out-of-state or online. The laws already on the books are under enforced. If this bill didn't support a full ban, it would have been a monumental step in nicotine use prevention, while protecting state tax revenue, consumer options, and our local economies. I would have supported it. Instead, it will create a prohibition. And where every other prohibition this State has attempted to enact, it will be ignored by consumers and fail. It will penalize responsible adult consumer options but will also not end youth use. The State will inadvertently create an unregulated black market, which historically always has negative consequences. Businesses will close as a result of this bill, responsible businesses who follow the rule of law and want responsible product use as much as anyone else. And it is caused by a legislative body that can't even properly enforce existing laws or confidently define what chemical nicotine is before further choosing to regulate it."

Rep. Wood of Waterbury explained her vote as follows:

"Madam Speaker:

I voted yes today. Yes, for our children. Yes, for improved health of our State. And no for big tobacco."

Thereupon, third reading was ordered.

Recess

At eight o'clock and eleven minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At eight o'clock and fifty-one minutes in the evening, the Speaker called the House to order.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time, and passed:

H. 534

House bill, entitled

An act relating to retail theft

H. 645

House bill, entitled

An act relating to the expansion of approaches to restorative justice

Committee Bill; Second Reading; Third Reading Ordered**H. 870**

Rep. Nugent of South Burlington spoke for the Committee on Government Operations and Military Affairs.

House bill, entitled

An act relating to professions and occupations regulated by the Office of Professional Regulation

Having appeared on the Notice Calendar and appearing on the Action Calendar, was taken up, read the second time, and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered**H. 856**

Rep. Labor of Morgan, for the Committee on General and Housing, to which had been referred House bill, entitled

An act relating to medical leave for a serious injury

Reported in favor of its passage when amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

* * *

(3) “Family leave” means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs 15 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) the serious ~~illness~~ health condition of the employee; or

(B) the serious ~~illness~~ health condition of the employee’s child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee’s spouse.

(4) “Health care provider” means a licensed health care provider or a health care provider as defined pursuant to 29 C.F.R. § 825.125.

(5) “Parental leave” means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

* * *

~~(5)~~(6) “Serious illness health condition” means:

(A) an accident, illness, injury, disease, or physical or mental condition that:

~~(A)~~(i) poses imminent danger of death;

~~(B)~~(ii) requires inpatient care in a hospital, hospice, or residential medical care facility; or

~~(C)~~(iii) requires continuing in-home care under the direction of treatment by a physician health care provider; or

(B) rehabilitation from an accident, illness, injury, disease, or physical or mental condition described in subdivision (A) of this subdivision (5), including treatment for substance use disorder.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks:

* * *

(2) for family leave, for the serious ~~illness~~ health condition of the employee or the employee’s child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse, or parent of the employee’s spouse.

* * *

~~(e)~~(1) An employee shall give reasonable written notice of intent to take leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of serious ~~illness~~ health condition of the employee or a member of the employee’s family, an employer may require certification from a ~~physician~~ health care provider to verify the condition and the amount and necessity for the leave requested.

(4) An employee may return from leave earlier than estimated upon approval of the employer.

(5) An employee shall provide reasonable notice to the employer of ~~his or her~~ the need to extend leave to the extent provided by this ~~chapter~~ subchapter.

* * *

(h) Except for serious ~~illness~~ health condition of the employee, an employee who does not return to employment with the employer who provided the leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments for accrued sick leave or vacation leave.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, report of the Committee on General and Housing agreed to, and third reading ordered.

Action on Bill Postponed

H. 867

House bill, entitled

An act relating to miscellaneous amendments to the laws governing alcoholic beverages and the Board of Liquor and Lottery

Was taken up and, pending second reading of the bill, on motion of **Rep. Boyden of Cambridge**, action on the bill was postponed until March 19, 2024.

Adjournment

At nine o'clock and eleven minutes in the evening, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.