



General Assembly

February Session, 2016

Raised Bill No. 5542

LCO No. 2402



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS CONCERNING THE PREVENTION OF
SMOKING AND TOBACCO USE.***

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 Section 19a-342 of the general statutes is repealed and the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, 2016*):

3 (a) As used in this section, "smoke" or "smoking" means the lighting
4 or carrying of a lighted cigarette, cigar, pipe or similar device.

5 (b) (1) Notwithstanding the provisions of section 31-40q, as
6 amended by this act, no person shall smoke: (A) In any building or
7 portion of a building owned and operated or leased and operated by
8 the state or any political subdivision thereof; (B) in any area of a health
9 care institution; (C) in any area of a retail food store; (D) in any
10 restaurant; (E) in any area of an establishment with a permit issued for
11 the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-
12 22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f,
13 in any area of an establishment with a permit for the sale of alcoholic

14 liquor pursuant to section 30-23 issued after May 1, 2003, and, on and
15 after April 1, 2004, in any area of an establishment with a permit issued
16 for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or
17 the bar area of a bowling establishment holding a permit pursuant to
18 subsection (a) of section 30-37c; (F) [within] in any area of a school
19 building; [while school is in session or student activities are being
20 conducted;] (G) in any passenger elevator, provided no person shall be
21 arrested for violating this subsection unless there is posted in such
22 elevator a sign which indicates that smoking is prohibited by state law;
23 (H) in any dormitory in any public or private institution of higher
24 education; or (I) on and after April 1, 2004, in any area of a dog race
25 track or a facility equipped with screens for the simulcasting of off-
26 track betting race programs or jai alai games. For purposes of this
27 subsection, "restaurant" means space, in a suitable and permanent
28 building, kept, used, maintained, advertised and held out to the public
29 to be a place where meals are regularly served to the public.

30 (2) [This section] Subdivision (1) of this section shall not apply to
31 [(A) correctional facilities; (B) designated smoking areas in psychiatric
32 facilities; (C)] the following establishments: (A) Any public housing
33 [projects] project, as defined in subsection (b) of section 21a-278a; [(D)
34 classrooms] (B) any classroom where demonstration smoking is taking
35 place as part of a medical or scientific experiment or lesson; [(E)] (C)
36 any medical research site where smoking is integral to the research
37 being conducted; (D) any smoking [rooms] room provided by
38 employers for employees, pursuant to section 31-40q, as amended by
39 this act; [(F)] (E) notwithstanding the provisions of subparagraph (E) of
40 subdivision (1) of this subsection, the outdoor portion of the premises
41 of any permittee listed in subparagraph (E) of subdivision (1) of this
42 subsection, provided, in the case of any seating area maintained for the
43 service of food, at least seventy-five per cent of the outdoor seating
44 capacity is an area in which smoking is prohibited and which is clearly
45 designated with written signage as a nonsmoking area, except that any
46 temporary seating area established for special events and not used on a

47 regular basis shall not be subject to the smoking prohibition or signage
48 requirements of this subparagraph; or ~~[(G)]~~ (F) any tobacco bar,
49 provided no tobacco bar shall expand in size or change its location
50 from its size or location as of December 31, 2002. For purposes of this
51 subdivision, "outdoor" means an area which has no roof or other
52 ceiling enclosure, "tobacco bar" means an establishment with a permit
53 for the sale of alcoholic liquor to consumers issued pursuant to chapter
54 545 that, in the calendar year ending December 31, 2002, generated ten
55 per cent or more of its total annual gross income from the on-site sale
56 of tobacco products and the rental of on-site humidors, and "tobacco
57 product" means any substance that contains tobacco, including, but not
58 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco.

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

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

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

74 (f) Nothing in this section shall be construed to require any smoking
75 area ~~[in] inside or outside~~ any building ~~or the entryway to any~~
76 building.

77 ~~[(g)]~~ The provisions of this section shall supersede and preempt the

78 provisions of any municipal law or ordinance relative to smoking
79 effective prior to, on or after October 1, 1993.]

80 Sec. 2. Subdivision (4) of subsection (a) of section 31-40q of the
81 general statutes is repealed and the following is substituted in lieu
82 thereof (*Effective October 1, 2016*):

83 (4) "Business facility" means a structurally enclosed location or
84 portion thereof at which employees perform services for their
85 employer. The term "business facility" does not include: (A) Facilities
86 listed in subparagraph (A) [(C) or (G)] or (F) of subdivision (2) of
87 subsection (b) of section 19a-342, as amended by this act, or section
88 19a-342a, as amended by this act; (B) any establishment with a permit
89 for the sale of alcoholic liquor pursuant to section 30-23 issued on or
90 before May 1, 2003; (C) for any business that is engaged in the testing
91 or development of tobacco or tobacco products, the areas of such
92 business designated for such testing or development; or (D) during the
93 period from October 1, 2003, to April 1, 2004, establishments with a
94 permit issued for the sale of alcoholic liquor pursuant to section 30-22a
95 or 30-26 or the bar area of a bowling establishment holding a permit
96 pursuant to subsection (a) of section 30-37c.

97 Sec. 3. Subsection (d) of section 31-40q of the general statutes is
98 repealed and the following is substituted in lieu thereof (*Effective*
99 *October 1, 2016*):

100 (d) Nothing in this section may be construed to prohibit an
101 employer from designating an entire business facility and the real
102 property on which such business facility is located as a nonsmoking
103 area.

104 Sec. 4. Subsection (b) of section 53-344 of the general statutes is
105 repealed and the following is substituted in lieu thereof (*Effective*
106 *October 1, 2016*):

107 (b) Any person who sells, gives or delivers to any [minor] person

108 under eighteen years of age tobacco [, unless the minor is delivering or
109 accepting delivery in such person's capacity as an employee,] in any
110 form shall be fined not more than two hundred dollars for the first
111 offense, not more than three hundred fifty dollars for a second offense
112 within an eighteen-month period and not more than five hundred
113 dollars for each subsequent offense within an eighteen-month period.
114 The provisions of this subsection shall not apply to a person under
115 eighteen years of age who is delivering or accepting delivery (1) in
116 such person's capacity as an employee, or (2) as part of a scientific
117 study being conducted in an institution of higher education for the
118 purpose of medical research to further efforts in tobacco use
119 prevention and cessation, provided such medical research has been
120 approved by the institution's independent review board.

121 Sec. 5. Subsection (b) of section 53-344b of the 2016 supplement to
122 the general statutes is repealed and the following is substituted in lieu
123 thereof (*Effective October 1, 2016*):

124 (b) Any person who sells, gives or delivers to any [minor] person
125 under eighteen years of age an electronic nicotine delivery system or
126 vapor product [, unless the minor is delivering or accepting delivery in
127 such person's capacity as an employee,] in any form shall be fined not
128 more than two hundred dollars for the first offense, not more than
129 three hundred fifty dollars for a second offense within an eighteen-
130 month period and not more than five hundred dollars for each
131 subsequent offense within an eighteen-month period. The provisions
132 of this subsection shall not apply to a person under eighteen years of
133 age who is delivering or accepting delivery (1) in such person's
134 capacity as an employee, or (2) as part of a scientific study being
135 conducted in an institution of higher education for the purpose of
136 medical research to further efforts in tobacco use prevention and
137 cessation, provided such medical research has been approved by the
138 institution's independent review board.

139 Sec. 6. Section 19a-342a of the 2016 supplement to the general

140 statutes is repealed and the following is substituted in lieu thereof
141 (*Effective October 1, 2016*):

142 (a) As used in this section and section 2 of public act 15-206:

143 (1) "Child care facility" means a provider of child care services as
144 defined in section 19a-77, or a person or entity required to be licensed
145 under section 17a-145;

146 (2) "Electronic nicotine delivery system" means an electronic device
147 that may be used to simulate smoking in the delivery of nicotine or
148 other substances to a person inhaling from the device, and includes,
149 but is not limited to, an electronic cigarette, electronic cigar, electronic
150 cigarillo, electronic pipe or electronic hookah and any related device
151 and any cartridge or other component of such device;

152 (3) "Liquid nicotine container" means a container that holds a liquid
153 substance containing nicotine that is sold, marketed or intended for
154 use in an electronic nicotine delivery system or vapor product, except
155 "liquid nicotine container" does not include such a container that is
156 prefilled and sealed by the manufacturer and not intended to be
157 opened by the consumer; and

158 (4) "Vapor product" means any product that employs a heating
159 element, power source, electronic circuit or other electronic, chemical
160 or mechanical means, regardless of shape or size, to produce a vapor
161 that may or may not include nicotine, that is inhaled by the user of
162 such product.

163 (b) (1) No person shall use an electronic nicotine delivery system or
164 vapor product: (A) In any building or portion of a building owned and
165 operated or leased and operated by the state or any political
166 subdivision thereof; (B) in any area of a health care institution; (C) in
167 any area of a retail food store; (D) in any restaurant; (E) in any area of
168 an establishment with a permit issued for the sale of alcoholic liquor
169 pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22a, 30-22c, 30-26,

170 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any
171 area of establishment with a permit issued for the sale of alcoholic
172 liquor pursuant to section 30-23 issued after May 1, 2003, or the bar
173 area of a bowling establishment holding a permit pursuant to
174 subsection (a) of section 30-37c; (F) [within] in any area of a school
175 building; [while school is in session or student activities are being
176 conducted;] (G) within a child care facility, except, if the child care
177 facility is a family child care home as defined in section 19a-77, such
178 use is prohibited only when a child enrolled in such home is present;
179 (H) in any passenger elevator, provided no person shall be arrested for
180 violating this subsection unless there is posted in such elevator a sign
181 which indicates that such use is prohibited by state law; (I) in any
182 dormitory in any public or private institution of higher education; or
183 (J) in any area of a dog race track or a facility equipped with screens for
184 the simulcasting of off-track betting race programs or jai alai games.
185 For purposes of this subsection, "restaurant" means space, in a suitable
186 and permanent building, kept, used, maintained, advertised and held
187 out to the public to be a place where meals are regularly served to the
188 public.

189 (2) This section shall not apply to [(A) correctional facilities; (B)
190 designated smoking areas in psychiatric facilities; (C)] (A) any public
191 housing [projects] project, as defined in subsection (b) of section 21a-
192 278a; [(D) classrooms] (B) any classroom where a demonstration of the
193 use of an electronic nicotine delivery system or vapor product is taking
194 place as part of a medical or scientific experiment or lesson; [(E)
195 establishments] (C) any medical research site where the use of an
196 electronic nicotine delivery system or vapor product is integral to the
197 research being conducted; (D) any establishment without a permit for
198 the sale of alcoholic liquor that sell electronic nicotine delivery
199 systems, vapor products or liquid nicotine containers on-site and allow
200 their customers to use such systems, products or containers on-site;
201 [(F)] (E) any smoking [rooms] room provided by employers for
202 employees, pursuant to section 31-40q, as amended by this act; [(G)]

203 (F) notwithstanding the provisions of subparagraph (E) of subdivision
204 (1) of this subsection, the outdoor portion of the premises of any
205 permittee listed in subparagraph (E) of subdivision (1) of this
206 subsection, provided, in the case of any seating area maintained for the
207 service of food, at least seventy-five per cent of the outdoor seating
208 capacity is an area in which smoking is prohibited and which is clearly
209 designated with written signage as a nonsmoking area, except that any
210 temporary seating area established for special events and not used on a
211 regular basis shall not be subject to the prohibition on the use of an
212 electronic nicotine delivery system or vapor product or the signage
213 requirements of this subparagraph; or [(H)] (G) any tobacco bar,
214 provided no tobacco bar shall expand in size or change its location
215 from its size or location as of October 1, 2015. For purposes of this
216 subdivision, "outdoor" means an area which has no roof or other
217 ceiling enclosure, "tobacco bar" means an establishment with a permit
218 for the sale of alcoholic liquor to consumers issued pursuant to chapter
219 545 that, in the calendar year ending December 31, 2015, generated ten
220 per cent or more of its total annual gross income from the on-site sale
221 of tobacco products and the rental of on-site humidors, and "tobacco
222 product" means any substance that contains tobacco, including, but not
223 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco.

224 (c) The operator of a hotel, motel or similar lodging may allow
225 guests to use an electronic nicotine delivery system or vapor product
226 in not more than twenty-five per cent of the rooms offered as
227 accommodations to guests.

228 (d) In each room, elevator, area or building in which the use of an
229 electronic nicotine delivery system or vapor product is prohibited by
230 this section, the person in control of the premises shall post or cause to
231 be posted in a conspicuous place signs stating that such use is
232 prohibited by state law. Such signs, except in elevators, restaurants,
233 establishments with permits to sell alcoholic liquor to consumers
234 issued pursuant to chapter 545, hotels, motels or similar lodgings, and
235 health care institutions, shall have letters at least four inches high with

236 the principal strokes of letters not less than one-half inch wide.

237 (e) Any person found guilty of using an electronic nicotine delivery
238 system or vapor product in violation of this section, failure to post
239 signs as required by this section or the unauthorized removal of such
240 signs shall have committed an infraction.

241 (f) Nothing in this section shall be construed to require the
242 designation of any area for the use of electronic nicotine delivery
243 system or vapor product in any building.

244 [(g) The provisions of this section shall supersede and preempt the
245 provisions of any municipal law or ordinance relative to the use of an
246 electronic nicotine delivery system or vapor product effective prior to,
247 on or after October 1, 2015.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	19a-342
Sec. 2	<i>October 1, 2016</i>	31-40q(a)(4)
Sec. 3	<i>October 1, 2016</i>	31-40q(d)
Sec. 4	<i>October 1, 2016</i>	53-344(b)
Sec. 5	<i>October 1, 2016</i>	53-344b(b)
Sec. 6	<i>October 1, 2016</i>	19a-342a

Statement of Purpose:

To implement the Department of Public Health's recommendations for enhancements in tobacco use prevention.

[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.]