

**Proposed Substitute  
Bill No. 5289**

LCO No. 3034

**AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S  
RECOMMENDATIONS REGARDING THE CLEAN INDOOR AIR ACT.**

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

1 Section 1. Section 19a-342 of the 2018 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2018*):

4 (a) As used in this section:

5 [ "smoke" ] (1) "Smoke" or "smoking" means the lighting or carrying  
6 of a lighted cigarette, cigar, pipe or similar device;

7 (2) "Any area" means the interior of the facility, building or  
8 establishment and the outside area within twenty-five feet of any  
9 doorway, operable window or air intake vent of the facility, building  
10 or establishment.

11 (b) (1) Notwithstanding the provisions of section 31-40q, as  
12 amended by this act, no person shall smoke: (A) In any area of a  
13 building or portion of a building owned and operated or leased and  
14 operated by the state or any political subdivision thereof; (B) in any  
15 area of a health care institution; (C) in any area of a retail [food store]  
16 establishment accessed by the general public; (D) in any restaurant; (E)  
17 in any area of an establishment with a permit issued for the sale of  
18 alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22c,  
19 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any  
20 area of an establishment with a permit for the sale of alcoholic liquor  
21 pursuant to section 30-23 issued after May 1, 2003, and, on and after

22 April 1, 2004, in any area of an establishment with a permit issued for  
23 the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or the  
24 bar area of a bowling establishment holding a permit pursuant to  
25 subsection (a) of section 30-37c; (F) [within] in any area of a school  
26 building [while school is in session or student activities are being  
27 conducted] or on school property; (G) in any passenger elevator,  
28 provided no person shall be arrested for violating this subsection  
29 unless there is posted in such elevator a sign which indicates that  
30 smoking is prohibited by state law; (H) in any area of a dormitory in  
31 any public or private institution of higher education; [or] (I) on and  
32 after April 1, 2004, in any area of a dog race track or a facility equipped  
33 with screens for the simulcasting of off-track betting race programs or  
34 jai alai games; or (J) any public housing project, as defined in  
35 subsection (b) of section 21a-278a, constructed on or after October 1,  
36 2018. For purposes of this subsection, "restaurant" means space, in a  
37 suitable and permanent building, kept, used, maintained, advertised  
38 and held out to the public to be a place where meals are regularly  
39 served to the public.

40 (2) [This section] Subdivision (1) of this subsection shall not apply to  
41 [(A) correctional facilities; (B) designated smoking areas in psychiatric  
42 facilities; (C) public] the following establishments: (A) Public housing  
43 projects, as defined in subsection (b) of section 21a-278a, constructed  
44 prior to October 1, 2018; [(D)] (B) any classroom where demonstration  
45 smoking is taking place as part of a medical or scientific experiment or  
46 lesson; [(E) smoking rooms provided by employers for employees,  
47 pursuant to section 31-40q; (F) notwithstanding the provisions of  
48 subparagraph (E) of subdivision (1) of this subsection, the outdoor  
49 portion of the premises of any permittee listed in subparagraph (E) of  
50 subdivision (1) of this subsection, provided, in the case of any seating  
51 area maintained for the service of food, at least seventy-five per cent of  
52 the outdoor seating capacity is an area in which smoking is prohibited  
53 and which is clearly designated with written signage as a nonsmoking  
54 area, except that any temporary seating area established for special  
55 events and not used on a regular basis shall not be subject to the  
56 smoking prohibition or signage requirements of this subparagraph;

57 (G)] (C) any medical research site where smoking is integral to the  
58 research being conducted; or [(H)] (D) any tobacco bar or tobacco  
59 specialist, provided no tobacco bar shall expand in size or change its  
60 location from its size or location as of December 31, 2002. For purposes  
61 of this subdivision, ["outdoor" means an area which has no roof or  
62 other ceiling enclosure,] "tobacco bar" means an establishment with a  
63 permit for the sale of alcoholic liquor to consumers issued pursuant to  
64 chapter 545 that, in the calendar year ending December 31, 2002,  
65 generated ten per cent or more of its total annual gross income from  
66 the on-site sale of tobacco products and the rental of on-site humidors,  
67 "tobacco specialist" means an establishment engaged in the sale of  
68 tobacco products that generates at least seventy-five per cent of its  
69 annual gross income from the on-site sale of tobacco products and the  
70 rental of on-site humidors, and "tobacco product" means any substance  
71 that contains tobacco, including, but not limited to, cigarettes, cigars,  
72 pipe tobacco or chewing tobacco.

73 (3) Any public housing project, as defined in subsection (b) of  
74 section 21a-278a, or landlord of a tenement house may include a  
75 provision in the rental agreement between the landlord and tenant of  
76 the housing project or tenement house to prohibit smoking in the  
77 dwelling unit of the housing project or tenement house. For purposes  
78 of this subdivision, "dwelling unit", "landlord", "rental agreement",  
79 "tenant" and "tenement house" have the same meaning as provided in  
80 section 47a-1.

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

84 [(d)] (c) In each room, elevator, area or building in which smoking is  
85 prohibited by this section, the person in control of the premises shall  
86 post or cause to be posted in a conspicuous place signs stating that  
87 smoking is prohibited by state law. Such signs, except in elevators,  
88 restaurants, establishments with permits to sell alcoholic liquor to  
89 consumers issued pursuant to chapter 545, hotels, motels or similar

90 lodgings, and health care institutions, shall have letters at least four  
91 inches high with the principal strokes of letters not less than one-half  
92 inch wide.

93 ~~[(e)]~~ (d) Any person found guilty of smoking in violation of this  
94 section, failure to post signs as required by this section or the  
95 unauthorized removal of such signs shall have committed an  
96 infraction. Nothing in this section shall be construed to require the  
97 person in control of a building to post such signs in every room of a  
98 building, provided such signs are posted in a conspicuous place in  
99 such building.

100 ~~[(f)]~~ (e) Nothing in this section shall be construed to require any  
101 smoking area ~~[in]~~ inside or outside any building or the entryway to  
102 any building.

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

106 Sec. 2. Section 19a-342a of the 2018 supplement to the general  
107 statutes is repealed and the following is substituted in lieu thereof  
108 *(Effective October 1, 2018)*:

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

110 (1) "Any area" means the interior of the facility, building or  
111 establishment and the outside area within twenty-five feet of any  
112 doorway, operable window or air intake vent of the facility, building  
113 or establishment;

114 ~~[(1)]~~ (2) "Child care facility" means a provider of child care services  
115 as defined in section 19a-77, or a person or entity required to be  
116 licensed under section 17a-145;

117 ~~[(2)]~~ (3) "Electronic nicotine delivery system" means an electronic  
118 device that may be used to simulate smoking in the delivery of  
119 nicotine or other substances to a person inhaling from the device, and

120 includes, but is not limited to, an electronic cigarette, electronic cigar,  
121 electronic cigarillo, electronic pipe or electronic hookah and any  
122 related device and any cartridge or other component of such device;

123 [(3)] (4) "Liquid nicotine container" means a container that holds a  
124 liquid substance containing nicotine that is sold, marketed or intended  
125 for use in an electronic nicotine delivery system or vapor product,  
126 except "liquid nicotine container" does not include such a container  
127 that is prefilled and sealed by the manufacturer and not intended to be  
128 opened by the consumer; and

129 [(4)] (5) "Vapor product" means any product that employs a heating  
130 element, power source, electronic circuit or other electronic, chemical  
131 or mechanical means, regardless of shape or size, to produce a vapor  
132 that may or may not include nicotine, that is inhaled by the user of  
133 such product, but shall not include a medicinal or therapeutic product  
134 used by a (A) licensed health care provider to treat a patient in a health  
135 care setting, or (B) a patient, as prescribed or directed by a licensed  
136 health care provider in any setting.

137 (b) (1) No person shall use an electronic nicotine delivery system or  
138 vapor product: (A) In any area of a building or portion of a building  
139 owned and operated or leased and operated by the state or any  
140 political subdivision thereof; (B) in any area of a health care institution;  
141 (C) in any area of a retail [food store] establishment accessed by the  
142 public; (D) in any restaurant; (E) in any area of an establishment with a  
143 permit issued for the sale of alcoholic liquor pursuant to section 30-20a,  
144 30-21, 30-21b, 30-22, 30-22a, 30-22c, 30-26, 30-28, 30-28a, 30-33a, 30-33b,  
145 30-35a, 30-37a, 30-37e or 30-37f, in any area of establishment with a  
146 permit issued for the sale of alcoholic liquor pursuant to section 30-23  
147 issued after May 1, 2003, or the bar area of a bowling establishment  
148 holding a permit pursuant to subsection (a) of section 30-37c; (F)  
149 [within] in any area of a school building [while school is in session or  
150 student activities are being conducted] or on any school property; (G)  
151 within a child care facility, except, if the child care facility is a family  
152 child care home as defined in section 19a-77, such use is prohibited

153 only when a child enrolled in such home is present; (H) in any  
154 passenger elevator; [ provided no person shall be arrested for  
155 violating this subsection unless there is posted in such elevator a sign  
156 which indicates that such use is prohibited by state law;] (I) in any area  
157 of a dormitory in any public or private institution of higher education;  
158 [or] (J) in any area of a dog race track or a facility equipped with  
159 screens for the simulcasting of off-track betting race programs or jai  
160 alai games; or (K) any public housing project, as defined in subsection  
161 (b) of section 21a-278a, constructed on or after October 1, 2018. For  
162 purposes of this subsection, "restaurant" means space, in a suitable and  
163 permanent building, kept, used, maintained, advertised and held out  
164 to the public to be a place where meals are regularly served to the  
165 public.

166 (2) [This section] Subdivision (1) of this subsection shall not apply to  
167 [(A) correctional facilities; (B) designated smoking areas in psychiatric  
168 facilities; (C) public] the following establishments: (A) Public housing  
169 projects, as defined in subsection (b) of section 21a-278a, constructed  
170 prior to October 1, 2018; [(D)] (B) any classroom where a  
171 demonstration of the use of an electronic nicotine delivery system or  
172 vapor product is taking place as part of a medical or scientific  
173 experiment or lesson; [(E)] (C) any medical research site where the use  
174 of an electronic nicotine delivery system or vapor product is integral to  
175 the research being conducted; [(F) establishments] (D) any  
176 establishment without a permit for the sale of alcoholic liquor that  
177 [sell] sells electronic nicotine delivery systems, vapor products or  
178 liquid nicotine containers on-site and [allow] allows their customers to  
179 use such systems, products or containers on-site; [(G) smoking rooms  
180 provided by employers for employees, pursuant to section 31-40q; (H)  
181 notwithstanding the provisions of subparagraph (E) of subdivision (1)  
182 of this subsection, the outdoor portion of the premises of any permittee  
183 listed in subparagraph (E) of subdivision (1) of this subsection,  
184 provided, in the case of any seating area maintained for the service of  
185 food, at least seventy-five per cent of the outdoor seating capacity is an  
186 area in which smoking is prohibited and which is clearly designated  
187 with written signage as a nonsmoking area, except that any temporary

188 seating area established for special events and not used on a regular  
189 basis shall not be subject to the prohibition on the use of an electronic  
190 nicotine delivery system or vapor product or the signage requirements  
191 of this subparagraph; or (I)] or (E) any tobacco bar, provided no  
192 tobacco bar shall expand in size or change its location from its size or  
193 location as of October 1, 2015. For purposes of this subdivision,  
194 ["outdoor" means an area which has no roof or other ceiling enclosure,]  
195 "tobacco bar" means an establishment with a permit for the sale of  
196 alcoholic liquor to consumers issued pursuant to chapter 545 that, in  
197 the calendar year ending December 31, 2015, generated ten per cent or  
198 more of its total annual gross income from the on-site sale of tobacco  
199 products and the rental of on-site humidors, and "tobacco product"  
200 means any substance that contains tobacco, including, but not limited  
201 to, cigarettes, cigars, pipe tobacco or chewing tobacco.

202 (3) Any public housing project, as defined in subsection (b) of  
203 section 21a-278, or landlord of a tenement house may include a  
204 provision in the rental agreement between the landlord and tenant of  
205 the housing project or tenement house to prohibit the use of electronic  
206 nicotine delivery systems or vapor products in the dwelling unit of the  
207 housing project or tenement house. For purposes of this subdivision,  
208 "dwelling unit", "landlord", "rental agreement", "tenant" and "tenement  
209 house" have the same meaning as provided in section 47a-1.

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

214 [(d)] (c) In each room, elevator, area or building in which the use of  
215 an electronic nicotine delivery system or vapor product is prohibited  
216 by this section, the person in control of the premises shall post or cause  
217 to be posted in a conspicuous place signs stating that such use is  
218 prohibited by state law. Such signs, except in elevators, restaurants,  
219 establishments with permits to sell alcoholic liquor to consumers  
220 issued pursuant to chapter 545, hotels, motels or similar lodgings, and

221 health care institutions, shall have letters at least four inches high with  
222 the principal strokes of letters not less than one-half inch wide.

223 [(e)] (d) Any person found guilty of using an electronic nicotine  
224 delivery system or vapor product in violation of this section, failure to  
225 post signs as required by this section or the unauthorized removal of  
226 such signs shall have committed an infraction. Nothing in this  
227 subsection shall be construed to require the person in control of a  
228 building to post such signs in every room of a building, provided such  
229 signs are posted in a conspicuous place in such building.

230 [(f)] (e) Nothing in this section shall be construed to require the  
231 designation of any area for the use of electronic nicotine delivery  
232 system or vapor product [in] inside or outside any building or the  
233 entryway to any building or on any property.

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

238 Sec. 3. Section 31-40q of the 2018 supplement to the general statutes  
239 is repealed and the following is substituted in lieu thereof (*Effective*  
240 *October 1, 2018*):

241 (a) As used in this section:

242 (1) "Person" means one or more individuals, partnerships,  
243 associations, corporations, limited liability companies, business trusts,  
244 legal representatives or any organized group of persons.

245 (2) "Employer" means a person engaged in business who has  
246 employees, including the state and any political subdivision thereof.

247 (3) "Employee" means any person engaged in service to an employer  
248 in the business of his employer.

249 (4) "Business facility" means a structurally enclosed location or



250 portion thereof at which employees perform services for their  
251 employer. The term "business facility" does not include: (A) Facilities  
252 listed in subparagraph (A), (C) or (H) of subdivision (2) of subsection  
253 (b) of section 19a-342, as amended by this act, or subparagraph (D) of  
254 subdivision (2) of subsection (b) of section 19a-342a, as amended by  
255 this act; (B) any establishment with a permit for the sale of alcoholic  
256 liquor pursuant to section 30-23 issued on or before May 1, 2003; (C)  
257 for any business that is engaged in the testing or development of  
258 tobacco or tobacco products, the areas of such business designated for  
259 such testing or development; or (D) during the period from October 1,  
260 2003, to April 1, 2004, establishments with a permit issued for the sale  
261 of alcoholic liquor pursuant to section 30-22a or 30-26 or the bar area of  
262 a bowling establishment holding a permit pursuant to subsection (a) of  
263 section 30-37c.

264 (5) "Smoking" means the burning of a lighted cigar, cigarette, pipe  
265 or any other matter or substance which contains tobacco.

266 (6) "Electronic nicotine delivery system" has the same meaning as  
267 provided in section 19a-342a, as amended by this act.

268 (7) "Vapor product" has the same meaning as provided in section  
269 19a-342a, as amended by this act.

270 [(b) Each employer with fewer than five employees in a business  
271 facility shall establish one or more work areas, sufficient to  
272 accommodate nonsmokers who request to utilize such an area, within  
273 each business facility under his control, where smoking is prohibited.  
274 The employer shall clearly designate the existence and boundaries of  
275 each nonsmoking area by posting signs which can be readily seen by  
276 employees and visitors. In the areas within the business facility where  
277 smoking is permitted, existing physical barriers and ventilation  
278 systems shall be used to the extent practicable to minimize the effect of  
279 smoking in adjacent nonsmoking areas.]

280 [(c) (1)] (b) Each employer [with five or more employees] shall  
281 prohibit smoking and the use of electronic nicotine delivery systems

282 and vapor products in any area of any business facility under said  
283 employer's control. [, except that an employer may designate one or  
284 more smoking rooms.] For purposes of this subsection, "any area"  
285 means the interior of the facility and the outside area within twenty-  
286 five feet of any doorway, operable window or air intake vent of the  
287 facility.

288 [(2) Each employer that provides a smoking room pursuant to this  
289 subsection shall provide sufficient nonsmoking break rooms for  
290 nonsmoking employees.

291 (3) Each smoking room designated by an employer pursuant to this  
292 subsection shall meet the following requirements: (A) Air from the  
293 smoking room shall be exhausted directly to the outside by an exhaust  
294 fan, and no air from such room shall be recirculated to other parts of  
295 the building; (B) the employer shall comply with any ventilation  
296 standard adopted by (i) the Commissioner of Labor pursuant to  
297 chapter 571, (ii) the United States Secretary of Labor under the  
298 authority of the Occupational Safety and Health Act of 1970, as from  
299 time to time amended, or (iii) the federal Environmental Protection  
300 Agency; (C) such room shall be located in a nonwork area, where no  
301 employee, as part of his or her work responsibilities, is required to  
302 enter, except such work responsibilities shall not include any custodial  
303 or maintenance work carried out in the smoking room when it is  
304 unoccupied; and (D) such room shall be for the use of employees only.]

305 [(d)] (c) Nothing in this section may be construed to prohibit an  
306 employer from designating an entire business facility and the real  
307 property on which the business facility is located as a nonsmoking  
308 area.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	19a-342
Sec. 2	October 1, 2018	19a-342a
Sec. 3	October 1, 2018	31-40q