



General Assembly

February Session, 2016

Raised Bill No. 5624

LCO No. 2699



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING LICENSURE OF E-CIGARETTE SELLERS AND MANUFACTURERS.

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

1 Section 1. Section 21a-415 of the 2016 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) On and after March 1, 2016, no person in this state may sell, offer
5 for sale or possess with intent to sell an electronic nicotine delivery
6 system or vapor product unless such person has obtained an electronic
7 nicotine delivery system certificate of dealer registration from the
8 Commissioner of Consumer Protection pursuant to this section. An
9 electronic nicotine delivery system certificate of dealer registration
10 shall allow the sale of electronic nicotine delivery systems or vapor
11 products. A holder of an electronic nicotine delivery system certificate
12 of dealer registration shall post such registration in a prominent
13 location adjacent to electronic nicotine delivery system products or
14 vapor products offered for sale. For the purposes of this section,

15 "person" means each owner of a business organization, provided each
16 affiliate of a business organization that is under common control or
17 ownership shall constitute a separate person and "person" includes,
18 but is not limited to, retailers, wholesalers and dealers.

19 (b) (1) On or after January 1, 2016, any person desiring an electronic
20 nicotine delivery system certificate of dealer registration or a renewal
21 of such a certificate of dealer registration shall make a sworn
22 application therefor to the Department of Consumer Protection upon
23 forms to be furnished by the department, showing the name and
24 address of the applicant, the location of the place of business which is
25 to be operated under such certificate of dealer registration and a
26 financial statement setting forth all elements and details of any
27 business transactions connected with the application. [The application
28 shall also indicate any crimes of which the applicant has been
29 convicted.] Applicants shall submit documents sufficient to establish
30 that state and local building, fire and zoning requirements will be met
31 at the location of any sale. The department may, in its discretion,
32 conduct an investigation to determine whether a certificate of dealer
33 registration shall be issued to an applicant.

34 (2) The commissioner shall issue an electronic nicotine delivery
35 system certificate of dealer registration to any such applicant not later
36 than thirty days after the date of application unless the commissioner
37 finds: (A) The applicant has wilfully made a materially false statement
38 in such application or in any other application made to the
39 commissioner; or (B) the applicant has neglected to pay any taxes due
40 to this state; [; or (C) the applicant has been convicted of violating any
41 of the cigarette or other tobacco products tax laws of this or any other
42 state or the cigarette tax laws of the United States or has such a
43 criminal record that the commissioner reasonably believes that such
44 applicant is not a suitable person to be issued a license, provided no
45 refusal shall be rendered under this subdivision except in accordance
46 with the provisions of sections 46a-80 and 46a-81.]

47 (3) A certificate of dealer registration issued under this section shall
48 be renewed annually and may be suspended or revoked at the
49 discretion of the Department of Consumer Protection. Any person
50 aggrieved by a denial of an application, refusal to renew a dealer
51 registration or suspension or revocation of a dealer registration may
52 appeal in the manner prescribed for permits under section 30-55. An
53 electronic nicotine delivery system certificate of dealer registration
54 shall not constitute property, nor shall it be subject to attachment and
55 execution, nor shall it be alienable, except that it shall descend to the
56 estate of a deceased holder of a certificate of dealer registration by the
57 laws of testate or intestate succession.

58 (4) The applicant shall pay to the department a nonrefundable
59 application fee of seventy-five dollars, which fee shall be in addition to
60 the annual fee prescribed in subsection (c) of this section. An
61 application fee shall not be charged for an application to renew a
62 certificate of dealer registration.

63 (5) In any case in which a certificate of dealer registration has been
64 issued to a partnership, if one or more of the partners dies or retires,
65 the remaining partner or partners need not file a new application for
66 the unexpired portion of the current certificate of dealer registration,
67 and no additional fee for such unexpired portion shall be required.
68 Notice of any such change shall be given to the department and the
69 certificate of dealer registration shall be endorsed to show correct
70 ownership. Whenever any partnership changes by reason of the
71 addition of one or more partners, a new application and the payment
72 of new application and annual fees shall be required.

73 (c) The annual fee for an electronic nicotine delivery system
74 certificate of dealer registration shall be four hundred dollars.

75 (d) The department may renew a certificate of dealer registration
76 issued under this section that has expired if the applicant pays to the
77 department any fine imposed by the commissioner pursuant to

78 subsection (c) of section 21a-4, which fine shall be in addition to the
79 fees prescribed in this section for the certificate of dealer registration
80 applied for. The provisions of this subsection shall not apply to any
81 certificate of dealer registration which is the subject of administrative
82 or court proceedings.

83 (e) (1) Any person in this state who knowingly sells, offers for sale
84 or possesses with intent to sell an electronic nicotine delivery system or
85 vapor product without a certificate of dealer registration as required
86 under this section shall be fined not more than fifty dollars for each
87 day of such violation, except that the commissioner may waive all or
88 any part of such fine if it is proven to the commissioner's satisfaction
89 that the failure to obtain or renew such certificate of dealer registration
90 was due to reasonable cause.

91 (2) Notwithstanding the provisions of subdivision (1) of this
92 subsection, any person whose electronic nicotine delivery system
93 certificate of dealer registration has expired and who knowingly sells,
94 offers for sale or possesses with intent to sell an electronic nicotine
95 delivery system or vapor product, where such person's period of
96 operation without such certificate of dealer registration is not more
97 than ninety days from the date of expiration of such certificate of
98 dealer registration, shall have committed an infraction and shall be
99 fined ninety dollars.

100 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
101 this subsection, no penalty shall be imposed under this subsection
102 unless the commissioner sends written notice of any violation to the
103 person who is subject to a penalty under subdivision (1) or (2) of this
104 subsection and allows such person sixty days from the date such notice
105 was sent to cease such violation and comply with the requirements of
106 this section. Such written notice shall be sent, within available
107 appropriations, by mail evidenced by a certificate of mailing or other
108 similar United States Postal Service form from which the date of
109 deposit can be verified.

110 Sec. 2. Section 21a-415a of the 2016 supplement to the general
111 statutes is repealed and the following is substituted in lieu thereof
112 (*Effective from passage*):

113 (a) On and after March 1, 2016, no person in this state may
114 manufacture an electronic nicotine delivery system or vapor product
115 unless such person has obtained an electronic nicotine delivery system
116 certificate of manufacturer registration from the Commissioner of
117 Consumer Protection pursuant to this section. An electronic nicotine
118 delivery system certificate of manufacturer registration shall allow the
119 manufacture of electronic nicotine delivery systems or vapor products
120 in this state. For the purposes of this section, "manufacturer" means
121 any person who mixes, compounds, repackages or resizes any
122 nicotine-containing electronic nicotine delivery system or vapor
123 product, "person" means each owner of a business organization,
124 provided each affiliate of a business organization that is under
125 common control or ownership shall constitute a separate person.

126 (b) (1) On or after January 1, 2016, any person desiring an electronic
127 nicotine delivery system certificate of manufacturer registration or a
128 renewal of such a certificate of manufacturer registration shall make a
129 sworn application therefor to the Department of Consumer Protection
130 upon forms to be furnished by the department, showing the name and
131 address of the applicant, the location of the place of business which is
132 to be operated under such certificate of manufacturer registration and
133 a financial statement setting forth all elements and details of any
134 business transactions connected with the application. [The application
135 shall also indicate any crimes of which the applicant has been
136 convicted.] Applicants shall submit documents sufficient to establish
137 that state and local building, fire and zoning requirements will be met
138 at the place of manufacture. The department may, in its discretion,
139 conduct an investigation to determine whether a certificate of
140 manufacturer registration shall be issued to an applicant.

141 (2) The commissioner shall issue an electronic nicotine delivery

142 system certificate of manufacturer registration to any such applicant
143 not later than thirty days after the date of application unless the
144 commissioner finds: (A) The applicant has wilfully made a materially
145 false statement in such application or in any other application made to
146 the commissioner; or (B) the applicant has neglected to pay any taxes
147 due to this state, [; or (C) the applicant has been convicted of violating
148 any of the cigarette or other tobacco products tax laws of this or any
149 other state or the cigarette tax laws of the United States or has such a
150 criminal record that the commissioner reasonably believes that such
151 applicant is not a suitable person to be issued a license, provided no
152 refusal shall be rendered under this subdivision except in accordance
153 with the provisions of sections 46a-80 and 46a-81.]

154 (3) A certificate of manufacturer registration issued under this
155 section shall be renewed annually and may be suspended or revoked
156 at the discretion of the Department of Consumer Protection. Any
157 person aggrieved by a denial of an application, refusal to renew a
158 certificate of manufacturer registration or suspension or revocation of a
159 certificate of manufacturer registration may appeal in the manner
160 prescribed for permits under section 30-55. An electronic nicotine
161 delivery system certificate of manufacturer registration shall not
162 constitute property, nor shall it be subject to attachment and execution,
163 nor shall it be alienable, except that it shall descend to the estate of a
164 deceased holder of a certificate of manufacturer registration by the
165 laws of testate or intestate succession.

166 (4) The applicant shall pay to the department a nonrefundable
167 application fee of seventy-five dollars, which fee shall be in addition to
168 the annual fee prescribed in subsection (c) of this section. An
169 application fee shall not be charged for an application to renew a
170 certificate of manufacturer registration.

171 (5) In any case in which a certificate of manufacturer registration has
172 been issued to a partnership, if one or more of the partners dies or
173 retires, the remaining partner or partners need not file a new

174 application for the unexpired portion of the current certificate of
175 manufacturer registration, and no additional fee for such unexpired
176 portion shall be required. Notice of any such change shall be given to
177 the department and the certificate of manufacturer registration shall be
178 endorsed to show correct ownership. Whenever any partnership
179 changes by reason of the addition of one or more partners, a new
180 application and the payment of new application and annual fees shall
181 be required.

182 (c) The annual fee for an electronic nicotine delivery system
183 certificate of manufacturer registration shall be four hundred dollars.

184 (d) The department may renew a certificate of manufacturer
185 registration issued under this section that has expired if the applicant
186 pays to the department any fine imposed by the commissioner
187 pursuant to subsection (c) of section 21a-4, which fine shall be in
188 addition to the fees prescribed in this section for the certificate of
189 manufacturer registration applied for. The provisions of this
190 subsection shall not apply to any certificate of manufacturer
191 registration which is the subject of administrative or court
192 proceedings.

193 (e) (1) Any person in this state who knowingly manufactures an
194 electronic nicotine delivery system or vapor product without a
195 certificate of manufacturer registration as required under this section
196 shall be fined not more than fifty dollars for each day of such violation,
197 except that the commissioner may waive all or any part of such fine if
198 it is proven to the commissioner's satisfaction that the failure to obtain
199 or renew such certificate of manufacturer registration was due to
200 reasonable cause.

201 (2) Notwithstanding the provisions of subdivision (1) of this
202 subsection, any person whose electronic nicotine delivery system
203 certificate of manufacturer registration has expired and who
204 manufactures in this state an electronic nicotine delivery system or

205 vapor product, where such person's period of operation without such
206 certificate of manufacturer registration is not more than ninety days
207 from the date of expiration of such certificate of manufacturer
208 registration, shall have committed an infraction and shall be fined
209 ninety dollars.

210 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
211 this subsection, no penalty shall be imposed under this subsection
212 unless the commissioner sends written notice of any violation to the
213 person who is subject to a penalty under subdivision (1) or (2) of this
214 subsection and allows such person sixty days from the date such notice
215 was sent to cease such violation and comply with the requirements of
216 this section. Such written notice shall be sent, within available
217 appropriations, by mail evidenced by a certificate of mailing or other
218 similar United States Postal Service form from which the date of
219 deposit can be verified.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	21a-415
Sec. 2	<i>from passage</i>	21a-415a

Statement of Purpose:

To define "person" for the purposes of licensure of e-cigarette sellers and manufacturers and to remove the requirement that background checks be conducted prior to licensure.

[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.]