

1 S.243

2 Representative Till of Jericho moves to amend the report of the Committee
3 on Human Services as follows:

4 First: By adding six new sections to be Secs. 11a–11f to read as follows:

5 * * * Increasing Smoking Age to 21 Years of Age * * *

6 Sec. 11a. 7 V.S.A. § 1003 is amended to read:

7 § 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES;
8 TOBACCO PARAPHERNALIA; REQUIREMENTS;
9 PROHIBITIONS

10 (a) A person shall not sell or provide tobacco products, tobacco substitutes,
11 or tobacco paraphernalia to any person younger than ~~18~~ 21 years of age.

12 (b) Beginning August 28, 1997, vending machines selling tobacco
13 products, tobacco substitutes, or tobacco paraphernalia are prohibited. This
14 subsection shall not apply to a vending machine that is located in a commercial
15 establishment in which by law no person younger than ~~18~~ 21 years of age is
16 permitted to enter at any time. A single vending machine may not be used to
17 sell other commodities in combination with tobacco products, tobacco
18 substitutes, or tobacco paraphernalia. A violation of this subsection shall result
19 in the seizure of the vending machine.

1 (c) Beginning January 1, 2001, and subject to receiving any necessary
2 exemption from preemption from the U.S. Food and Drug Administration, all
3 vending machines selling tobacco products are prohibited.

4 (d) No person holding a tobacco license shall display or store tobacco
5 products or tobacco substitutes where those products are accessible to
6 consumers without direct assistance by the sales personnel. This subsection
7 shall not apply to the following:

8 (1) ~~A~~ a display of tobacco products that is located in a commercial
9 establishment in which by law no person younger than ~~18~~ 21 years of age is
10 permitted to enter at any time;

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

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

20 * * *

1 Sec. 11b. 7 V.S.A. § 1005 is amended to read:

2 § 1005. PERSONS UNDER ~~18~~ 21 YEARS OF AGE; POSSESSION OF
3 TOBACCO PRODUCTS; MISREPRESENTING AGE OR
4 PURCHASING TOBACCO PRODUCTS; PENALTY

5 (a)(1) A person under ~~18~~ 21 years of age shall not possess, purchase, or
6 attempt to purchase tobacco products, tobacco substitutes, or tobacco
7 paraphernalia unless the person is an employee of a holder of a tobacco license
8 and is in possession of tobacco products, tobacco substitutes, or tobacco
9 paraphernalia to effect a sale in the course of employment.

10 (2) A person under ~~18~~ 21 years of age shall not misrepresent his or her
11 age to purchase or attempt to purchase tobacco products, tobacco substitutes,
12 or tobacco paraphernalia.

13 (3) A person who possesses tobacco products, tobacco substitutes, or
14 tobacco paraphernalia in violation of this subsection shall be subject to having
15 the tobacco products, tobacco substitutes, or tobacco paraphernalia
16 immediately confiscated ~~and~~. A person who violates subdivision (1) of this
17 subsection shall be further subject to a civil penalty of \$25.00 and a person
18 who violates subdivision (2) of this subsection shall be subject to a civil
19 penalty of not more than \$200.00. In the case of failure to pay a penalty, the
20 ~~Judicial Bureau shall mail a notice to the person at the address in the complaint~~
21 ~~notifying the person that failure to pay the penalty within 60 days of the notice~~

1 ~~will result in either the suspension of the person's operator's license for a~~
2 ~~period of not more than 90 days or the delay of the initial licensing of the~~
3 ~~person for a period of not more than one year. A copy of the notice shall be~~
4 ~~sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days~~
5 ~~from the date of notice and unless notified by the Judicial Bureau that the~~
6 ~~penalty has been paid shall either suspend the person's operator's license or~~
7 ~~cause initial licensing of the person to be delayed for the periods set forth in~~
8 ~~this subsection and the rules. An action under this subsection shall be brought~~
9 ~~in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The~~
10 ~~Commissioner of Motor Vehicles shall adopt rules in accordance with the~~
11 ~~provisions of 3 V.S.A. chapter 25 to implement the provisions of this~~
12 ~~subsection, which may provide for incremental suspension or delays not~~
13 ~~exceeding cumulatively the maximum periods established by this subsection.~~

14 (b) ~~A person under 18 years of age who misrepresents his or her age by~~
15 ~~presenting false identification to purchase tobacco products, tobacco~~
16 ~~substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or~~
17 ~~provide up to 10 hours of community service, or both. [Repealed.]~~

1 Sec. 11c. 7 V.S.A. § 1007 is amended to read:

2 § 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~18~~ 21 YEARS
3 OF AGE

4 An individual who sells or furnishes tobacco products, tobacco substitutes,
5 or tobacco paraphernalia to a person under ~~18~~ 21 years of age shall be subject
6 to a civil penalty of not more than \$100.00 for the first offense and not more
7 than \$500.00 for any subsequent offense. An action under this section shall be
8 brought in the same manner as for a traffic violation pursuant to 23 V.S.A.
9 chapter 24 and shall be brought within 24 hours of the occurrence of the
10 alleged violation.

11 Sec. 11d. 4 V.S.A. § 1102(b) is amended to read:

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

13 * * *

14 (4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco
15 products by a person ~~less than 18~~ under 21 years of age.

16 (5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco
17 products to a person under ~~the age of 18~~ 21 years of age.

18 * * *

1 Sec. 11e. 7 V.S.A. § 667(c) is amended to read:

2 (c) The provisions of subsection (b) of this section shall not apply to a
3 violation of subsection 1005(a) or 1013(d) of this title, relating to purchase of
4 tobacco products by a person less than ~~18~~ 21 years of age.

5 Sec. 11f. APPLICATION OF INCREASED SMOKING AGE

6 Notwithstanding Secs. 11a–11e of this act, the prohibition on the sale,
7 furnishing, or provision of tobacco products, tobacco substitutes, or tobacco
8 paraphernalia to persons under 21 years of age and on purchase or possession
9 of tobacco products, tobacco substitutes, or tobacco paraphernalia by persons
10 under 21 years of age shall not apply to persons who attained 18 years of age
11 as of January 1, 2017.

12 Second: In Sec. 19, effective dates, by adding a subsection (e) to read as
13 follows:

14 (e) Secs. 11a–11f (increasing smoking age to 21) shall take effect on
15 January 1, 2017.