



General Assembly

Substitute Bill No. 5624

February Session, 2016

* HB05624FIN 040116 *

**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2 statutes is repealed and the following is substituted in lieu thereof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 for the
9 place of business where such system or product is sold, offered for sale
10 or possessed with the intent to sell. An electronic nicotine delivery
11 system certificate of dealer registration shall allow the sale of electronic
12 nicotine delivery systems or vapor products at such place of business.
13 A holder of an electronic nicotine delivery system certificate of dealer
14 registration shall post such registration in a prominent location
15 adjacent to electronic nicotine delivery system products or vapor
16 products offered for sale. For the purposes of this section, "person"
17 means each owner of a business organization, or such owner's
18 authorized designee, provided each affiliate of a business organization
19 that is under common control or ownership shall constitute a separate

20 person and "person" includes, but is not limited to, retailers,
21 wholesalers and dealers.

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

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

51 (3) A certificate of dealer registration issued under this section shall
52 be renewed annually and may be suspended or revoked at the

53 discretion of the Department of Consumer Protection. Any person
54 aggrieved by a denial of an application, refusal to renew a dealer
55 registration or suspension or revocation of a dealer registration may
56 appeal in the manner prescribed for permits under section 30-55. An
57 electronic nicotine delivery system certificate of dealer registration
58 shall not constitute property, nor shall it be subject to attachment and
59 execution, nor shall it be alienable, [except that it shall descend to the
60 estate of a deceased holder of a certificate of dealer registration by the
61 laws of testate or intestate succession.]

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

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

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

79 (d) The department may renew a certificate of dealer registration
80 issued under this section that has expired if the applicant pays to the
81 department any fine imposed by the commissioner pursuant to
82 subsection (c) of section 21a-4, which fine shall be in addition to the
83 fees prescribed in this section for the certificate of dealer registration
84 applied for. The provisions of this subsection shall not apply to any

85 certificate of dealer registration which is the subject of administrative
86 or court proceedings.

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

96 (2) Notwithstanding the provisions of subdivision (1) of this
97 subsection, any person whose electronic nicotine delivery system
98 certificate of dealer registration for the place of business where
99 electronic nicotine delivery systems or vapor products are sold, offered
100 for sale or possessed with the intent to sell has expired and who
101 knowingly sells, offers for sale or possesses with intent to sell an
102 electronic nicotine delivery system or vapor product, where such
103 person's period of operation without such certificate of dealer
104 registration is not more than ninety days from the date of expiration of
105 such certificate of dealer registration, shall have committed an
106 infraction and shall be fined ninety dollars.

107 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
108 this subsection, no penalty shall be imposed under this subsection
109 unless the commissioner sends written notice of any violation to the
110 person who is subject to a penalty under subdivision (1) or (2) of this
111 subsection and allows such person sixty days from the date such notice
112 was sent to cease such violation and comply with the requirements of
113 this section. Such written notice shall be sent [, within available
114 appropriations,] by mail evidenced by a certificate of mailing or other
115 similar United States Postal Service form from which the date of
116 deposit can be verified or by electronic mail to the electronic mail
117 address designated by such person on its application or renewal

118 application for nicotine delivery system certificate of dealer
119 registration.

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

123 (a) On and after March 1, 2016, no person in this state may
124 manufacture an electronic nicotine delivery system or vapor product
125 unless such person has obtained an electronic nicotine delivery system
126 certificate of manufacturer registration from the Commissioner of
127 Consumer Protection pursuant to this section for the place of business
128 where such system or product is manufactured. An electronic nicotine
129 delivery system certificate of manufacturer registration shall allow the
130 manufacture of electronic nicotine delivery systems or vapor products
131 in this state at such place of business. For the purposes of this section,
132 "manufacturer" means any person who mixes, compounds, repackages
133 or resizes any nicotine-containing electronic nicotine delivery system
134 or vapor product, and "person" means each owner of a business
135 organization, provided each affiliate of a business organization that is
136 under common control or ownership shall constitute a separate
137 person.

138 (b) (1) On or after January 1, 2016, any person desiring an electronic
139 nicotine delivery system certificate of manufacturer registration or a
140 renewal of such a certificate of manufacturer registration shall make a
141 sworn application therefor to the Department of Consumer Protection
142 upon forms to be furnished by the department, showing the name,
143 [and] address and electronic mail address of the applicant [,] and the
144 location of the place of business which is to be operated under such
145 certificate of manufacturer registration, [and a financial statement
146 setting forth all elements and details of any business transactions
147 connected with the application. The application shall also indicate any
148 crimes of which the applicant has been convicted. Applicants shall]
149 The department may require that an applicant submit documents
150 sufficient to establish that state and local building, fire and zoning

151 requirements will be met at the place of manufacture. The department
152 may, in its discretion, conduct an investigation to determine whether a
153 certificate of manufacturer registration shall be issued to an applicant.

154 (2) The commissioner shall issue an electronic nicotine delivery
155 system certificate of manufacturer registration to any such applicant
156 not later than thirty days after the date of application unless the
157 commissioner finds: (A) The applicant has wilfully made a materially
158 false statement in such application or in any other application made to
159 the commissioner; or (B) the applicant has neglected to pay any taxes
160 due to this state;]; or (C) the applicant has been convicted of violating
161 any of the cigarette or other tobacco products tax laws of this or any
162 other state or the cigarette tax laws of the United States or has such a
163 criminal record that the commissioner reasonably believes that such
164 applicant is not a suitable person to be issued a license, provided no
165 refusal shall be rendered under this subdivision except in accordance
166 with the provisions of sections 46a-80 and 46a-81.]

167 (3) A certificate of manufacturer registration issued under this
168 section shall be renewed annually and may be suspended or revoked
169 at the discretion of the Department of Consumer Protection. Any
170 person aggrieved by a denial of an application, refusal to renew a
171 certificate of manufacturer registration or suspension or revocation of a
172 certificate of manufacturer registration may appeal in the manner
173 prescribed for permits under section 30-55. An electronic nicotine
174 delivery system certificate of manufacturer registration shall not
175 constitute property, nor shall it be subject to attachment and execution,
176 nor shall it be alienable;], except that it shall descend to the estate of a
177 deceased holder of a certificate of manufacturer registration by the
178 laws of testate or intestate succession.]

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

184 [(5) In any case in which a certificate of manufacturer registration
185 has been issued to a partnership, if one or more of the partners dies or
186 retires, the remaining partner or partners need not file a new
187 application for the unexpired portion of the current certificate of
188 manufacturer registration, and no additional fee for such unexpired
189 portion shall be required. Notice of any such change shall be given to
190 the department and the certificate of manufacturer registration shall be
191 endorsed to show correct ownership. Whenever any partnership
192 changes by reason of the addition of one or more partners, a new
193 application and the payment of new application and annual fees shall
194 be required.]

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

197 (d) The department may renew a certificate of manufacturer
198 registration issued under this section that has expired if the applicant
199 pays to the department any fine imposed by the commissioner
200 pursuant to subsection (c) of section 21a-4, which fine shall be in
201 addition to the fees prescribed in this section for the certificate of
202 manufacturer registration applied for. The provisions of this
203 subsection shall not apply to any certificate of manufacturer
204 registration which is the subject of administrative or court
205 proceedings.

206 (e) (1) Any person in this state who knowingly manufactures an
207 electronic nicotine delivery system or vapor product [without] from a
208 place of business that does not have a certificate of manufacturer
209 registration as required under this section shall be fined not more than
210 fifty dollars for each day of such violation, except that the
211 commissioner may waive all or any part of such fine if it is proven to
212 the commissioner's satisfaction that the failure to obtain or renew such
213 certificate of manufacturer registration was due to reasonable cause.

214 (2) Notwithstanding the provisions of subdivision (1) of this
215 subsection, any person whose electronic nicotine delivery system

216 certificate of manufacturer registration for the place of business where
217 electronic nicotine delivery systems or vapor products are
218 manufactured has expired and who manufactures in this state an
219 electronic nicotine delivery system or vapor product, where such
220 person's period of operation without such certificate of manufacturer
221 registration is not more than ninety days from the date of expiration of
222 such certificate of manufacturer registration, shall have committed an
223 infraction and shall be fined ninety dollars.

224 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
225 this subsection, no penalty shall be imposed under this subsection
226 unless the commissioner sends written notice of any violation to the
227 person who is subject to a penalty under subdivision (1) or (2) of this
228 subsection and allows such person sixty days from the date such notice
229 was sent to cease such violation and comply with the requirements of
230 this section. Such written notice shall be sent [, within available
231 appropriations,] by mail evidenced by a certificate of mailing or other
232 similar United States Postal Service form from which the date of
233 deposit can be verified or by electronic mail to the electronic mail
234 address designated by such person on its application or renewal
235 application for nicotine delivery system certificate of dealer
236 registration.

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

FIN *Joint Favorable Subst.*