



Senate

General Assembly

File No. 165

February Session, 2014

Substitute Senate Bill No. 24

Senate, March 27, 2014

The Committee on Children reported through SEN. BARTOLOMEO of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE GOVERNOR'S RECOMMENDATIONS REGARDING ELECTRONIC NICOTINE DELIVERY SYSTEMS AND YOUTH SMOKING PREVENTION.

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

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
2 section:

3 (1) "Electronic nicotine delivery system" means an electronic device
4 that may be used to simulate smoking in the delivery of nicotine or
5 other substance to a person inhaling from the device, and includes, but
6 is not limited to, an electronic cigarette, electronic cigar, electronic
7 cigarillo, electronic pipe, electronic hookah or any other vapor product
8 and any related device and any cartridge or other component of such
9 device;

10 (2) "Cardholder" means any person who presents a driver's license
11 or an identity card to a seller or seller's agent or employee, to purchase

12 or receive an electronic nicotine delivery system from such seller or
13 seller's agent or employee;

14 (3) "Identity card" means an identification card issued in accordance
15 with the provisions of section 1-1h of the general statutes;

16 (4) "Transaction scan" means the process by which a seller or seller's
17 agent or employee checks, by means of a transaction scan device, the
18 validity of a driver's license or an identity card;

19 (5) "Transaction scan device" means any commercial device or
20 combination of devices used at a point of sale that is capable of
21 deciphering in an electronically readable format the information
22 encoded on the magnetic strip or bar code of a driver's license or an
23 identity card;

24 (6) "Sale" or "sell" means an act done intentionally by any person,
25 whether done as principal, proprietor, agent, servant or employee, of
26 transferring, or offering or attempting to transfer, for consideration, an
27 electronic nicotine delivery system, including bartering or exchanging,
28 or offering to barter or exchange, an electronic nicotine delivery
29 system;

30 (7) "Give" or "giving" means an act done intentionally by any
31 person, whether done as principal, proprietor, agent, servant or
32 employee, of transferring, or offering or attempting to transfer,
33 without consideration, an electronic nicotine delivery system;

34 (8) "Deliver" or "delivering" means an act done intentionally by any
35 person, whether as principal, proprietor, agent, servant or employee,
36 of transferring, or offering or attempting to transfer, physical
37 possession or control of an electronic nicotine delivery system; and

38 (9) "Vapor product" means any product that employs a heating
39 element, power source, electronic circuit or other electronic, chemical
40 or mechanical means, regardless of shape or size, to produce a vapor
41 that may or may not include nicotine, that is inhaled by the user of
42 such product.

43 (b) Any person who sells, gives or delivers to any minor under
44 eighteen years of age an electronic nicotine delivery system, unless the
45 minor is delivering or accepting delivery in such person's capacity as
46 an employee, in any form shall be fined not more than two hundred
47 dollars for the first offense, not more than three hundred fifty dollars
48 for a second offense within an eighteen-month period and not more
49 than five hundred dollars for each subsequent offense within an
50 eighteen-month period.

51 (c) Any person under eighteen years of age who purchases or
52 misrepresents such person's age to purchase an electronic nicotine
53 delivery system in any form or possesses an electronic nicotine
54 delivery system in any form in any public place shall be fined not more
55 than fifty dollars for the first offense and not less than fifty dollars or
56 more than one hundred dollars for each subsequent offense. For
57 purposes of this subsection "public place" means any area that is used
58 or held out for use by the public whether owned or operated by public
59 or private interests.

60 (d) (1) A seller or seller's agent or employee may perform a
61 transaction scan to check the validity of a driver's license or identity
62 card presented by a cardholder as a condition for selling, giving or
63 otherwise delivering an electronic nicotine delivery system to the
64 cardholder.

65 (2) If the information deciphered by the transaction scan performed
66 under subdivision (1) of this subsection fails to match the information
67 printed on the driver's license or identity card presented by the
68 cardholder, or if the transaction scan indicates that the information so
69 printed is false or fraudulent, neither the seller nor any seller's agent or
70 employee shall sell, give or otherwise deliver any electronic nicotine
71 delivery system to the cardholder.

72 (3) Subdivision (1) of this subsection does not preclude a seller or
73 seller's agent or employee from using a transaction scan device to
74 check the validity of a document other than a driver's license or an
75 identity card, if the document includes a bar code or magnetic strip

76 that may be scanned by the device, as a condition for selling, giving or
77 otherwise delivering an electronic nicotine delivery system to the
78 person presenting the document.

79 (e) (1) No seller or seller's agent or employee shall electronically or
80 mechanically record or maintain any information derived from a
81 transaction scan, except the following: (A) The name and date of birth
82 of the person listed on the driver's license or identity card presented by
83 a cardholder; and (B) the expiration date and identification number of
84 the driver's license or identity card presented by a cardholder.

85 (2) No seller or seller's agent or employee shall use a transaction
86 scan device for a purpose other than the purposes specified in
87 subsection (d) of this section, subsection (d) of section 53-344 of the
88 general statutes or subsection (c) of section 30-86 of the general
89 statutes.

90 (3) No seller or seller's agent or employee shall sell or otherwise
91 disseminate the information derived from a transaction scan to any
92 third party, including, but not limited to, selling or otherwise
93 disseminating that information for any marketing, advertising or
94 promotional activities, but a seller or seller's agent or employee may
95 release that information pursuant to a court order.

96 (4) Nothing in subsection (d) of this section or this subsection
97 relieves a seller or seller's agent or employee of any responsibility to
98 comply with any other applicable state or federal laws or rules
99 governing selling, giving or otherwise delivering electronic nicotine
100 delivery systems.

101 (5) Any person who violates this subsection shall be subject to a civil
102 penalty of not more than one thousand dollars.

103 (f) (1) In any prosecution of a seller or seller's agent or employee for
104 a violation of subsection (b) of this section, it shall be an affirmative
105 defense that all of the following occurred: (A) A cardholder attempting
106 to purchase or receive an electronic nicotine delivery system presented

107 a driver's license or an identity card; (B) a transaction scan of the
108 driver's license or identity card that the cardholder presented indicated
109 that the license or card was valid; and (C) the electronic nicotine
110 delivery system was sold, given or otherwise delivered to the
111 cardholder in reasonable reliance upon the identification presented
112 and the completed transaction scan.

113 (2) In determining whether a seller or seller's agent or employee has
114 proven the affirmative defense provided by subdivision (1) of this
115 section, the trier of fact in such prosecution shall consider that
116 reasonable reliance upon the identification presented and the
117 completed transaction scan may require a seller or seller's agent or
118 employee to exercise reasonable diligence and that the use of a
119 transaction scan device does not excuse a seller or seller's agent or
120 employee from exercising such reasonable diligence to determine the
121 following: (A) Whether a person to whom the seller or seller's agent or
122 employee sells, gives or otherwise delivers an electronic nicotine
123 delivery system is eighteen years of age or older; and (B) whether the
124 description and picture appearing on the driver's license or identity
125 card presented by a cardholder is that of the cardholder.

126 (g) Each seller of electronic nicotine delivery systems or such seller's
127 agent or employee shall require a person who is purchasing or
128 attempting to purchase an electronic nicotine delivery system, whose
129 age is in question, to exhibit proper proof of age. If a person fails to
130 provide such proof of age, such seller or seller's agent or employee
131 shall not sell an electronic nicotine delivery system to the person. As
132 used in this subsection, "proper proof" means a motor vehicle
133 operator's license, a valid passport or an identity card issued in
134 accordance with the provisions of section 1-1h of the general statutes.

135 Sec. 2. Section 12-295a of the general statutes is repealed and the
136 following is substituted in lieu thereof (*Effective October 1, 2014*):

137 (a) If the Commissioner of Revenue Services finds, after a hearing,
138 that a minor has purchased cigarettes or tobacco products, said
139 commissioner shall assess such minor a civil penalty of not more than

140 one hundred dollars for the first violation and not more than one
141 hundred fifty dollars for any second or subsequent offense within
142 twenty-four months after the first violation.

143 (b) If said commissioner finds, after a hearing, that any person
144 employed by a dealer or distributor, as defined in section 12-285, has
145 sold, given or delivered cigarettes or tobacco products to a minor other
146 than a minor who is delivering or accepting delivery in his capacity as
147 an employee, said commissioner shall, [assess such person a civil
148 penalty of two hundred dollars] for the first violation, [and] require
149 such person to successfully complete an online tobacco prevention
150 education program administered by the Department of Mental Health
151 and Addiction Services not later than thirty days after said
152 commissioner's finding. Said commissioner shall assess any person
153 who fails to complete such program a civil penalty of two hundred
154 dollars. Said commissioner shall assess any person employed by a
155 dealer or distributor a civil penalty of two hundred fifty dollars for a
156 second or subsequent violation within [eighteen] twenty-four months
157 after the first violation.

158 (c) If said commissioner finds, after a hearing, that any dealer or
159 distributor has sold, given or delivered cigarettes or tobacco products
160 to a minor other than a minor who is delivering or accepting delivery
161 in his capacity as an employee, or such dealer or distributor's
162 employee has sold, given or delivered cigarettes or tobacco products to
163 such minor, said commissioner shall [assess] require such dealer or
164 distributor, [a civil penalty of three hundred dollars] for the first
165 violation, [and] to successfully complete an online tobacco prevention
166 education program administered by the Department of Mental Health
167 and Addiction Services not later than thirty days after said
168 commissioner's finding. Said commissioner shall assess any dealer or
169 distributor who fails to complete such program a civil penalty of three
170 hundred dollars. Said commissioner shall assess any dealer or
171 distributor a civil penalty of seven hundred fifty dollars for a second
172 violation within [eighteen] twenty-four months of the first violation.
173 For a third violation within [eighteen] twenty-four months of the first

174 violation, such dealer or distributor shall be assessed a civil penalty of
175 seven hundred fifty dollars and any license held by such dealer or
176 distributor under this chapter shall be suspended for not less than
177 thirty days.

178 (d) If said commissioner finds, after a hearing, that any owner of an
179 establishment in which a cigarette vending machine or restricted
180 cigarette vending machine is located has sold, given or delivered
181 cigarettes or tobacco products from any such machine to a minor other
182 than a minor who is delivering or accepting delivery in his capacity as
183 an employee, or has allowed cigarettes or tobacco products to be sold,
184 given or delivered to such minor from any such machine, said
185 commissioner shall [assess] require such owner, [a civil penalty of five
186 hundred dollars] for the first violation, [and] to successfully complete
187 an online tobacco prevention education program administered by the
188 Department of Mental Health and Addiction Services not later than
189 thirty days after said commissioner's finding. Said commissioner shall
190 assess any owner who fails to complete such program a civil penalty of
191 five hundred dollars. Said commissioner shall assess any owner a civil
192 penalty of seven hundred fifty dollars for a second violation within
193 [eighteen] twenty-four months of the first violation. For a third
194 violation within [eighteen] twenty-four months of the first violation,
195 such owner shall be assessed a civil penalty of seven hundred fifty
196 dollars and any such machine shall be immediately removed from
197 such establishment and no such machine may be placed in such
198 establishment for a period of one year following such removal.

199 (e) Any person aggrieved by any action of the commissioner
200 pursuant to this section may take any appeal of such action as
201 provided in sections 12-311 and 12-312.

202 Sec. 3. (NEW) (*Effective October 1, 2014*) Any person who violates the
203 provisions of subdivision (1) of subsection (a) of section 12-314 of the
204 general statutes shall be fined not more than two hundred dollars for
205 the first offense, not more than three hundred dollars for the second
206 offense within twenty-four months of the first offense, and not more

207 than five hundred dollars for the third or subsequent offense within
208 twenty-four months of the first offense.

209 Sec. 4. Section 4-28f of the 2014 supplement to the general statutes is
210 repealed and the following is substituted in lieu thereof (*Effective*
211 *October 1, 2014*):

212 (a) There is created a Tobacco and Health Trust Fund which shall be
213 a separate nonlapsing fund. The purpose of the trust fund shall be to
214 create a continuing significant source of funds to (1) support and
215 encourage development of programs to reduce tobacco abuse through
216 prevention, education and cessation programs, (2) support and
217 encourage development of programs to reduce substance abuse, and
218 (3) develop and implement programs to meet the unmet physical and
219 mental health needs in the state.

220 (b) The trust fund may accept transfers from the Tobacco Settlement
221 Fund and may apply for and accept gifts, grants or donations from
222 public or private sources to enable the trust fund to carry out its
223 objectives.

224 (c) The trust fund shall be administered by a board of trustees,
225 except that the board shall suspend its operations from July 1, 2003, to
226 June 30, 2005, inclusive, [and from July 1, 2015, to June 30, 2016,
227 inclusive.] The board shall consist of seventeen trustees. The
228 appointment of the initial trustees shall be as follows: (1) The Governor
229 shall appoint four trustees, one of whom shall serve for a term of one
230 year from July 1, 2000, two of whom shall serve for a term of two years
231 from July 1, 2000, and one of whom shall serve for a term of three years
232 from July 1, 2000; (2) the speaker of the House of Representatives and
233 the president pro tempore of the Senate each shall appoint two
234 trustees, one of whom shall serve for a term of two years from July 1,
235 2000, and one of whom shall serve for a term of three years from July 1,
236 2000; (3) the majority leader of the House of Representatives and the
237 majority leader of the Senate each shall appoint two trustees, one of
238 whom shall serve for a term of one year from July 1, 2000, and one of
239 whom shall serve for a term of three years from July 1, 2000; (4) the

240 minority leader of the House of Representatives and the minority
241 leader of the Senate each shall appoint two trustees, one of whom shall
242 serve for a term of one year from July 1, 2000, and one of whom shall
243 serve for a term of two years from July 1, 2000; and (5) the Secretary of
244 the Office of Policy and Management, or the secretary's designee, shall
245 serve as an ex-officio voting member. Following the expiration of such
246 initial terms, subsequent trustees shall serve for a term of three years.
247 The period of suspension of the board's operations from July 1, 2003, to
248 June 30, 2005, inclusive, [and from July 1, 2015, to June 30, 2016,
249 inclusive,] shall not be included in the term of any trustee serving on
250 July 1, 2003, [, or July 1, 2015.] The trustees shall serve without
251 compensation except for reimbursement for necessary expenses
252 incurred in performing their duties. The board of trustees shall
253 establish rules of procedure for the conduct of its business which shall
254 include, but not be limited to, criteria, processes and procedures to be
255 used in selecting programs to receive money from the trust fund. The
256 trust fund shall be within the Office of Policy and Management for
257 administrative purposes only. The board of trustees shall meet not less
258 than biannually, except during the fiscal years ending June 30, 2004,
259 and June 30, 2005, [and June 30, 2016,] and, not later than January first
260 of each year, except during the fiscal years ending June 30, 2004, and
261 June 30, 2005, [and June 30, 2016,] shall submit a report of its activities
262 and accomplishments to the joint standing committees of the General
263 Assembly having cognizance of matters relating to public health and
264 appropriations and the budgets of state agencies, in accordance with
265 section 11-4a.

266 (d) (1) During the period commencing July 1, 2000, and ending June
267 30, 2003, the board of trustees, by majority vote, may recommend
268 authorization of disbursement from the trust fund for the purposes
269 described in subsection (a) of this section and section [19a-6c] 19a-6d,
270 provided the board may not recommend authorization of
271 disbursement of more than fifty per cent of net earnings from the
272 principal of the trust fund for such purposes. For the fiscal year
273 commencing July 1, 2005, and each fiscal year thereafter, the board
274 may recommend authorization of the net earnings from the principal

275 of the trust fund for such purposes. For the fiscal year ending June 30,
276 2009, and each fiscal year thereafter, the board may recommend
277 authorization of disbursement for such purposes of (A) up to one-half
278 of the annual disbursement from the Tobacco Settlement Fund to the
279 Tobacco and Health Trust Fund from the previous fiscal year,
280 pursuant to section 4-28e, up to a maximum of six million dollars per
281 fiscal year, and (B) the net earnings from the principal of the trust fund
282 from the previous fiscal year. For the fiscal [years] year ending June 30,
283 2014, and [June 30, 2015] each fiscal year thereafter, the board may
284 recommend authorization of disbursement of up to [three million
285 dollars per fiscal year from the trust fund for such purposes. For the
286 fiscal year ending June 30, 2017, and each fiscal year thereafter, the
287 board may recommend authorization of disbursement for such
288 purposes of (A) up to one-half of the annual disbursement from the
289 Tobacco Settlement Fund to the Tobacco and Health Trust Fund from
290 the previous fiscal year, pursuant to section 4-28e, up to a maximum of
291 six million dollars per fiscal year, and (B) the net earnings from the
292 principal of the trust fund from the previous fiscal year] the total
293 unobligated balance remaining in the trust fund after disbursement in
294 accordance with the provisions of the general statutes and relevant
295 special and public acts for such purposes, not to exceed twelve million
296 dollars per fiscal year. The board's recommendations shall give (i)
297 priority to programs that address tobacco and substance abuse and
298 serve minors, pregnant women and parents of young children, and (ii)
299 consideration to the availability of private matching funds.
300 Recommended disbursements from the trust fund shall be in addition
301 to any resources that would otherwise be appropriated by the state for
302 such purposes and programs.

303 (2) Except during the fiscal years ending June 30, 2004, and June 30,
304 2005, [and June 30, 2016,] the board of trustees shall submit such
305 recommendations for the authorization of disbursement from the trust
306 fund to the joint standing committees of the General Assembly having
307 cognizance of matters relating to public health and appropriations and
308 the budgets of state agencies. Not later than thirty days after receipt of
309 such recommendations, said committees shall advise the board of their

310 approval, modifications, if any, or rejection of the board's
311 recommendations. If said joint standing committees do not concur, the
312 speaker of the House of Representatives, the president pro tempore of
313 the Senate, the majority leader of the House of Representatives, the
314 majority leader of the Senate, the minority leader of the House of
315 Representatives and the minority leader of the Senate each shall
316 appoint one member from each of said joint standing committees to
317 serve as a committee on conference. The committee on conference shall
318 submit its report to both committees, which shall vote to accept or
319 reject the report. The report of the committee on conference may not be
320 amended. If a joint standing committee rejects the report of the
321 committee on conference, the board's recommendations shall be
322 deemed approved. If the joint standing committees accept the report of
323 the committee on conference, the joint standing committee having
324 cognizance of matters relating to appropriations and the budgets of
325 state agencies shall advise the board of said joint standing committees'
326 approval or modifications, if any, of the board's recommended
327 disbursement. If said joint standing committees do not act within thirty
328 days after receipt of the board's recommendations for the
329 authorization of disbursement, such recommendations shall be
330 deemed approved. Disbursement from the trust fund shall be in
331 accordance with the board's recommendations as approved or
332 modified by said joint standing committees.

333 (3) After such recommendations for the authorization of
334 disbursement have been approved or modified pursuant to
335 subdivision (2) of this subsection, any modification in the amount of an
336 authorized disbursement in excess of fifty thousand dollars or ten per
337 cent of the authorized amount, whichever is less, shall be submitted to
338 said joint standing committees and approved, modified or rejected in
339 accordance with the procedure set forth in subdivision (2) of this
340 subsection. Notification of all disbursements from the trust fund made
341 pursuant to this section shall be sent to the joint standing committees
342 of the General Assembly having cognizance of matters relating to
343 public health and appropriations and the budgets of state agencies,
344 through the Office of Fiscal Analysis.

345 (4) The board of trustees shall, not later than February first of each
346 year, except during the fiscal years ending June 30, 2004, and June 30,
347 2005, [and June 30, 2016,] submit a report to the General Assembly, in
348 accordance with the provisions of section 11-4a, that includes all
349 disbursements and other expenditures from the trust fund and an
350 evaluation of the performance and impact of each program receiving
351 funds from the trust fund. Such report shall also include the criteria
352 and application process used to select programs to receive such funds.

353 Sec. 5. Subdivision (2) of subsection (e) of section 53-344 of the
354 general statutes is repealed and the following is substituted in lieu
355 thereof (*Effective October 1, 2014*):

356 (2) No seller or seller's agent or employee shall use a transaction
357 scan device for a purpose other than the purposes specified in
358 subsection (e) of section 1 of this act, subsection (d) of this section or
359 subsection (c) of section 30-86.

360 Sec. 6. Subdivision (2) of subsection (d) of section 30-86 of the 2014
361 supplement to the general statutes is repealed and the following is
362 substituted in lieu thereof (*Effective October 1, 2014*):

363 (2) No permittee or permittee's agent or employee shall use a
364 transaction scan device for a purpose other than the purposes specified
365 in subsection (e) of section 1 of this act, subsection (c) of this section or
366 subsection (d) of section 53-344.

367 Sec. 7. Subsection (b) of section 51-164n of the 2014 supplement to
368 the general statutes is repealed and the following is substituted in lieu
369 thereof (*Effective October 1, 2014*):

370 (b) Notwithstanding any provision of the general statutes, any
371 person who is alleged to have committed (1) a violation under the
372 provisions of subsection (c) of section 1 of this act or section 3 of this
373 act, section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-283, 7-
374 325, 7-393, 8-12, 8-25, 8-27, 9-63, 9-322, 9-350, 10-193, 10-197, 10-198, 10-
375 230, 10-251, 10-254, 12-52, 12-170aa, 12-292 or 12-326g, subdivision (4)

376 of section 12-408, subdivision (3), (5) or (6) of section 12-411, section 12-
377 435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-113, 13a-114, 13a-
378 115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-143b, 13a-247 or
379 13a-253, subsection (f) of section 13b-42, section 13b-90, 13b-221, 13b-
380 292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or 13b-410c,
381 subsection (a), (b) or (c) of section 13b-412, section 13b-414, subsection
382 (d) of section 14-12, section 14-20a or 14-27a, subsection (e) of section
383 14-34a, subsection (d) of section 14-35, section 14-43, 14-49, 14-50a or
384 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b or 14-67a,
385 subsection (g) of section 14-80, subsection (f) of section 14-80h, section
386 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152, 14-153 or 14-
387 163b, a first violation as specified in subsection (f) of section 14-164i,
388 section 14-219 as specified in subsection (e) of said section, subdivision
389 (1) of section 14-223a, section 14-240, 14-249, 14-250 or 14-253a,
390 subsection (a) of section 14-261a, section 14-262, 14-264, 14-267a, 14-
391 269, 14-270, 14-275a, 14-278 or 14-279, subsection (e) or (h) of section
392 14-283, section 14-291, 14-293b, 14-296aa, 14-319, 14-320, 14-321, 14-
393 325a, 14-326, 14-330 or 14-332a, subdivision (1), (2) or (3) of section 14-
394 386a, section 15-25 or 15-33, subdivision (1) of section 15-97, subsection
395 (a) of section 15-115, section 16-44, 16-256e, 16a-15 or 16a-22, subsection
396 (a) or (b) of section 16a-22h, section 17a-24, 17a-145, 17a-149, 17a-152,
397 17a-465, 17a-642, 17b-124, 17b-131, 17b-137 or 17b-734, subsection (b) of
398 section 17b-736, section 19a-30, 19a-33, 19a-39 or 19a-87, subsection (b)
399 of section 19a-87a, section 19a-91, 19a-105, 19a-107, 19a-113, 19a-215,
400 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-297, 19a-301, 19a-309,
401 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-425, 19a-502, 20-7a, 20-
402 14, 20-158, 20-231, 20-249, 20-257, 20-265, 20-324e, 20-341l, 20-366, 20-
403 597, 20-608, 20-610, 21-1, 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63
404 or 21-76a, subdivision (1) of section 21a-19, section 21a-21, subdivision
405 (1) of subsection (b) of section 21a-25, section 21a-26 or 21a-30,
406 subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63 or 21a-
407 77, subsection (b) of section 21a-79, section 21a-85 or 21a-154,
408 subdivision (1) of subsection (a) of section 21a-159, subsection (a) of
409 section 21a-279a, section 22-12b, 22-13, 22-14, 22-15, 22-16, 22-29, 22-34,
410 22-35, 22-36, 22-38, 22-39, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49,

411 22-54, 22-61, 22-89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-167, 22-279,
412 22-280a, 22-318a, 22-320h, 22-324a, 22-326 or 22-342, subsection (b), (e)
413 or (f) of section 22-344, section 22-359, 22-366, 22-391, 22-413, 22-414,
414 22-415, 22a-66a or 22a-246, subsection (a) of section 22a-250, subsection
415 (e) of section 22a-256h, section 22a-363 or 22a-381d, subsections (c) and
416 (d) of section 22a-381e, section 22a-449, 22a-461, 23-37, 23-38, 23-46 or
417 23-61b, subsection (a) or subdivision (1) of subsection (c) of section 23-
418 65, section 25-37 or 25-40, subsection (a) of section 25-43, section 25-
419 43d, 25-135, 26-16, 26-18, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-42, 26-49,
420 26-54, 26-55, 26-56, 26-58 or 26-59, subdivision (1) of subsection (d) of
421 section 26-61, section 26-64, subdivision (1) of section 26-76, section 26-
422 79, 26-87, 26-89, 26-91, 26-94, 26-97, 26-98, 26-104, 26-105, 26-107, 26-
423 117, 26-128, 26-131, 26-132, 26-138 or 26-141, subdivision (1) of section
424 26-186, section 26-207, 26-215, 26-217 or 26-224a, subdivision (1) of
425 section 26-226, section 26-227, 26-230, 26-232, 26-244, 26-257a, 26-260,
426 26-276, 26-284, 26-285, 26-286, 26-288, 26-294, 28-13, 29-6a, 29-25, 29-
427 109, 29-143o, 29-143z or 29-156a, subsection (b), (d), (e) or (g) of section
428 29-161q, section 29-161y or 29-161z, subdivision (1) of section 29-198,
429 section 29-210, 29-243 or 29-277, subsection (c) of section 29-291c,
430 section 29-316, 29-318, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11, 31-12,
431 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-32, 31-36, 31-38,
432 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-52a or 31-54,
433 subsection (a) or (c) of section 31-69, section 31-70, 31-74, 31-75, 31-76,
434 31-76a, 31-89b or 31-134, subsection (i) of section 31-273, section 31-288,
435 subdivision (1) of section 35-20, section 36a-787, 42-230, 45a-283, 45a-
436 450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-54,
437 section 46a-59, 46b-22, 46b-24, 46b-34, 47-34a, 47-47, 49-8a, 49-16, 53-
438 133, 53-199, 53-212a, 53-249a, 53-252, 53-264, 53-280, 53-302a, 53-303e,
439 53-311a, 53-321, 53-322, 53-323, 53-331, 53-344, as amended by this act,
440 or 53-450, or (2) a violation under the provisions of chapter 268, or (3) a
441 violation of any regulation adopted in accordance with the provisions
442 of section 12-484, 12-487 or 13b-410, or (4) a violation of any ordinance,
443 regulation or bylaw of any town, city or borough, except violations of
444 building codes and the health code, for which the penalty exceeds
445 ninety dollars but does not exceed two hundred fifty dollars, unless

446 such town, city or borough has established a payment and hearing
 447 procedure for such violation pursuant to section 7-152c, shall follow
 448 the procedures set forth in this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	New section
Sec. 2	October 1, 2014	12-295a
Sec. 3	October 1, 2014	New section
Sec. 4	October 1, 2014	4-28f
Sec. 5	October 1, 2014	53-344(e)(2)
Sec. 6	October 1, 2014	30-86(d)(2)
Sec. 7	October 1, 2014	51-164n(b)

Statement of Legislative Commissioners:

In section 1(d), (e) and (f), "distribute" and "distributing" were changed to "deliver" and "delivering", respectively, and "give away" and "giving away" were changed to "give" and "giving", respectively, to conform to the defined terms and for internal consistency, and in section 1(g), "retailer or employee" was changed to "seller or seller's agent or employee" for internal consistency.

KID *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Revenue Serv., Dept.	GF - Potential Revenue Gain	See Below	See Below
Judicial Dept.	GF - Potential Revenue Gain	See Below	See Below

Municipal Impact: None

Explanation

Section 1 of the bill creates a new offense of selling e-cigarettes to minors or possession of an e-cigarette. As this is a new offense, it is unknown how many violations would occur. In FY 13 there were 161 violations where a minor bought or was sold regular cigarettes, with a total revenue gain of approximately \$22,000. It is anticipated that this new violation will result in a similar number of violations and revenue gain.

The bill creates a new civil penalty for misuse of information collected with electronic ID scanners and makes such misuse subject to a penalty of up to \$1,000. This results in potential revenue gain to the Department of Revenue Services.

Section 2 alters the current process for civil penalty assessments by the Department of Revenue Services (DRS) for the purchase and sale of cigarette or tobacco products by and to minors by: 1) establishing a 24-month window for fining a minor for a second or subsequent violation for buying cigarettes, and 2) waiving the penalty for a first offense for dealers and distributors who successfully complete an online tobacco prevention education program. This does not result in any fiscal

impact as it is DRS' current practice to issue a warning rather than levying a fine for a first offense.

Section 3 creates a new offense of selling individual cigarettes. This results in potential indeterminate revenue gain to the Judicial Department through fines as it is unknown how many violations will occur.

Section 4 eliminates the suspension of the activities of the Tobacco and Health Trust Fund (THTF) Board in FY 16 per Section 151 of PA 13-234 and increases the maximum amount that the Board can recommend to the Public Health and Appropriations Committees for disbursement from the Fund. Section 151 of PA 13-234 limited the Board's disbursement recommendations to \$3 million in FY 14 and FY 15. The bill, instead, limits the Board's recommendations to the unobligated balance of the Fund, up to \$12 million, starting in FY 14. The projected unobligated FY 15 THTF balance, post the \$6 million deposit from the Tobacco Settlement Fund (TSF), is approximately \$10 million. The reduced transfer amount from the TSF to the THTF in FY 14 and FY 15 (\$6 million instead of \$12 million per Section 71 of PA 13-184) remains unchanged under the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sSB 24*****AN ACT CONCERNING THE GOVERNOR'S RECOMMENDATIONS REGARDING ELECTRONIC NICOTINE DELIVERY SYSTEMS AND YOUTH SMOKING PREVENTION.*****SUMMARY:**

This bill makes it illegal for a minor (under age 18) to buy or possess in public an "electronic nicotine delivery system" ("e-cigarette," which for the purposes of this analysis includes similar electronic devices described below), and for anyone to sell, give, or deliver one to a minor. It subjects violators to some of the same penalties the law imposes on those who commit similar violations regarding tobacco cigarettes.

It tightens the law pertaining to the sale of tobacco cigarettes to minors by extending the look-back period for determining if a prior offense occurred from 18 to 24 months. At the same time, it makes this law more lenient for first offenders by waiving the civil penalty for those who successfully complete an online tobacco education course.

Under the bill, minors charged for a second or subsequent time with illegally buying tobacco cigarettes are subject to the higher penalty imposed on subsequent offenders only if they commit a second or subsequent violation within 24 months of the first violation.

The bill imposes fines, in addition to existing civil penalties, on people who sell improperly packaged or individual tobacco cigarettes.

It increases the amount of money the Tobacco and Health Trust Fund board of trustees can disburse annually, starting in FY 14, and allows the board to operate in FY 16. Current law suspends the board's operation for that fiscal year.

Finally, the bill corrects a statutory reference concerning the Trust Fund and makes conforming changes.

EFFECTIVE DATE: October 1, 2014

§1 – E-CIGARETTES AND MINORS

Electronic Nicotine Delivery Systems and Vapor Products

Under the bill an “electronic nicotine delivery system” is an electronic device used to simulate smoking in delivering nicotine or another substance to a person who inhales from it. Delivery systems include “vapor products” and electronic (1) cigarettes; (2) cigars; (3) cigarillos; (4) pipes; and (5) hookahs and related devices, cartridges, or other components.

A “vapor product” uses a heating element; power source; electronic circuit; or other electronic, chemical, or mechanical means, regardless of shape or size, to produce a vapor the user inhales. The vapor may or may not include nicotine. It is not clear how a delivery system or vapor product that does not contain nicotine can be considered an electronic nicotine delivery system.

Purchase of E-cigarettes by Minors

Under the bill, a minor who (1) buys an e-cigarette, (2) misrepresents his or her age to do so, or (3) possesses one in public, faces a fine of up to \$50 for a first offense and between \$50 and \$100 for each subsequent offense. Under the bill, a “public place” is an area used or held out for use by the public regardless of whether it is publicly or privately owned. Violators may pay the fine by mail, without making a court appearance.

Sale of E-cigarettes to Minors

The bill subjects anyone who sells, gives, or delivers an e-cigarette to a minor to a maximum fine of:

1. \$200 for a first offense,
2. \$350 for a second offense committed within 18 months of the

first offense, and

3. \$500 for each subsequent offense committed within 18 months.

The bill does not specify whether the 18-month time frame for third and subsequent offenses runs from the date of the first or second offense. The bill exempts anyone who sells, gives, or delivers an e-cigarette to a minor who receives it in his or her capacity as an employee.

It requires sellers and their agents or employees who sell e-cigarettes to ask prospective buyers whose age is in doubt for proper proof of age, in the form of a driver's license, valid passport, or identity card. It bars the seller, agent, or employee from selling an e-cigarette to such a person who does not provide this proof.

Electronic Scanners

The bill applies to e-cigarettes the laws regarding the use of transaction scan devices (electronic scanners) to verify the age of prospective cigarette purchasers. These include:

1. allowing sellers to check the validity of certain documents other than driver's licenses and identity cards,
2. barring sellers from selling to someone if the scan fails to match the information on the license or identity card,
3. limiting what a transaction scanner can record,
4. barring sellers or their employees from selling the information from a transaction scan, and
5. allowing an affirmative defense under certain conditions in prosecutions for selling e-cigarettes to minors.

As under the law regarding tobacco cigarettes, violators are subject to a civil penalty of up to \$1,000.

§ 2 – DEPARTMENT OF REVENUE SERVICES CIVIL PENALTIES FOR PURCHASE OR SALE OF TOBACCO CIGARETTES TO MINORS

By law, the Department of Revenue Services (DRS) commissioner may, after a hearing, impose civil penalties on (1) minors who buy tobacco cigarettes; (2) dealers, distributors, or their employees who sell them to minors; and (3) owners of businesses with cigarette vending machines that sell cigarettes to minors. The commissioner may also suspend or revoke the license of a dealer or distributor for selling to a minor.

Purchase of Tobacco Cigarettes by Minors

Under current law, a minor who illegally buys these cigarettes faces a maximum penalty of \$100 for a first violation and \$150 for each subsequent violation. Under the bill, the commissioner cannot fine a minor for a second or subsequent violation unless the minor committed it within 24 months of a first violation.

Sale to Minors by Dealers, Distributors, or Their Employees, or Owners of Businesses with Cigarette Vending Machines

The bill waives, for a first offense, the penalty for dealers, distributors, their employees, or owners of businesses with cigarette vending machines who successfully complete an online tobacco prevention education program administered by the Department of Mental Health and Addiction Services. They must do so within 30 days after the DRS commissioner finds that they have violated the law.

But it imposes the existing civil penalties on first-time offenders who fail to successfully complete the program. It extends, from 18 months to 24 months, the period in which a violation of the law is deemed a subsequent offense for purposes of imposing a higher penalty and specifies that the 24-month period runs from the date of the first violation.

The bill does not change the amount of the penalties, listed in Table 1 below, or the hearing requirement. As under current law, people may appeal any fine the commissioner imposes.

Table 1: DRS Penalties for Sale of Tobacco Products to Minors

	<i>First offense</i>	<i>Second Offense</i>	<i>Subsequent Offense</i>
Employee of Dealer or Distributor	\$200	\$250	\$250
Dealer/Distributor	\$300	\$750	\$750 and 30-day license suspension
Owner of Business with Cigarette Vending Machines	\$500	\$750	\$750 and removal of vending machine. No replacement machine for one year.

§ 3 – SALE OF INDIVIDUAL CIGARETTES

The law prohibits anyone from selling cigarettes except in unopened packages of at least 20 cigarettes that (1) originated with the manufacturer and (2) bear the legally required health warning. Under current law, DRS may impose civil penalties on violators. The bill subjects violators to fines in addition to these civil penalties.

It subjects people who violate this law to a maximum fine of \$200 for a first offense; \$300 for a second offense within 24 months; and \$500 for each subsequent offense within 24 months of the first offense. The bill allows violators to pay the fine by mail without making a court appearance.

Under current law, unchanged by the bill, the DRS commissioner may impose civil penalties of \$50 for a first offense, \$250 for a second offense, and \$500 for a subsequent offense. These penalties are in addition to any other penalty the law provides, including suspension or revocation of a dealer's or distributor's license.

§ 4 – TOBACCO AND HEALTH TRUST FUND

The Tobacco and Health Trust Fund provides funds to (1) support and encourage reduction of tobacco abuse through prevention, education, and cessation programs; (2) support and encourage

development of programs reducing substance abuse; and (3) develop and implement programs to meet unmet physical and mental health needs in the state.

Current law caps the trust fund board's annual disbursements for FY 14 and FY 15 at \$3 million per year. Starting in FY 17, current law restores prior trust fund disbursement levels of (1) up to one-half the previous fiscal year's annual disbursement to the trust fund from the Tobacco Settlement Fund, to a maximum of \$6 million a year, and (2) the Trust Fund's net earnings on principal from the previous fiscal year.

The bill instead allows the board to recommend, for fiscal years starting with FY 14, the disbursement of up to the fund's total unobligated balance, after funds have been disbursed according to law, up to a maximum of \$12 million annually.

Finally, it allows the board to operate in FY 16. Current law suspends the board's operation for that fiscal year.

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 12 Nay 0 (03/11/2014)