

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 14-76—sSB 24**  
*Committee on Children*  
*Judiciary Committee*  
*Appropriations Committee*

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

**SUMMARY:** This act makes it illegal for (1) a minor (under age 18) to buy or possess in public an “electronic nicotine delivery system” or “vapor product” (such as an e-cigarette) and (2) anyone to sell, give, or deliver such a system or product to a minor. It subjects violators to some of the same penalties the law imposes on those who commit similar violations involving tobacco cigarettes.

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

Under the act, 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 act imposes fines, in addition to existing civil penalties, on cigarette dealers and distributors 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. Prior law suspended the board’s operation for FY 16.

Finally, the act corrects a statutory reference concerning the trust fund and makes conforming changes.

EFFECTIVE DATE: October 1, 2014

§§ 1 & 7 — E-CIGARETTES AND MINORS

*Electronic Nicotine Delivery Systems and Vapor Products*

Under the act, 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 electronic (1) cigarettes; (2) cigars; (3) cigarillos; (4) pipes; (5) hookahs; and (6) related devices, cartridges, or other components.

A “vapor product” uses a heating element; power source; electronic circuit; or

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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. (Presumably, these products would include products whose vapors are meant to be inhaled by users, and not such products as humidifiers or air fresheners.)

### *Purchase of E-cigarettes by Minors*

The act penalizes the sale to, or purchase by, minors of both electronic nicotine delivery systems and vapor products (“e-cigarettes”).

Under the act, 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 act, 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, Gift, or Delivery of E-cigarettes to Minors*

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

It requires sellers and their agents or employees who sell e-cigarettes to ask a prospective buyer whose age is in doubt for proper proof of age, in the form of a driver’s license, valid passport, or identity (ID) 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 act 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 ID cards,
2. barring sellers from selling to someone if the scan fails to match the information on the license or ID card,
3. limiting what information a transaction scanner can record to the license or card holder’s name and birthdate and the license’s or card’s expiration date and identification number,
4. barring sellers or their employees from selling the information from a transaction scan, and
5. allowing an affirmative defense in prosecutions for selling e-cigarettes to

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minors where the seller relied on an electronic scan indicating a valid license or ID card.

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

### § 2 — DEPARTMENT OF REVENUE SERVICES (DRS) CIVIL PENALTIES FOR PURCHASE OR SALE OF TOBACCO CIGARETTES OR OTHER TOBACCO PRODUCTS TO MINORS

By law, the DRS commissioner may, after a hearing, impose civil penalties on (1) minors who buy tobacco cigarettes or other tobacco products; (2) dealers, distributors, or their employees who sell, give, or deliver such products to minors; and (3) owners of businesses with cigarette vending machines that sell, give, or deliver cigarettes to minors. The commissioner also may suspend or revoke the license of a dealer or distributor for selling to a minor (CGS § 12-295).

#### *Purchase of Tobacco Cigarettes by Minors*

By law, a minor who illegally buys tobacco cigarettes or tobacco products faces a maximum civil penalty of \$100 for a first violation and \$150 for each subsequent violation. Under the act, the commissioner cannot impose the higher fine for a second or subsequent violation unless the minor commits 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 act waives, for a first offense, the penalty for (1) dealers, (2) distributors, (3) their employees, or (4) owners of businesses with cigarette vending machines who sell cigarettes or tobacco products to minors if they 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 the act 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 act does not change the amount of the penalties, listed in Table 1 below, or the hearing requirement. By law, people may appeal fines the commissioner imposes.

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

<b><i>Sale By</i></b>	<b><i>First Offense</i></b>	<b><i>Second Offense</i></b>	<b><i>Subsequent Offense</i></b>
Employee of Dealer or Distributor	\$200	\$250	\$250

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Dealer/ Distributor	\$300	\$750	\$750 and at least a 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 & 7 — SALE OF INDIVIDUAL CIGARETTES

The law subjects cigarette dealers and distributors to civil penalties for selling cigarettes unless they are in unopened packages of at least 20 that (1) originated with the manufacturer and (2) bear the legally required health warning.

The act 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 act allows violators to pay the fine by mail without making a court appearance.

By law, unchanged by the act, the DRS commissioner may, after a hearing, 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 (CGS § 12-314).

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

Prior law capped the trust fund board’s annual disbursements for FY 14 and FY 15 at \$3 million per year. Starting in FY 17, prior law restored prior trust fund disbursement levels, which were (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 per fiscal year, and (2) the trust fund’s net earnings on principal from the previous fiscal year.

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

Finally, it allows the board to operate in FY 16. Prior law suspended the board’s operation for FY 16.

OLR Tracking: PF:KM:VR:am