



General Assembly

**Substitute Bill No. 5542**

February Session, 2016

\* \_\_\_\_\_HB05542PH\_\_\_\_\_032216\_\_\_\_\_\*

**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 Section 19a-342 of the general statutes is repealed and the  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] Subdivision (1) of this section shall not apply to the  
31 following establishments: (A) Any correctional [facilities] facility; (B)  
32 any designated smoking [areas] area in a psychiatric [facilities] facility;  
33 (C) any public housing [projects] project, as defined in subsection (b) of  
34 section 21a-278a; (D) [classrooms] any classroom where demonstration  
35 smoking is taking place as part of a medical or scientific experiment or  
36 lesson; (E) any medical research site where smoking is integral to the  
37 research being conducted; (F) any smoking [rooms] room provided by  
38 employers for employees, pursuant to section 31-40q, as amended by  
39 this act; [(F)] (G) notwithstanding the provisions of subparagraph (E)  
40 of subdivision (1) of this subsection, the outdoor portion of the  
41 premises of any permittee listed in subparagraph (E) of subdivision (1)  
42 of this subsection, provided, in the case of any seating area maintained  
43 for the service of food, at least seventy-five per cent of the outdoor  
44 seating capacity is an area in which smoking is prohibited and which is  
45 clearly designated with written signage as a nonsmoking area, except  
46 that any temporary seating area established for special events and not  
47 used on a regular basis shall not be subject to the smoking prohibition  
48 or signage requirements of this subparagraph; or [(G)] (H) any tobacco  
49 bar, 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 or use an electronic nicotine delivery system or vapor  
61 product, as defined in section 19a-342a, as amended by this act, in not  
62 more than twenty-five per cent of the rooms offered as  
63 accommodations to guests.

64 (d) In each room, elevator, area or building in which smoking is  
65 prohibited by this section, the person in control of the premises shall  
66 post or cause to be posted in a conspicuous place signs stating that  
67 smoking is prohibited by state law. Such signs, except in elevators,  
68 restaurants, establishments with permits to sell alcoholic liquor to  
69 consumers issued pursuant to chapter 545, hotels, motels or similar  
70 lodgings, and health care institutions, shall have letters at least four  
71 inches high with the principal strokes of letters not less than one-half  
72 inch wide. Nothing in this subsection shall be construed to require the  
73 person in control of a building to post such signs in every room of a  
74 building, provided such signs are posted in a conspicuous place in  
75 such building.

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

79 (f) Nothing in this section shall be construed to require any smoking  
80 area [in] inside or outside any building or the entryway to any  
81 building.

82 [(g) The provisions of this section shall supersede and preempt the  
83 provisions of any municipal law or ordinance relative to smoking  
84 effective prior to, on or after October 1, 1993.]

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

88 (4) "Business facility" means a structurally enclosed location or  
89 portion thereof at which employees perform services for their  
90 employer. The term "business facility" does not include: (A) Facilities  
91 listed in subparagraph (A), (C) or (G) of subdivision (2) of subsection  
92 (b) of section 19a-342, as amended by this act, or subparagraph (A), (C)  
93 or (I) of subdivision (2) of subsection (b) of section 19a-342a, as  
94 amended by this act; (B) any establishment with a permit for the sale of  
95 alcoholic liquor pursuant to section 30-23 issued on or before May 1,  
96 2003; (C) for any business that is engaged in the testing or  
97 development of tobacco or tobacco products, the areas of such business  
98 designated for such testing or development; or (D) during the period  
99 from October 1, 2003, to April 1, 2004, establishments with a permit  
100 issued for the sale of alcoholic liquor pursuant to section 30-22a or 30-  
101 26 or the bar area of a bowling establishment holding a permit  
102 pursuant to subsection (a) of section 30-37c.

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

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

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

113 (b) Any person who sells, gives or delivers to any [minor] person  
114 under eighteen years of age tobacco [, unless the minor is delivering or  
115 accepting delivery in such person's capacity as an employee,] in any

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

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

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

145 Sec. 6. Section 19a-342a of the 2016 supplement to the general  
146 statutes is repealed and the following is substituted in lieu thereof  
147 (*Effective October 1, 2016*):

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

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

152 (2) "Electronic nicotine delivery system" means an electronic device  
153 that may be used to simulate smoking in the delivery of nicotine or  
154 other substances to a person inhaling from the device, and includes,  
155 but is not limited to, an electronic cigarette, electronic cigar, electronic  
156 cigarillo, electronic pipe or electronic hookah and any related device  
157 and any cartridge or other component of such device;

158 (3) "Liquid nicotine container" means a container that holds a liquid  
159 substance containing nicotine that is sold, marketed or intended for  
160 use in an electronic nicotine delivery system or vapor product, except  
161 "liquid nicotine container" does not include such a container that is  
162 prefilled and sealed by the manufacturer and not intended to be  
163 opened by the consumer; and

164 (4) "Vapor product" means any product that employs a heating  
165 element, power source, electronic circuit or other electronic, chemical  
166 or mechanical means, regardless of shape or size, to produce a vapor  
167 that may or may not include nicotine, that is inhaled by the user of  
168 such product, but shall not include a medicinal or therapeutic product  
169 used by a (A) licensed health care provider to treat a patient in a health  
170 care setting, or (B) patient, as prescribed or directed by a licensed  
171 health care provider, in any setting.

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

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

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

213 (H) notwithstanding the provisions of subparagraph (E) of subdivision  
214 (1) of this subsection, the outdoor portion of the premises of any  
215 permittee listed in subparagraph (E) of subdivision (1) of this  
216 subsection, provided, in the case of any seating area maintained for the  
217 service of food, at least seventy-five per cent of the outdoor seating  
218 capacity is an area in which smoking is prohibited and which is clearly  
219 designated with written signage as a nonsmoking area, except that any  
220 temporary seating area established for special events and not used on a  
221 regular basis shall not be subject to the prohibition on the use of an  
222 electronic nicotine delivery system or vapor product or the signage  
223 requirements of this subparagraph; or ~~[(H)]~~ (I) any tobacco bar,  
224 provided no tobacco bar shall expand in size or change its location  
225 from its size or location as of October 1, 2015. For purposes of this  
226 subdivision, "outdoor" means an area which has no roof or other  
227 ceiling enclosure, "tobacco bar" means an establishment with a permit  
228 for the sale of alcoholic liquor to consumers issued pursuant to chapter  
229 545 that, in the calendar year ending December 31, 2015, generated ten  
230 per cent or more of its total annual gross income from the on-site sale  
231 of tobacco products and the rental of on-site humidors, and "tobacco  
232 product" means any substance that contains tobacco, including, but not  
233 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco.

234 (c) The operator of a hotel, motel or similar lodging may allow  
235 guests to use an electronic nicotine delivery system or vapor product  
236 or smoke, as defined in section 19a-342, as amended by this act, in not  
237 more than twenty-five per cent of the rooms offered as  
238 accommodations to guests.

239 (d) In each room, elevator, area or building in which the use of an  
240 electronic nicotine delivery system or vapor product is prohibited by  
241 this section, the person in control of the premises shall post or cause to  
242 be posted in a conspicuous place signs stating that such use is  
243 prohibited by state law. Such signs, except in elevators, restaurants,  
244 establishments with permits to sell alcoholic liquor to consumers  
245 issued pursuant to chapter 545, hotels, motels or similar lodgings, and

246 health care institutions, shall have letters at least four inches high with  
 247 the principal strokes of letters not less than one-half inch wide.  
 248 Nothing in this subsection shall be construed to require the person in  
 249 control of a building to post such signs in every room of a building,  
 250 provided such signs are posted in a conspicuous place in such  
 251 building.

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

256 (f) Nothing in this section shall be construed to require the  
 257 designation of any area for the use of electronic nicotine delivery  
 258 system or vapor product [in] inside or outside any building or the  
 259 entryway to any building.

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

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

**Statement of Legislative Commissioners:**

In Section 2(a)(4)(A) the brackets around "or" were deleted, "or (H)" was deleted and "subparagraph (A), (C) or (I) of subdivision (2) of subsection (b) of" was inserted before "section" for accuracy.

**PH** Joint Favorable Subst.