



General Assembly

January Session, 2013

Raised Bill No. 990

LCO No. 3605



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***AN ACT CONCERNING SMOKING POLICIES AND PROHIBITING
SMOKING IN CERTAIN AREAS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-342 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) As used in this section: ["smoke"]

4 (1) "Smoke" or "smoking" means the lighting or carrying of a lighted
5 cigarette, cigar, pipe or similar device, including an electronic nicotine
6 delivery system;

7 (2) "Restaurant" means space, in a suitable and permanent building,
8 kept, used, maintained, advertised and held out to the public to be a
9 place where meals are regularly served to the public; and

10 (3) "Any area" means the interior of the building or facility and the
11 area within twenty-five feet of the outside of any doorway, operable
12 window or air intake vent of the building or facility.

13 (b) (1) Notwithstanding the provisions of section 31-40q, as
14 amended by this act, no person shall smoke: (A) In any area of a
15 building or portion of a building owned and operated or leased and
16 operated by the state or any political subdivision thereof; (B) in any
17 area of a health care institution; (C) in any area of a retail food store;
18 (D) in any area of a restaurant; (E) in any area of an establishment with
19 a permit issued for the sale of alcoholic liquor pursuant to section 30-
20 20a, 30-21, 30-21b, 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a,
21 30-37a, 30-37e or 30-37f, in any area of an establishment with a permit
22 for the sale of alcoholic liquor pursuant to section 30-23 issued after
23 May 1, 2003, and [, on and after April 1, 2004,] in any area of an
24 establishment with a permit issued for the sale of alcoholic liquor
25 pursuant to section 30-22a or 30-26 or the bar area of a bowling
26 establishment holding a permit pursuant to subsection (a) of section
27 30-37c; (F) [within] in any area of a school building while school is in
28 session or student activities are being conducted; (G) in any passenger
29 elevator, provided no person shall be arrested for violating this
30 subsection unless there is posted in such elevator a sign which
31 indicates that smoking is prohibited by state law; (H) in any area of a
32 dormitory in any public or private institution of higher education; or
33 (I) [on and after April 1, 2004,] in any area of a dog race track or a
34 facility equipped with screens for the simulcasting of off-track betting
35 race programs or jai alai games. [For purposes of this subsection,
36 "restaurant" means space, in a suitable and permanent building, kept,
37 used, maintained, advertised and held out to the public to be a place
38 where meals are regularly served to the public.]

39 (2) This section shall not apply to (A) correctional facilities; (B)
40 designated smoking areas in psychiatric facilities; (C) public housing
41 projects, as defined in subsection (b) of section 21a-278a; (D)
42 classrooms where demonstration smoking is taking place as part of a
43 medical or scientific experiment or lesson; (E) smoking rooms
44 provided by employers for employees, pursuant to section 31-40q; (F)
45 notwithstanding the provisions of subparagraph (E) of subdivision (1)

46 of this subsection, the outdoor portion of the premises that is not less
47 than twenty-five feet from any doorway, operable window or air
48 intake vent of the establishment, of any permittee listed in
49 subparagraph (E) of subdivision (1) of this subsection, provided, in the
50 case of any seating area maintained for the service of food, at least
51 seventy-five per cent of the outdoor seating capacity is an area in
52 which smoking is prohibited and which is clearly designated with
53 written signage as a nonsmoking area, except that any temporary
54 seating area established for special events and not used on a regular
55 basis shall not be subject to the smoking prohibition or signage
56 requirements of this subparagraph; or (G) any tobacco bar, provided
57 no tobacco bar shall expand in size or change its location from its size
58 or location as of December 31, 2002. For purposes of this subdivision,
59 "outdoor" means an area which has no roof or other ceiling enclosure,
60 "tobacco bar" means an establishment with a permit for the sale of
61 alcoholic liquor to consumers issued pursuant to chapter 545 that, in
62 the calendar year ending December 31, 2002, generated ten per cent or
63 more of its total annual gross income from the on-site sale of tobacco
64 products and the rental of on-site humidors, and "tobacco product"
65 means any substance that contains tobacco, including, but not limited
66 to, cigarettes, cigars, pipe tobacco, [or] chewing tobacco or electronic
67 nicotine delivery system.

68 (c) The operator of a hotel, motel or similar lodging may allow
69 guests to smoke in not more than twenty-five per cent of the rooms
70 offered as accommodations to guests.

71 (d) In each room, elevator, area or building in which smoking is
72 prohibited by this section, the person in control of the premises shall
73 post or cause to be posted in a conspicuous place signs stating that
74 smoking is prohibited by state law. Such signs, except in elevators,
75 restaurants, establishments with permits to sell alcoholic liquor to
76 consumers issued pursuant to chapter 545, hotels, motels or similar
77 lodgings, and health care institutions, shall have letters at least four
78 inches high with the principal strokes of letters not less than one-half

79 inch wide.

80 (e) Any person found guilty of smoking in violation of this section,
81 failure to post signs as required by this section or the unauthorized
82 removal of such signs shall have committed an infraction.

83 (f) Nothing in this section shall be construed to require any smoking
84 area in any building or entryway.

85 (g) The provisions of this section shall supersede and preempt the
86 provisions of any municipal law or ordinance relative to smoking
87 effective prior to, on or after October 1, 1993.

88 Sec. 2. Section 31-40q of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2013*):

90 (a) As used in this section:

91 (1) "Person" means one or more individuals, partnerships,
92 associations, corporations, limited liability companies, business trusts,
93 legal representatives or any organized group of persons.

94 (2) "Employer" means a person engaged in business who has
95 employees, including the state and any political subdivision thereof.

96 (3) "Employee" means any person engaged in service to an employer
97 in the business of his employer.

98 (4) "Business facility" means a structurally enclosed location or
99 portion thereof at which employees perform services for their
100 employer. The term "business facility" does not include: (A) Facilities
101 listed in subparagraph (A), (C) or (G) of subdivision (2) of subsection
102 (b) of section 19a-342, as amended by this act; (B) any establishment
103 with a permit for the sale of alcoholic liquor pursuant to section 30-23
104 issued on or before May 1, 2003; (C) for any business that is engaged in
105 the testing or development of tobacco or tobacco products, the areas of
106 such business designated for such testing or development; or (D)

107 during the period from October 1, 2003, to April 1, 2004,
108 establishments with a permit issued for the sale of alcoholic liquor
109 pursuant to section 30-22a or 30-26 or the bar area of a bowling
110 establishment holding a permit pursuant to subsection (a) of section
111 30-37c.

112 (5) "Smoking" means the burning of a lighted cigar, cigarette, pipe
113 or any other matter or substance which contains tobacco, and includes
114 the use of any electronic nicotine delivery system.

115 [(b) Each employer with fewer than five employees in a business
116 facility shall establish one or more work areas, sufficient to
117 accommodate nonsmokers who request to utilize such an area, within
118 each business facility under his control, where smoking is prohibited.
119 The employer shall clearly designate the existence and boundaries of
120 each nonsmoking area by posting signs which can be readily seen by
121 employees and visitors. In the areas within the business facility where
122 smoking is permitted, existing physical barriers and ventilation
123 systems shall be used to the extent practicable to minimize the effect of
124 smoking in adjacent nonsmoking areas.]

125 [(c) (1) Each] (b) (1) Except as provided in subsection (e) of this
126 section, each employer with [five] one or more employees shall
127 prohibit smoking in any business facility under said employer's
128 control, except that an employer may designate one or more smoking
129 rooms.

130 (2) Each employer that provides a smoking room pursuant to this
131 subsection shall provide sufficient nonsmoking break rooms for
132 nonsmoking employees.

133 (3) Each smoking room designated by an employer pursuant to this
134 subsection shall meet the following requirements: (A) Air from the
135 smoking room shall be exhausted directly to the outside by an exhaust
136 fan, and no air from such room shall be recirculated to other parts of
137 the building; (B) the employer shall comply with any ventilation

138 standard adopted by (i) the Commissioner of Labor pursuant to
139 chapter 571, (ii) the United States Secretary of Labor under the
140 authority of the Occupational Safety and Health Act of 1970, as from
141 time to time amended, or (iii) the federal Environmental Protection
142 Agency; (C) such room shall be located in a nonwork area, where no
143 employee, as part of his or her work responsibilities, is required to
144 enter, except such work responsibilities shall not include any custodial
145 or maintenance work carried out in the smoking room when it is
146 unoccupied; and (D) such room shall be for the use of employees only.

147 [(d)] (c) Nothing in this section may be construed to prohibit an
148 employer from designating an entire business facility as a nonsmoking
149 area.

150 (d) The provisions of this section shall not apply to any home-based
151 or owner-operated business in which the owner or owners of such
152 business are the sole employees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	19a-342
Sec. 2	<i>October 1, 2013</i>	31-40q

Statement of Purpose:

To include electronic cigarettes in the definition of "smoking", to prohibit smoking in certain areas outside of facilities where smoking is prohibited and to redefine business facilities for the purpose of the smoking prohibition.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]