



# House of Representatives

General Assembly

**File No. 579**

January Session, 2019

Substitute House Bill No. 7200

*House of Representatives, April 10, 2019*

The Committee on Public Health reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT PROHIBITING THE SALE OF CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS TO PERSONS UNDER AGE TWENTY-ONE.***

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

1 Section 1. Section 12-285 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) [When] As used in this chapter and section 21 of this act, unless  
4 the context otherwise requires:

5 (1) "Person" means any individual, firm, fiduciary, partnership,  
6 corporation, limited liability company, trust or association, however  
7 formed;

8 (2) "Distributor" means (A) any person in this state engaged in the  
9 business of manufacturing cigarettes; (B) any person, other than a  
10 buying pool, [as defined herein,] who purchases cigarettes at  
11 wholesale from manufacturers or other distributors for sale to licensed  
12 dealers, and who maintains an established place of business, including

13 a location used exclusively for such business, which has facilities in  
14 which a substantial stock of cigarettes and related merchandise for  
15 resale can be kept at all times, and who sells at least seventy-five per  
16 cent of such cigarettes to retailers who, at no time, shall own any  
17 interest in the business of the distributor as a partner, stockholder or  
18 trustee; (C) any person operating five or more retail stores in this state  
19 for the sale of cigarettes, or franchising five or more retail stores in this  
20 state for the sale of cigarettes who shares in the gross profits generated  
21 by such stores and who purchases cigarettes at wholesale for sale to  
22 dealers but sells such cigarettes exclusively to retail stores such person  
23 is operating or franchising; (D) any person operating and servicing  
24 twenty-five or more cigarette vending machines in this state who buys  
25 such cigarettes at wholesale and sells them exclusively in such vending  
26 machines. If a person qualified as a distributor in accordance with this  
27 subparagraph, in addition sells cigarettes other than in vending  
28 machines, such person shall be required to be qualified as a distributor  
29 in accordance with subparagraph (B) of this subdivision and have an  
30 additional distributor's license for purposes of such other sales; (E) any  
31 person who imports into this state unstamped cigarettes, at least  
32 seventy-five per cent of which are to be sold to others for resale; and  
33 (F) any person operating storage facilities for unstamped cigarettes in  
34 this state;

35 (3) "Cigarette vending machine" means a machine used for the  
36 purpose of automatically merchandising packaged cigarettes through  
37 the insertion of the proper amount of coins therein by the purchaser,  
38 but does not mean a restricted cigarette vending machine;

39 (4) "Restricted cigarette vending machine" means a machine used  
40 for the dispensing of packaged cigarettes which automatically  
41 deactivates after each individual sale, cannot be left operable after a  
42 sale and requires, prior to each individual sale, a face-to-face  
43 interaction or display of identification between an employee of the  
44 area, facility or business where such machine is located and the  
45 purchaser;

46 (5) "Dealer" means any person other than a distributor who is  
47 engaged in this state in the business of selling cigarettes, including any  
48 person operating and servicing fewer than twenty-five cigarette  
49 vending machines, and any person who is engaged in the business of  
50 selling taxed tobacco products [, as defined in section 12-330a,] at  
51 retail;

52 (6) "Licensed dealer" means a dealer licensed under the provisions  
53 of this chapter;

54 (7) "Stamp" means any stamp authorized to be used under this  
55 chapter by the Commissioner of Revenue Services and includes heat-  
56 applied decals;

57 (8) "Sale" or "sell" [includes or applies to gifts, exchanges and barter;  
58 and] means an act done intentionally by any person, whether done as  
59 principal, proprietor, agent, servant or employee, of transferring,  
60 offering or attempting to transfer, for consideration, including  
61 bartering or exchanging, or offering to barter and exchange;

62 (9) "Buying pool" means and includes any combination, corporation,  
63 association, affiliation or group of retail dealers operating jointly in the  
64 purchase, sale, exchange or barter of cigarettes, the profits from which  
65 accrue directly or indirectly to such retail dealers, provided any person  
66 holding a distributor's license issued prior to June 29, 1951, shall be  
67 deemed to be a distributor within the terms of this section; [.]

68 (10) "Tobacco product" (A) means any product, other than a  
69 cigarette, electronic nicotine delivery system or vapor product, that is  
70 made or derived from tobacco and intended for human consumption,  
71 or likely to be consumed, whether smoked, heated, chewed, absorbed,  
72 dissolved, inhaled or ingested by any other means, including, but not  
73 limited to, a cigar, pipe tobacco, chewing tobacco, snuff and snus, and  
74 any component or accessory thereof, including, but not limited to, a  
75 filter, rolling paper or pipe, and (B) shall not include any drug or  
76 device, as defined in the federal Food, Drug and Cosmetic Act, 21 USC  
77 321, as amended from time to time, or any combination product, as

78 described in said act, 21 USC 353(g), as amended from time to time,  
79 authorized for sale by the United States Food and Drug  
80 Administration; and

81 (11) "Taxed tobacco product" means any tobacco product upon  
82 which a tax has been paid in accordance with the provisions of chapter  
83 214a.

84 (b) [For the purposes of] As used in part I and part II only of this  
85 chapter:

86 (1) "Cigarette" means and includes any roll for smoking made  
87 wholly or in part of tobacco, irrespective of size or shape, and  
88 irrespective of whether the tobacco is flavored, adulterated or mixed  
89 with any other ingredient, where such roll has a wrapper or cover  
90 made of paper or any other material, except where such wrapper is  
91 wholly or in the greater part made of tobacco and such roll weighs  
92 over three pounds per thousand, provided, if any roll for smoking has  
93 a wrapper made of homogenized tobacco or natural leaf tobacco, and  
94 the roll is a cigarette size so that it weighs three pounds or less per  
95 thousand, such roll is a cigarette and subject to the tax imposed by part  
96 I and part II of this chapter; and

97 (2) "Unstamped cigarette" means any package of cigarettes to which  
98 the proper amount of Connecticut cigarette tax stamps have not been  
99 affixed.

100 Sec. 2. Subsection (a) of section 12-286a of the general statutes is  
101 repealed and the following is substituted in lieu thereof (*Effective*  
102 *October 1, 2019*):

103 (a) Each distributor and each dealer [, as defined in section 12-285,]  
104 shall place and maintain in legible condition at each point of sale of  
105 cigarettes to consumers, including the front of each cigarette vending  
106 machine, and each restricted cigarette vending machine a notice which  
107 states (1) that the sale, giving or delivering of tobacco products,  
108 including cigarettes, to any person under [eighteen] twenty-one years

109 of age is prohibited by section 53-344, as amended by this act, (2) the  
110 [purchase or] misrepresentation of age through the use of false  
111 identification by a person under [eighteen] twenty-one years of age to  
112 purchase cigarettes or tobacco products is prohibited by said section,  
113 [53-344,] and (3) the penalties and fines for violating said section [53-  
114 344] and section 12-295a, as amended by this act.

115 Sec. 3. Section 12-287 of the general statutes is repealed and the  
116 following is substituted in lieu thereof (*Effective October 1, 2019*):

117 (a) Each person engaging in, or intending to engage in, the business  
118 of selling cigarettes in this state as a dealer, and each person engaging  
119 in or intending to engage in, the business of selling taxed tobacco  
120 products at retail, shall secure a dealer's license from the  
121 Commissioner of Revenue Services before engaging in such business  
122 or continuing to engage therein. Subject to the provisions of section 12-  
123 286, as amended by this act, such license shall be renewable annually.  
124 The annual fee for a dealer's license shall be two hundred fifty dollars.  
125 Such license shall be valid for a period beginning with the date of  
126 license to the thirtieth day of September next succeeding the date of  
127 license unless sooner revoked as provided in section 12-295, as  
128 amended by this act, or unless the person to whom it was issued  
129 discontinues business, in either of which cases the holder of the license  
130 shall immediately return it to the commissioner. In the event of  
131 mutilation or destruction of such license, a duplicate copy, marked as  
132 such, shall be issued by said commissioner upon application  
133 accompanied by a fee of fifteen dollars.

134 (b) There is established an account to be known as the "tobacco  
135 control enforcement account" which shall be a separate, nonlapsing  
136 account within the General Fund. One hundred sixty dollars of each  
137 dealer's license fee collected under subsection (a) of this section shall  
138 be deposited into the account. The Commissioner of Revenue Services  
139 may expend moneys from the account as is necessary to administer the  
140 licensing of dealers under subsection (a) of this section, for the  
141 education and training of such dealers and for inspections of such

142 dealers' retail establishments and unannounced compliance checks of  
143 such retail establishments to enforce the provisions of this chapter and  
144 chapter 214a and sections 53-344, as amended by this act, and 53-344a,  
145 as amended by this act.

146 Sec. 4. Section 12-289a of the general statutes are repealed and the  
147 following is substituted in lieu thereof (*Effective October 1, 2019*):

148 (a) No cigarette vending machine or restricted cigarette vending  
149 machine may be placed in an area, facility or business which [is  
150 frequented primarily by minors] may be accessed by persons under  
151 the age of twenty-one unless it is placed in an area, facility or business  
152 permitted under chapter 545 that has a separate area accessible only to  
153 persons twenty-one years of age or older and the machine is placed in  
154 such separate area. No cigarettes may be dispensed from any machine  
155 other than a cigarette vending machine or a restricted cigarette  
156 vending machine. No tobacco products, electronic nicotine delivery  
157 systems or vapor products may be dispensed from a cigarette vending  
158 machine or a restricted cigarette vending machine.

159 [(b) A cigarette vending machine may be placed only in (1) an area,  
160 facility or business which is accessible only to adults or (2) an area,  
161 facility or business permitted under chapter 545 if the area, facility or  
162 business has a separate area accessible only to adults and the machine  
163 is placed in such area.

164 (c) A cigarette vending machine, until July 1, 1998, may be placed in  
165 an area, facility or business permitted under chapter 545 which does  
166 not have a separate area accessible only to adults provided the  
167 machine is not placed in a vestibule, lobby, entryway, exit or restroom  
168 and the machine is under the direct supervision, and in the direct line  
169 of sight of, an adult employee of the permittee.

170 (d) A cigarette vending machine, until May 1, 1997, may be placed  
171 in an area, facility or business not provided for under subsections (b)  
172 and (c) of this section provided the machine is not placed in a  
173 vestibule, lobby, entryway, exit or restroom and the machine is under

174 the direct supervision, and in the direct line of sight of, an adult  
175 employee.

176 (e) After May 1, 1997, no cigarette vending machine may be placed  
177 in any area, facility or business other than as provided in subsections  
178 (b) and (c) of this section.

179 (f) After July 1, 1998, no cigarette vending machine may be placed in  
180 any area, facility or business other than as provided in subsection (b) of  
181 this section.]

182 [(g)] (b) The Commissioner of Revenue Services shall assess any  
183 person, dealer or distributor who violates the provisions of this section  
184 a civil penalty of two hundred fifty dollars for a first violation and five  
185 hundred dollars for a second violation within eighteen months. For a  
186 third violation within eighteen months, such penalty shall be five  
187 hundred dollars and any such machine shall be immediately removed  
188 from such area, facility or business and no such machine may be  
189 placed in such area, facility or business for a period of one year  
190 following such removal.

191 [(h)] (c) Nothing in this section shall be construed as limiting a town  
192 or municipality from imposing more restrictive conditions on the use  
193 of vending machines for the sale of cigarettes. A municipality shall be  
194 responsible for the enforcement of such conditions.

195 Sec. 5. Section 12-291a of the general statutes is repealed and the  
196 following is substituted in lieu thereof (*Effective October 1, 2019*):

197 Any person who fails to secure or renew a license as provided in  
198 section 12-287, as amended by this act, or 12-288 shall forfeit as a  
199 penalty for each day of operation without such license the sum of [five]  
200 fifty dollars. The commissioner is authorized to waive all or any part of  
201 the penalties provided in this section when it is proven to his  
202 satisfaction that the failure to secure or renew such license was due to  
203 reasonable cause.

204 Sec. 6. Section 12-295 of the general statutes is repealed and the

205 following is substituted in lieu thereof (*Effective October 1, 2019*):

206 (a) The commissioner may suspend or revoke the license of any  
207 dealer or distributor for (1) failure to comply with any provision of this  
208 chapter or regulations related thereto, or (2) for the sale or delivery of  
209 [tobacco in any form] cigarettes or tobacco products to a [minor under  
210 eighteen] person under twenty-one years of age, following a hearing  
211 with respect to which notice in writing, specifying the time and place  
212 of such hearing and requiring such dealer or distributor to show cause  
213 why such license should not be revoked, is mailed or delivered to such  
214 dealer or distributor not less than ten days preceding the date of such  
215 hearing. Such notice may be served personally or by registered or  
216 certified mail.

217 (b) If the commissioner finds, after a hearing as provided in  
218 subsection (a) of this section, that a dealer has violated any provision  
219 of sections 12-326a to 12-326h, inclusive, the commissioner shall, for a  
220 first violation, suspend such dealer's license for not less than seven  
221 days and assess a civil penalty of not less than one thousand dollars  
222 and, for a second or subsequent violation [within a five-year period]  
223 on or before five years after the date of the first violation, suspend such  
224 dealer's license for not less than thirty days and assess a civil penalty of  
225 not less than five thousand dollars. The commissioner shall order such  
226 dealer to conspicuously post a notice in a public place stating that  
227 cigarettes and tobacco products cannot be sold during the period of  
228 such suspension and the reason therefor. Any sale of cigarettes or  
229 tobacco products by such dealer during the period of such suspension  
230 shall be deemed an additional violation of said sections.

231 (c) If the commissioner finds, after a hearing as provided in  
232 subsection (a) of this section, that a distributor has violated any  
233 provision of sections 12-326a to 12-326h, inclusive, the commissioner  
234 shall (1) for a first violation, suspend such distributor's license or  
235 certificate for not less than seven days and assess a civil penalty of not  
236 more than ten thousand dollars, (2) for a second violation [within a  
237 five-year period] on or before five years after the date of the first



238 violation, suspend such distributor's license or certificate for not less  
239 than thirty days and assess a civil penalty of not more than twenty-five  
240 thousand dollars, and (3) for a subsequent violation [within a five-year  
241 period] on or before five years after the date of the first violation,  
242 revoke such distributor's license and assess a civil penalty of not more  
243 than fifty thousand dollars, except that if the violation is of subsection  
244 (b) of section 12-326b, the commissioner shall assess an additional civil  
245 penalty of one thousand dollars for each carton of cigarettes sold or  
246 bought in violation of said subsection. The commissioner shall order  
247 such distributor to conspicuously post a notice in a public place stating  
248 that cigarettes or tobacco products cannot be sold during the period of  
249 such suspension and the reason therefor. Any sale of cigarettes or  
250 tobacco products by such distributor during the period of such  
251 suspension shall be deemed an additional violation of said sections.

252 (d) The commissioner shall not issue a new license to a former  
253 licensee whose license was revoked unless the commissioner is  
254 satisfied that such former licensee will comply with the provisions of  
255 this chapter or regulations related thereto.

256 Sec. 7. Section 12-295a of the general statutes is repealed and the  
257 following is substituted in lieu thereof (*Effective October 1, 2019*):

258 [(a) If the Commissioner of Revenue Services finds, after a hearing,  
259 that a minor has purchased cigarettes or tobacco products, said  
260 commissioner shall assess such minor a civil penalty of not more than  
261 one hundred dollars for the first violation and not more than one  
262 hundred fifty dollars for any second or subsequent offense within  
263 twenty-four months after the first violation.]

264 [(b)] (a) If [said commissioner] the Commissioner of Revenue  
265 Services finds, after a hearing, that any person employed by a dealer or  
266 distributor, as defined in section 12-285, as amended by this act, has  
267 sold, given or delivered cigarettes or tobacco products to a [minor]  
268 person under twenty-one years of age other than a [minor] person  
269 under twenty-one years of age who is delivering or accepting delivery  
270 in [his] such person's capacity as an employee, said commissioner

271 shall, for the first violation, require such person to successfully  
272 complete an online tobacco prevention education program  
273 administered by the Department of Mental Health and Addiction  
274 Services not later than thirty days after said commissioner's finding.  
275 Said commissioner shall assess any person who fails to complete such  
276 program a civil penalty of two hundred dollars. Said commissioner  
277 shall assess any person employed by a dealer or distributor a civil  
278 penalty of two hundred fifty dollars for a second or subsequent  
279 violation [within twenty-four months] on or before thirty-six months  
280 after the date of the first violation.

281 [(c)] (b) If [said commissioner] the Commissioner of Revenue  
282 Services finds, after a hearing, that any dealer or distributor has sold,  
283 given or delivered cigarettes or a tobacco [products] product to a  
284 [minor] person under twenty-one years of age other than a [minor]  
285 person under twenty-one years of age who is delivering or accepting  
286 delivery in [his] such person's capacity as an employee, or such dealer  
287 or distributor's employee has sold, given or delivered cigarettes or a  
288 tobacco [products] product to such [minor] person, said commissioner  
289 shall require such dealer or distributor, for the first violation, to  
290 successfully complete an online tobacco prevention education program  
291 administered by the Department of Mental Health and Addiction  
292 Services not later than thirty days after said commissioner's finding.  
293 Said commissioner shall assess any dealer or distributor who fails to  
294 complete such program a civil penalty of three hundred dollars. Said  
295 commissioner shall assess any dealer or distributor a civil penalty of  
296 seven hundred fifty dollars for a second violation [within twenty-four  
297 months of] on or before thirty-six months after the date of the first  
298 violation. For a third violation [within twenty-four months of] on or  
299 before thirty-six months after the date of the first violation, said  
300 commissioner shall assess such dealer or distributor [shall be assessed]  
301 a civil penalty of [seven hundred fifty] one thousand dollars and  
302 suspend any license or certificate held by such dealer or distributor  
303 under this chapter [shall be suspended] for not less than thirty days.  
304 For a fourth violation on or before thirty-six months after the date of  
305 the first violation, said commissioner shall assess such dealer or

306 distributor a civil penalty of one thousand dollars and revoke any  
307 license or certificate issued to such dealer or distributor under this  
308 chapter. Said commissioner shall order such distributor or dealer to  
309 conspicuously post a notice in a public place within such distributor's  
310 or dealer's establishment stating that cigarettes and tobacco products  
311 cannot be sold during the period of such suspension or revocation and  
312 the reasons for such suspension or revocation. Any sale of cigarettes or  
313 a tobacco product by such dealer or distributor during such  
314 suspension or revocation shall be deemed an additional violation of  
315 this subsection.

316 [(d)] (c) If [said commissioner] the Commissioner of Revenue  
317 Services finds, after a hearing, that any owner of an establishment in  
318 which a cigarette vending machine or restricted cigarette vending  
319 machine is located has sold, given or delivered cigarettes or tobacco  
320 products from any such machine to a [minor] person under twenty-  
321 one years of age other than a [minor] person under twenty-one years  
322 of age who is delivering or accepting delivery in [his] such person's  
323 capacity as an employee, or has allowed cigarettes or tobacco products  
324 to be sold, given or delivered to such [minor] person from any such  
325 machine, said commissioner shall require such owner, for the first  
326 violation, to successfully complete an online tobacco prevention  
327 education program administered by the Department of Mental Health  
328 and Addiction Services not later than thirty days after said  
329 commissioner's finding. Said commissioner shall assess any owner  
330 who fails to complete such program a civil penalty of five hundred  
331 dollars. Said commissioner shall assess any owner a civil penalty of  
332 seven hundred fifty dollars for a second violation [within twenty-four  
333 months] on or before thirty-six months after the date of the first  
334 violation. For a third violation [within twenty-four months] on or  
335 before thirty-six months after the date of the first violation, said  
336 commissioner shall assess such owner [shall be assessed] a civil  
337 penalty of [seven hundred fifty] one thousand dollars and immediately  
338 remove any such machine [shall be immediately removed] from such  
339 establishment and no such machine may be placed in such  
340 establishment for a period of one year following such removal.

341 [(e)] (d) Any person aggrieved by any action of the commissioner  
342 pursuant to this section may take any appeal of such action as  
343 provided in sections 12-311 and 12-312.

344 (e) Not less than annually, the Commissioner of Revenue Services,  
345 or the commissioner's designee, shall conduct unannounced  
346 compliance checks on each dealer and distributor by engaging persons  
347 between the ages of eighteen and twenty to enter the establishment of  
348 each dealer and distributor to attempt to purchase cigarettes or a  
349 tobacco product. The commissioner shall conduct an unannounced  
350 follow-up compliance check of all noncompliant dealers and  
351 distributors not later than three months after the date of  
352 noncompliance. The commissioner shall annually publish the names of  
353 all noncompliant dealers and distributors on the Department of  
354 Revenue Services' Internet web site.

355 Sec. 8. Section 12-314a of the general statutes is repealed and the  
356 following is substituted in lieu thereof (*Effective October 1, 2019*):

357 The Commissioner of Revenue Services may authorize a dealer or  
358 distributor to give or deliver [any] a cigarette, as defined in section 12-  
359 285, as amended by this act, or tobacco product, as defined in section  
360 12-330a, as amended by this act, in connection with the promotion or  
361 advertisement of such cigarette or tobacco product without receiving  
362 monetary consideration from the person receiving the cigarette or  
363 tobacco product, provided (1) such [distribution] giving or delivery is  
364 on the premises of a licensed dealer, as defined in said section, [12-285]  
365 or at any event or establishment with an area the access to which is  
366 limited to [adult] patrons twenty-one years of age or older, provided  
367 such [distribution] giving or delivery is restricted to such area, (2) the  
368 sample of cigarettes, if applicable, contains no less than two cigarettes,  
369 [and] (3) the taxes on such cigarettes have been previously paid, and  
370 (4) the giving or delivery of the sample is done in accordance with  
371 federal laws and regulations governing the giving or delivery of  
372 samples of cigarettes and tobacco products. The licensed dealer or  
373 distributor shall be liable for any gift or delivery of cigarettes or

374 tobacco products to [minors] a person under twenty-one years of age  
375 on [his] the premises by any person conducting a promotion or  
376 advertisement of such cigarette or tobacco product in accordance with  
377 this section. This section shall not apply to the gift or delivery of a  
378 cigarette package in connection with a sale of similar package of  
379 cigarettes.

380 Sec. 9. Section 21a-415 of the general statutes is repealed and the  
381 following is substituted in lieu thereof (*Effective October 1, 2019*):

382 (a) As used in this chapter, sections 11 to 14, inclusive, and section  
383 22 of this act:

384 (1) "Electronic nicotine delivery system" means an electronic device  
385 used in the delivery of nicotine or other substances to a person  
386 inhaling from the device, and includes, but is not limited to, an  
387 electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe  
388 or electronic hookah and any related device and any cartridge or other  
389 component of such device;

390 (2) "Vapor product" means any product that employs a heating  
391 element, power source, electronic circuit or other electronic, chemical  
392 or mechanical means, regardless of shape or size, to produce a vapor  
393 that may include nicotine, that is inhaled by the user of such product,  
394 but shall not include a medicinal or therapeutic product that is (A)  
395 used by a licensed health care provider to treat a patient in a health  
396 care setting, (B) used by a patient, as prescribed or directed by a  
397 licensed health care provider in any setting, or (C) any drug or device,  
398 as defined in the federal Food, Drug and Cosmetic Act, 21 USC 321, as  
399 amended from time to time, or any combination product, as described  
400 in said act, 21 USC 353(g), as amended from time to time, authorized  
401 for sale by the United States Food and Drug Administration;

402 (3) "Sale" or "sell" means an act done intentionally by any person,  
403 whether done as principal, proprietor, agent, servant or employee, of  
404 transferring, or offering or attempting to transfer, for consideration,  
405 including bartering or exchanging, or offering to barter or exchange;

406 and

407 (4) "Deliver" or "delivering" means an act done intentionally by any  
408 person, whether as principal, proprietor, agent, servant or employee,  
409 of transferring, or offering or attempting to transfer, physical  
410 possession or control of an electronic nicotine delivery system or vapor  
411 product.

412 [(a) On and after March 1, 2016, no] (b) No person in this state may  
413 sell, offer for sale or possess with intent to sell an electronic nicotine  
414 delivery system or a vapor product unless such person has obtained an  
415 electronic nicotine delivery system certificate of dealer registration  
416 from the Commissioner of Consumer Protection pursuant to this  
417 section for the place of business where such system or product is sold,  
418 offered for sale or possessed with the intent to sell. An electronic  
419 nicotine delivery system certificate of dealer registration shall allow  
420 the sale of electronic nicotine delivery systems or vapor products at  
421 such place of business. A holder of an electronic nicotine delivery  
422 system certificate of dealer registration shall post such registration in a  
423 prominent location adjacent to electronic nicotine delivery system  
424 products or vapor products offered for sale. For the purposes of this  
425 section, "person" means each owner of a business organization, or such  
426 owner's authorized designee, provided each affiliate of a business  
427 organization that is under common control or ownership shall  
428 constitute a separate person and "person" includes, but is not limited  
429 to, retailers, wholesalers and dealers.

430 [(b)] (c) (1) [On or after January 1, 2016, any] Any person desiring an  
431 electronic nicotine delivery system certificate of dealer registration or a  
432 renewal of such a certificate of dealer registration shall make a sworn  
433 application therefor to the Department of Consumer Protection upon  
434 forms to be furnished by the department, showing the name, address  
435 and electronic mail address of the applicant and the location of the  
436 place of business which is to be operated under such certificate of  
437 dealer registration. The department may require that an applicant  
438 submit documents sufficient to establish that state and local building,

439 fire and zoning requirements will be met at the location of any sale.  
440 The department may, in its discretion, conduct an investigation to  
441 determine whether a certificate of dealer registration shall be issued to  
442 an applicant.

443 (2) The commissioner shall issue an electronic nicotine delivery  
444 system certificate of dealer registration to any such applicant not later  
445 than thirty days after the date of application unless the commissioner  
446 finds: (A) The applicant has wilfully made a materially false statement  
447 in such application or in any other application made to the  
448 commissioner; or (B) the applicant has neglected to pay any taxes due  
449 to this state.

450 (3) A certificate of dealer registration issued under this section shall  
451 be renewed annually and may be suspended or revoked at the  
452 discretion of the Department of Consumer Protection. Any person  
453 aggrieved by a denial of an application, refusal to renew a dealer  
454 registration or suspension or revocation of a dealer registration may  
455 appeal in the manner prescribed for permits under section 30-55. An  
456 electronic nicotine delivery system certificate of dealer registration  
457 shall not constitute property, nor shall it be subject to attachment and  
458 execution, nor shall it be alienable.

459 (4) The applicant shall pay to the department a nonrefundable  
460 application fee of seventy-five dollars, which fee shall be in addition to  
461 the annual fee prescribed in subsection [(c)] (d) of this section. An  
462 application fee shall not be charged for an application to renew a  
463 certificate of dealer registration.

464 [(c)] (d) The annual fee for an electronic nicotine delivery system  
465 certificate of dealer registration shall be [four hundred] one thousand  
466 dollars.

467 [(d)] (e) The department may renew a certificate of dealer  
468 registration issued under this section that has expired if the applicant  
469 pays to the department any fine imposed by the commissioner  
470 pursuant to subsection (c) of section 21a-4, which fine shall be in

471 addition to the fees prescribed in this section for the certificate of  
472 dealer registration applied for. The provisions of this subsection shall  
473 not apply to any certificate of dealer registration which is the subject of  
474 administrative or court proceedings.

475 [(e)] (f) (1) Any person in this state who knowingly sells, offers for  
476 sale or possesses with intent to sell an electronic nicotine delivery  
477 system or vapor product from a place of business that does not have a  
478 certificate of dealer registration as required under this section shall be  
479 fined not more than fifty dollars for each day of such violation, except  
480 that the commissioner may waive all or any part of such fine if it is  
481 proven to the commissioner's satisfaction that the failure to obtain or  
482 renew such certificate of dealer registration was due to reasonable  
483 cause.

484 (2) Notwithstanding the provisions of subdivision (1) of this  
485 subsection, any person whose electronic nicotine delivery system  
486 certificate of dealer registration for the place of business where  
487 electronic nicotine delivery systems or vapor products are sold, offered  
488 for sale or possessed with the intent to sell has expired and who  
489 knowingly sells, offers for sale or possesses with intent to sell an  
490 electronic nicotine delivery system or vapor product, where such  
491 person's period of operation without such certificate of dealer  
492 registration is not more than ninety days from the date of expiration of  
493 such certificate of dealer registration, shall have committed an  
494 infraction and shall be fined ninety dollars for each day such person is  
495 in violation of this subdivision.

496 (3) Notwithstanding the provisions of subdivisions (1) and (2) of  
497 this subsection, no penalty shall be imposed under this subsection  
498 unless the commissioner sends written notice of any violation to the  
499 person who is subject to a penalty under subdivision (1) or (2) of this  
500 subsection and allows such person sixty days from the date such notice  
501 was sent to cease such violation and comply with the requirements of  
502 this section. Such written notice shall be sent by mail evidenced by a  
503 certificate of mailing or other similar United States Postal Service form



504 from which the date of deposit can be verified or by electronic mail to  
505 the electronic mail address designated by such person on its  
506 application or renewal application for nicotine delivery system  
507 certificate of dealer registration.

508 Sec. 10. Section 21a-416 of the general statutes is repealed and the  
509 following is substituted in lieu thereof (*Effective October 1, 2019*):

510 [(a) For the purposes of this section:

511 (1) "Electronic nicotine delivery system" has the same meaning as  
512 provided in section 19a-342.

513 (2) "Vapor product" has the same meaning as provided in section  
514 19a-342.

515 (3) "Retail establishment" has the same meaning as provided in  
516 section 19a-106a.]

517 [(b) (1)] (a) Except as provided in [subdivision (3) of this] subsection  
518 (b) of this section, no [retail establishment] person with an electronic  
519 nicotine delivery system certificate of dealer registration may sell or  
520 offer for sale at a retail establishment, as defined in section 19a-106a, an  
521 electronic nicotine delivery system or a vapor product by any means  
522 other than an employee-assisted sale where the customer has no direct  
523 access to the electronic nicotine delivery system or vapor product  
524 except through the assistance of such person or the employee of such  
525 [retail establishment] person.

526 [(2) No retail establishment may sell or offer for sale an electronic  
527 nicotine delivery system or a vapor product from a self-service  
528 display.]

529 [(3)] (b) The provisions of [subdivisions (1) and (2)] of this  
530 subsection shall not apply to a [retail establishment] person with an  
531 electronic nicotine delivery system certificate of dealer registration if  
532 [minors] persons under the age of twenty-one are prohibited from  
533 entering the retail establishment operated by such person and the

534 prohibition on [minors] persons under the age of twenty-one entering  
535 the retail establishment is posted clearly on all entrances of the retail  
536 establishment.

537 Sec. 11. (NEW) (*Effective October 1, 2019*) There is established an  
538 account to be known as the "electronic nicotine delivery system and  
539 vapor product enforcement account" which shall be a separate,  
540 nonlapsing account within the General Fund. Four hundred eighty  
541 dollars of each dealer registration fee collected under section 21a-415 of  
542 the general statutes, as amended by this act, shall be deposited into the  
543 account. The Commissioner of Consumer Protection may expend  
544 moneys from the account as is necessary to administer the registration  
545 of dealers under said section, for the education and training of such  
546 dealers and for inspections of such dealers' retail establishments and  
547 unannounced compliance checks of such retail establishments to  
548 enforce the provisions of chapter 420g of the general statutes and  
549 section 53-344b of the general statutes, as amended by this act.

550 Sec. 12. (NEW) (*Effective October 1, 2019*) (a) The Commissioner of  
551 Consumer Protection may suspend or revoke the electronic nicotine  
552 delivery system certificate of registration of any dealer for (1) failure to  
553 comply with any provision of chapter 420g of the general statutes or  
554 regulations related thereto, or the provisions of section 13 of this act, or  
555 (2) the sale or delivery of an electronic nicotine delivery system or a  
556 vapor products to a person under twenty-one years of age, following a  
557 hearing with respect to which notice in writing, specifying the time  
558 and place of such hearing and requiring such dealer to show cause  
559 why such dealer registration should not be revoked, is mailed or  
560 delivered to such dealer not less than ten days preceding the date of  
561 such hearing. Such notice may be served personally or by registered or  
562 certified mail.

563 (b) The commissioner shall not issue a new dealer registration to a  
564 former dealer whose dealer registration was revoked unless the  
565 commissioner is satisfied that such dealer will comply with the  
566 provisions of chapter 420g of the general statutes and any regulations

567 related thereto, and section 53-344b of the general statutes, as amended  
568 by this act.

569       Sec. 13. (NEW) (*Effective October 1, 2019*) (a) If the Commissioner of  
570 Consumer Protection finds, after a hearing, that (1) any person issued  
571 an electronic nicotine delivery system certificate of dealer registration  
572 under section 21a-415 of the general statutes, as amended by this act,  
573 has sold, given or delivered an electronic nicotine delivery system or  
574 vapor product to a person under twenty-one years of age, other than a  
575 person under twenty-one years of age who is delivering or accepting  
576 delivery in such person's capacity as an employee, or (2) such dealer's  
577 employee has sold, given or delivered an electronic nicotine delivery  
578 system or vapor product to a person under twenty-one years of age,  
579 the commissioner shall assess such dealer a civil penalty of three  
580 hundred dollars for the first violation. The commissioner shall assess  
581 such dealer a civil penalty of seven hundred fifty dollars for a second  
582 violation on or before thirty-six months after the date of the first  
583 violation. For a third violation by a dealer on or before thirty-six  
584 months after the date of the first violation, the commissioner shall  
585 assess the dealer a civil penalty of one thousand dollars and suspend  
586 any registration held by such dealer under chapter 420g of the general  
587 statutes. For a fourth violation on or before thirty-six months after the  
588 date of the first violation, the commissioner shall assess the dealer a  
589 civil penalty of one thousand dollars and revoke any registration held  
590 by such dealer under said chapter. The commissioner shall order such  
591 dealer to conspicuously post a notice in a public place stating that  
592 electronic nicotine delivery systems and vapor products cannot be sold  
593 during the period of suspension or revocation and the reasons for such  
594 suspension or revocation. Any sale of an electronic nicotine delivery  
595 system or vapor product by such dealer during the period of such  
596 suspension or revocation shall be deemed an additional violation of  
597 this section.

598       (b) Each person with an electronic nicotine delivery system  
599 certificate of dealer registration shall place and maintain in legible  
600 condition at each point of sale of electronic nicotine delivery systems

601 or vapor products a notice to consumers that states (1) the sale, giving  
602 or delivering of electronic nicotine delivery systems and vapor  
603 products to any person under twenty-one years of age is prohibited by  
604 section 53-344b of the general statutes, as amended by this act, (2) the  
605 use of false identification by a person under twenty-one years of age to  
606 purchase an electronic nicotine delivery system or a vapor product is  
607 prohibited, and (3) the penalties and fines for violating the provisions  
608 of this section and section 53-344b of the general statutes, as amended  
609 by this act.

610 (c) Not less than annually, the Commissioner of Consumer  
611 Protection, or the commissioner's designee, shall conduct an  
612 unannounced compliance check on each person holding an electronic  
613 nicotine delivery system certificate of dealer registration by engaging  
614 persons between the ages of eighteen and twenty to enter the  
615 establishment of each such dealer to attempt to purchase an electronic  
616 nicotine delivery system or a vapor product. The commissioner shall  
617 conduct an unannounced follow-up compliance check of all  
618 noncompliant dealers not later than three months after the date of  
619 noncompliance. The commissioner shall annually publish the names of  
620 all noncompliant dealers on the Department of Consumer Protection's  
621 Internet web site.

622 Sec. 14. (NEW) (*Effective October 1, 2019*) The Commissioner of  
623 Consumer Protection may authorize any person holding an electronic  
624 nicotine delivery system certificate of dealer registration under section  
625 21a-415 of the general statutes, as amended by this act, to give or  
626 deliver an electronic nicotine delivery system or vapor product in  
627 connection with the promotion or advertisement of such electronic  
628 nicotine delivery system or vapor product without receiving monetary  
629 consideration from the person receiving the electronic nicotine  
630 delivery system or vapor product, provided (1) such giving or delivery  
631 is at the retail establishment, as defined in section 19a-106a of the  
632 general statutes, of a registered dealer or at any event or establishment  
633 with an area the access to which is limited to persons twenty-one years  
634 of age or older, provided such giving or delivery is restricted to such

635 area, (2) the sample of electronic nicotine delivery systems or vapor  
636 products, if applicable, contains no less than two such systems or  
637 products, (3) the taxes on such electronic nicotine delivery system or  
638 vapor product have been previously paid, and (4) the giving or  
639 delivery of the sample is done in accordance with federal laws and  
640 regulations governing the giving or delivery of electronic nicotine  
641 delivery systems and vapor products. The registered dealer shall be  
642 liable for any gift or delivery of an electronic nicotine delivery system  
643 or vapor product to a person under twenty-one years of age on the  
644 premises by any person conducting a promotion or advertisement of  
645 such electronic nicotine delivery system or vapor product in  
646 accordance with this section. This section shall not apply to the gift or  
647 delivery of an electronic nicotine delivery system or vapor product in  
648 connection with a sale of a similar electronic nicotine delivery system  
649 or vapor product.

650 Sec. 15. Section 53-344 of the general statutes is repealed and the  
651 following is substituted in lieu thereof (*Effective October 1, 2019*):

652 (a) As used in this section:

653 (1) "Cardholder" means any person who presents a driver's license  
654 or an identity card to a seller or seller's agent or employee, to purchase  
655 or receive tobacco from such seller or seller's agent or employee;

656 (2) "Cigarette" has the same meaning as provided in subsection (b)  
657 of section 12-285, as amended by this act;

658 ~~[(2)]~~ (3) "Identity card" means an identification card issued in  
659 accordance with the provisions of section 1-1h;

660 (4) "Sale" has the same meaning as provided in section 53-344b, as  
661 amended by this act;

662 (5) "Give" or "giving" has the same meaning as provided in section  
663 53-344b, as amended by this act;

664 (6) "Deliver" or "delivering" has the same meaning as provided in

665 section 53-344b, as amended by this act;

666 (7) "Seller" means any person engaged in the sale, giving or  
667 delivering of cigarettes or tobacco products;

668 (8) "Tobacco product" has the same meaning as provided in section  
669 12-285, as amended by this act;

670 [(3)] (9) "Transaction scan" means the process by which a seller or  
671 seller's agent or employee checks, by means of a transaction scan  
672 device, the validity of a driver's license or an identity card; and

673 [(4)] (10) "Transaction scan device" means any commercial device or  
674 combination of devices used at a point of sale that is capable of  
675 deciphering in an electronically readable format the information  
676 encoded on the magnetic strip or bar code of a driver's license or an  
677 identity card.

678 (b) Any person who sells, gives or delivers to any person under  
679 [eighteen] twenty-one years of age [tobacco] cigarettes or a tobacco  
680 product shall be fined not more than [two] three hundred dollars for  
681 the first offense, not more than [three] seven hundred fifty dollars for a  
682 second offense [within a twenty-four-month period] on or before  
683 thirty-six months after the date of the first offense and not more than  
684 [five hundred] one thousand dollars for each subsequent offense  
685 [within a twenty-four-month period] on or before thirty-six months  
686 after the date of the first offense. The provisions of this subsection shall  
687 not apply to a person under [eighteen] twenty-one years of age who is  
688 delivering or accepting delivery of cigarettes or a tobacco product (1)  
689 in such person's capacity as an employee, or (2) as part of a scientific  
690 study being conducted by an organization for the purpose of medical  
691 research to further efforts in cigarette and tobacco product use  
692 prevention and cessation, provided such medical research has been  
693 approved by the organization's institutional review board, as defined  
694 in section 21a-408.

695 (c) Any person under [eighteen] twenty-one years of age who

696 [purchases or] misrepresents such person's age to purchase cigarettes  
697 or a tobacco [in any form or possesses tobacco in any form in any  
698 public place] product shall be fined not more than fifty dollars for the  
699 first offense and not less than fifty dollars or more than one hundred  
700 dollars for each subsequent offense. [For purposes of this subsection,  
701 "public place" means any area that is used or held out for use by the  
702 public whether owned or operated by public or private interests.]

703 (d) (1) A seller or seller's agent or employee may perform a  
704 transaction scan to check the validity of a driver's license or identity  
705 card presented by a cardholder as a condition for selling, giving away  
706 or otherwise distributing cigarettes or a tobacco product to the  
707 cardholder.

708 (2) If the information deciphered by the transaction scan performed  
709 under subdivision (1) of this subsection fails to match the information  
710 printed on the driver's license or identity card presented by the  
711 cardholder, or if the transaction scan indicates that the information so  
712 printed is false or fraudulent, neither the seller nor any seller's agent or  
713 employee shall sell, give away or otherwise distribute any cigarettes or  
714 a tobacco product to the cardholder.

715 (3) Subdivision (1) of this subsection does not preclude a seller or  
716 seller's agent or employee from using a transaction scan device to  
717 check the validity of a document other than a driver's license or an  
718 identity card, if the document includes a bar code or magnetic strip  
719 that may be scanned by the device, as a condition for selling, giving  
720 away or otherwise distributing cigarettes or a tobacco product to the  
721 person presenting the document.

722 (e) (1) No seller or seller's agent or employee shall electronically or  
723 mechanically record or maintain any information derived from a  
724 transaction scan, except the following: (A) The name and date of birth  
725 of the person listed on the driver's license or identity card presented by  
726 a cardholder; (B) the expiration date and identification number of the  
727 driver's license or identity card presented by a cardholder.

728 (2) No seller or seller's agent or employee shall use a transaction  
729 scan device for a purpose other than the purposes specified in  
730 subsection (e) of section 53-344b, as amended by this act, subsection (d)  
731 of this section or subsection (c) of section 30-86.

732 (3) No seller or seller's agent or employee shall sell or otherwise  
733 disseminate the information derived from a transaction scan to any  
734 third party, including, but not limited to, selling or otherwise  
735 disseminating that information for any marketing, advertising or  
736 promotional activities, but a seller or seller's agent or employee may  
737 release that information pursuant to a court order.

738 (4) Nothing in subsection (d) of this section or this subsection  
739 relieves a seller or seller's agent or employee of any responsibility to  
740 comply with any other applicable state or federal laws or rules  
741 governing the sale, giving away or other distribution of cigarettes or  
742 tobacco products.

743 (5) Any person who violates this subsection shall be subject to a civil  
744 penalty of not more than one thousand dollars.

745 (f) (1) In any prosecution of a seller or seller's agent or employee for  
746 a violation of subsection (b) of this section, it shall be an affirmative  
747 defense that all of the following occurred: (A) A cardholder attempting  
748 to purchase or receive cigarettes or a tobacco product presented a  
749 driver's license or an identity card; (B) a transaction scan of the driver's  
750 license or identity card that the cardholder presented indicated that the  
751 license or card was valid and indicated that the cardholder was at least  
752 twenty-one years of age; and (C) the cigarettes or a tobacco product  
753 was sold, given away or otherwise distributed to the cardholder in  
754 reasonable reliance upon the identification presented and the  
755 completed transaction scan.

756 (2) In determining whether a seller or seller's agent or employee has  
757 proven the affirmative defense provided by subdivision (1) of this  
758 section, the trier of fact in such prosecution shall consider that  
759 reasonable reliance upon the identification presented and the



760 completed transaction scan may require a seller or seller's agent or  
761 employee to exercise reasonable diligence and that the use of a  
762 transaction scan device does not excuse a seller or seller's agent or  
763 employee from exercising such reasonable diligence to determine the  
764 following: (A) Whether a person to whom the seller or seller's agent or  
765 employee sells, gives away or otherwise distributes cigarettes or a  
766 tobacco product is [eighteen] twenty-one years of age or older; and (B)  
767 whether the description and picture appearing on the driver's license  
768 or identity card presented by a cardholder is that of the cardholder.

769 Sec. 16. Section 53-344a of the general statutes is repealed and the  
770 following is substituted in lieu thereof (*Effective October 1, 2019*):

771 Each retailer of cigarettes or tobacco products or agent, employee or  
772 representative of such retailer shall require a person who is purchasing  
773 or attempting to purchase cigarettes or tobacco products, [whose age is  
774 in question] who appears to be under the age of thirty, to exhibit  
775 proper proof of age. If a person fails to provide such proof of age, such  
776 retailer or agent, employee or representative shall not sell cigarettes or  
777 tobacco products to the person. As used in this section, "proper proof"  
778 means a motor vehicle operator's license, a valid passport or an  
779 identity card issued in accordance with the provisions of section 1-1h.

780 Sec. 17. Section 53-344b of the general statutes is repealed and the  
781 following is substituted in lieu thereof (*Effective October 1, 2019*):

782 (a) As used in this section: [and sections 21a-415 and 21a-415a:]

783 (1) "Electronic nicotine delivery system" means an electronic device  
784 [that may be used to simulate smoking] used in the delivery of nicotine  
785 or other [substance] substances to a person inhaling from the device,  
786 and includes, but is not limited to, an electronic cigarette, electronic  
787 cigar, electronic cigarillo, electronic pipe or electronic hookah and any  
788 related device and any cartridge [, electronic cigarette liquid] or other  
789 component of such device;

790 (2) "Cardholder" means any person who presents a driver's license

791 or an identity card to a seller or seller's agent or employee, to purchase  
792 or receive an electronic nicotine delivery system or vapor product from  
793 such seller or seller's agent or employee;

794 (3) "Identity card" means an identification card issued in accordance  
795 with the provisions of section 1-1h;

796 (4) "Transaction scan" means the process by which a seller or seller's  
797 agent or employee checks, by means of a transaction scan device, the  
798 validity of a driver's license or an identity card;

799 (5) "Transaction scan device" means any commercial device or  
800 combination of devices used at a point of sale that is capable of  
801 deciphering in an electronically readable format the information  
802 encoded on the magnetic strip or bar code of a driver's license or an  
803 identity card;

804 (6) "Sale" or "sell" means an act done intentionally by any person,  
805 whether done as principal, proprietor, agent, servant or employee, of  
806 transferring, or offering or attempting to transfer, for consideration, an  
807 electronic nicotine delivery system or vapor product, including  
808 bartering or exchanging, or offering to barter or exchange, an  
809 electronic nicotine delivery system or vapor product;

810 (7) "Give" or "giving" means an act done intentionally by any  
811 person, whether done as principal, proprietor, agent, servant or  
812 employee, of transferring, or offering or attempting to transfer,  
813 without consideration, an electronic nicotine delivery system or vapor  
814 product;

815 (8) "Deliver" or "delivering" means an act done intentionally by any  
816 person, whether as principal, proprietor, agent, servant or employee,  
817 of transferring, or offering or attempting to transfer, physical  
818 possession or control of an electronic nicotine delivery system or vapor  
819 product;

820 (9) "Vapor product" means any product that employs a heating  
821 element, power source, electronic circuit or other electronic, chemical

822 or mechanical means, regardless of shape or size, to produce a vapor  
823 that may [or may not] include nicotine, that is inhaled by the user of  
824 such product; [and]

825 (10) "Electronic cigarette liquid" means a [liquid] substance that,  
826 when used in an electronic nicotine delivery system or vapor product,  
827 produces [a vapor] an aerosol that may [or may not] include nicotine  
828 and is inhaled by the user of such electronic nicotine delivery system  
829 or vapor product; [.] and

830 (11) "Seller" means any person who sells, gives or delivers an  
831 electronic nicotine delivery system or vapor product.

832 (b) Any person who sells, gives or delivers to any person under  
833 [eighteen] twenty-one years of age an electronic nicotine delivery  
834 system or vapor product in any form shall be fined not more than  
835 [two] three hundred dollars for the first offense, not more than [three]  
836 seven hundred fifty dollars for a second offense [within a twenty-four-  
837 month period] on or before thirty-six months after the date of the first  
838 offense and not more than [five hundred] one thousand dollars for  
839 each subsequent offense [within a twenty-four-month period] on or  
840 before thirty-six months after the date of the first offense. The  
841 provisions of this subsection shall not apply to a person under  
842 [eighteen] twenty-one years of age who is delivering or accepting  
843 delivery of an electronic nicotine delivery system or vapor product (1)  
844 in such person's capacity as an employee, or (2) as part of a scientific  
845 study being conducted by an organization for the purpose of medical  
846 research to further efforts in tobacco use prevention and cessation,  
847 provided such medical research has been approved by the  
848 organization's institutional review board, as defined in section 21a-408.

849 (c) Any person under [eighteen] twenty-one years of age who  
850 [purchases or] misrepresents such person's age to purchase an  
851 electronic nicotine delivery system or vapor product in any form [or  
852 possesses an electronic nicotine delivery system or vapor product in  
853 any form in any public place] shall be fined not more than fifty dollars  
854 for the first offense and not less than fifty dollars or more than one

855 hundred dollars for each subsequent offense. [For purposes of this  
856 subsection "public place" means any area that is used or held out for  
857 use by the public whether owned or operated by public or private  
858 interests.]

859 (d) (1) A seller or seller's agent or employee may perform a  
860 transaction scan to check the validity of a driver's license or identity  
861 card presented by a cardholder as a condition for selling, giving or  
862 otherwise delivering an electronic nicotine delivery system or vapor  
863 product to the cardholder.

864 (2) If the information deciphered by the transaction scan performed  
865 under subdivision (1) of this subsection fails to match the information  
866 printed on the driver's license or identity card presented by the  
867 cardholder, or if the transaction scan indicates that the information so  
868 printed is false or fraudulent, neither the seller nor any seller's agent or  
869 employee shall sell, give or otherwise deliver any electronic nicotine  
870 delivery system or vapor product to the cardholder.

871 (3) Subdivision (1) of this subsection does not preclude a seller or  
872 seller's agent or employee from using a transaction scan device to  
873 check the validity of a document other than a driver's license or an  
874 identity card, if the document includes a bar code or magnetic strip  
875 that may be scanned by the device, as a condition for selling, giving or  
876 otherwise delivering an electronic nicotine delivery system or vapor  
877 product to the person presenting the document.

878 (e) (1) No seller or seller's agent or employee shall electronically or  
879 mechanically record or maintain any information derived from a  
880 transaction scan, except the following: (A) The name and date of birth  
881 of the person listed on the driver's license or identity card presented by  
882 a cardholder; and (B) the expiration date and identification number of  
883 the driver's license or identity card presented by a cardholder.

884 (2) No seller or seller's agent or employee shall use a transaction  
885 scan device for a purpose other than the purposes specified in  
886 subsection (d) of this section, subsection (d) of section 53-344, as

887 amended by this act, or subsection (c) of section 30-86.

888 (3) No seller or seller's agent or employee shall sell or otherwise  
889 disseminate the information derived from a transaction scan to any  
890 third party, including, but not limited to, selling or otherwise  
891 disseminating that information for any marketing, advertising or  
892 promotional activities, but a seller or seller's agent or employee may  
893 release that information pursuant to a court order.

894 (4) Nothing in subsection (d) of this section or this subsection  
895 relieves a seller or seller's agent or employee of any responsibility to  
896 comply with any other applicable state or federal laws or rules  
897 governing selling, giving or otherwise delivering electronic nicotine  
898 delivery systems or vapor products.

899 (5) Any person who violates this subsection shall be subject to a civil  
900 penalty of not more than one thousand dollars.

901 (f) (1) In any prosecution of a seller or seller's agent or employee for  
902 a violation of subsection (b) of this section, it shall be an affirmative  
903 defense that all of the following occurred: (A) A cardholder attempting  
904 to purchase or receive an electronic nicotine delivery system or vapor  
905 product presented a driver's license or an identity card; (B) a  
906 transaction scan of the driver's license or identity card that the  
907 cardholder presented indicated that the license or card was valid and  
908 indicated that the cardholder was at least twenty-one years of age; and  
909 (C) the electronic nicotine delivery system or vapor product was sold,  
910 given or otherwise delivered to the cardholder in reasonable reliance  
911 upon the identification presented and the completed transaction scan.

912 (2) In determining whether a seller or seller's agent or employee has  
913 proven the affirmative defense provided by subdivision (1) of this  
914 section, the trier of fact in such prosecution shall consider that  
915 reasonable reliance upon the identification presented and the  
916 completed transaction scan may require a seller or seller's agent or  
917 employee to exercise reasonable diligence and that the use of a  
918 transaction scan device does not excuse a seller or seller's agent or

919 employee from exercising such reasonable diligence to determine the  
920 following: (A) Whether a person to whom the seller or seller's agent or  
921 employee sells, gives or otherwise delivers an electronic nicotine  
922 delivery system or vapor product is [eighteen] twenty-one years of age  
923 or older; and (B) whether the description and picture appearing on the  
924 driver's license or identity card presented by a cardholder is that of the  
925 cardholder.

926 (g) Each seller of electronic nicotine delivery systems or vapor  
927 products or such seller's agent or employee shall require a person who  
928 is purchasing or attempting to purchase an electronic nicotine delivery  
929 system or vapor product [ , whose age is in question,] and appears to be  
930 under the age of thirty to exhibit proper proof of age. If a person fails  
931 to provide such proof of age, such seller or seller's agent or employee  
932 shall not sell an electronic nicotine delivery system or vapor product to  
933 the person. As used in this subsection, "proper proof" means a motor  
934 vehicle operator's license, a valid passport or an identity card issued in  
935 accordance with the provisions of section 1-1h.

936 Sec. 18. Subdivision (1) of subsection (b) of section 19a-342 of the  
937 general statutes is repealed and the following is substituted in lieu  
938 thereof (*Effective October 1, 2019*):

939 (b) (1) Notwithstanding the provisions of section 31-40q, no person  
940 shall smoke: (A) In any building or portion of a building, partially  
941 enclosed shelter on a rail platform or bus shelter owned and operated  
942 or leased and operated by the state or any political subdivision thereof;  
943 (B) in any area of a health care institution; (C) in any area of a retail  
944 food store; (D) in any restaurant; (E) in any area of an establishment  
945 with a permit issued for the sale of alcoholic liquor pursuant to section  
946 30-20a, 30-21, 30-21b, 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-  
947 35a, 30-37a, 30-37e or 30-37f, in any area of an establishment with a  
948 permit for the sale of alcoholic liquor pursuant to section 30-23 issued  
949 after May 1, 2003, and, on and after April 1, 2004, in any area of an  
950 establishment with a permit issued for the sale of alcoholic liquor  
951 pursuant to section 30-22a or 30-26 or the bar area of a bowling

952 establishment holding a permit pursuant to subsection (a) of section  
953 30-37c; (F) within a school building [while school is in session or  
954 student activities are being conducted] or on the grounds of such  
955 school; (G) within a child care facility or on the grounds of such child  
956 care facility, except, if the child care facility is a family child care home,  
957 as defined in section 19a-77, such smoking is prohibited only when a  
958 child enrolled in such home is present; (H) in any passenger elevator,  
959 provided no person shall be arrested for violating this subsection  
960 unless there is posted in such elevator a sign which indicates that  
961 smoking is prohibited by state law; [(H)] (I) in any dormitory in any  
962 public or private institution of higher education; or [(I)] (J) on and after  
963 April 1, 2004, in any area of a dog race track or a facility equipped with  
964 screens for the simulcasting of off-track betting race programs or jai  
965 alai games. For purposes of this subsection, "restaurant" means space,  
966 in a suitable and permanent building, kept, used, maintained,  
967 advertised and held out to the public to be a place where meals are  
968 regularly served to the public, "school" has the same meaning as  
969 provided in section 10-154a and "child care facility" has the same  
970 meaning as provided in section 19a-342a, as amended by this act.

971 Sec. 19. Subdivision (1) of subsection (b) of section 19a-342a of the  
972 general statutes is repealed and the following is substituted in lieu  
973 thereof (*Effective October 1, 2019*):

974 (b) (1) No person shall use an electronic nicotine delivery system or  
975 vapor product: (A) In any building or portion of a building owned and  
976 operated or leased and operated by the state or any political  
977 subdivision thereof; (B) in any area of a health care institution; (C) in  
978 any area of a retail food store; (D) in any restaurant; (E) in any area of  
979 an establishment with a permit issued for the sale of alcoholic liquor  
980 pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22a, 30-22c, 30-26,  
981 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any  
982 area of establishment with a permit issued for the sale of alcoholic  
983 liquor pursuant to section 30-23 issued after May 1, 2003, or the bar  
984 area of a bowling establishment holding a permit pursuant to  
985 subsection (a) of section 30-37c; (F) within a school building [while

986 school is in session or student activities are being conducted] or on the  
987 grounds of such school; (G) within a child care facility or on the  
988 grounds of such child care facility, except, if the child care facility is a  
989 family child care home as defined in section 19a-77, such use is  
990 prohibited only when a child enrolled in such home is present; (H) in  
991 any passenger elevator, provided no person shall be arrested for  
992 violating this subsection unless there is posted in such elevator a sign  
993 which indicates that such use is prohibited by state law; (I) in any  
994 dormitory in any public or private institution of higher education; or  
995 (J) in any area of a dog race track or a facility equipped with screens for  
996 the simulcasting of off-track betting race programs or jai alai games.  
997 For purposes of this subsection, "restaurant" means space, in a suitable  
998 and permanent building, kept, used, maintained, advertised and held  
999 out to the public to be a place where meals are regularly served to the  
1000 public, and "school" has the same meaning as provided in section 10-  
1001 154a.

1002 Sec. 20. (NEW) (*Effective October 1, 2019*) (a) As used in this section:

1003 (1) "Person" means any individual, firm, fiduciary, partnership,  
1004 corporation, limited liability company, trust or association, however  
1005 formed;

1006 (2) "Electronic nicotine delivery system" means an electronic device  
1007 used in the delivery of nicotine or other substances to a person  
1008 inhaling from the device, and includes, but is not limited to, an  
1009 electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe  
1010 or electronic hookah and any related device and any cartridge or other  
1011 component of such device; and

1012 (3) "Vapor product" means any product that employs a heating  
1013 element, power source, electronic circuit or other electronic, chemical  
1014 or mechanical means, regardless of shape or size, to produce a vapor  
1015 that may include nicotine, that is inhaled by the user of such product,  
1016 but shall not include a medicinal or therapeutic product that is (A)  
1017 used by a licensed health care provider to treat a patient in a health  
1018 care setting, (B) a patient, as prescribed or directed by a licensed health



1019 care provider in any setting, or (C) any drug or device, as defined in  
1020 the federal Food, Drug and Cosmetic Act, 21 USC 32, as amended from  
1021 time to time, or any combination product, as described in said act, 21  
1022 USC 353(g), as amended from time to time, authorized for sale by the  
1023 United States Food and Drug Administration.

1024 (b) A person with an electronic nicotine delivery system certificate  
1025 of dealer registration, when selling and shipping an electronic nicotine  
1026 delivery system or a vapor product directly to a consumer in the state,  
1027 shall: (1) Ensure that the shipping labels on all containers of a cigarette  
1028 or tobacco product shipped directly to a consumer in the state  
1029 conspicuously states the following: "CONTAINS AN ELECTRONIC  
1030 NICOTINE DELIVERY SYSTEM OR VAPOR PRODUCT –  
1031 SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR  
1032 DELIVERY"; and (2) obtain the signature of a person age twenty-one or  
1033 older at the shipping address prior to delivery, after requiring the  
1034 signer to demonstrate that he or she is age twenty-one or older by  
1035 providing a valid motor vehicle operator's license or a valid identity  
1036 card described in section 1-1h of the general statutes.

1037 Sec. 21. (NEW) (*Effective October 1, 2019*) (a) For purposes of this  
1038 section, (1) "flavored" means imparting a characterizing flavor, and (2)  
1039 "characterizing flavor" means a distinguishable taste or aroma, other  
1040 than the taste or aroma of tobacco, including, but not limited to, tastes  
1041 or aromas relating to any fruit, chocolate, menthol, mint, wintergreen,  
1042 vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice.

1043 (b) No distributor or dealer shall sell, offer for sale, display for sale  
1044 or possess with intent to sell any flavored cigarette or flavored tobacco  
1045 product. No cigarette or tobacco product shall be determined to be  
1046 flavored solely because of the use of additives or flavoring or the  
1047 inclusion of ingredient information. A public statement, claim or  
1048 indicia made or disseminated by the manufacturer of the cigarette or  
1049 tobacco product, or any person authorized by the manufacturer to  
1050 make or disseminate public statements concerning such cigarette or  
1051 tobacco product, that such cigarette or tobacco product has or

1052 produces a characterizing flavor shall constitute prima facie evidence  
1053 that such cigarette or tobacco product is a flavored cigarette or tobacco  
1054 product.

1055 (c) If the Commissioner of Revenue Services finds, after a hearing,  
1056 that a distributor or dealer knowingly violated any provision of  
1057 subsection (a) of this section, the commissioner shall find that such  
1058 dealer or distributor committed an infraction and shall assess such  
1059 dealer or distributor a civil penalty of three hundred dollars for the  
1060 first infraction or seven hundred fifty dollars for a second infraction on  
1061 or before thirty-six months after the date of the first infraction. For a  
1062 third infraction on or before thirty-six months after the date of the first  
1063 infraction, the commissioner shall assess such dealer or distributor a  
1064 civil penalty of one thousand dollars and suspend for not less than  
1065 thirty days or revoke any license held by such distributor or dealer. For  
1066 a fourth infraction on or before thirty-six months after the date of the  
1067 first infraction, the commissioner shall revoke any license held by such  
1068 distributor or dealer.

1069 Sec. 22. (NEW) (*Effective October 1, 2019*) (a) For purposes of this  
1070 section, (1) "flavored" means imparting a characterizing flavor, and (2)  
1071 "characterizing flavor" means a distinguishable taste or aroma, other  
1072 than the taste or aroma of tobacco, imparted either prior to or during  
1073 the use or consumption of an electronic nicotine delivery system or  
1074 vapor product, including, but not limited to, tastes or aromas relating  
1075 to any fruit, chocolate, menthol, mint, wintergreen, vanilla, honey,  
1076 candy, cocoa, dessert, alcoholic beverage, herb or spice.

1077 (b) No person with an electronic nicotine delivery system certificate  
1078 of dealer registration under section 21a-415 of the general statutes, as  
1079 amended by this act, shall sell, offer for sale, display for sale or possess  
1080 with intent to sell any flavored electronic nicotine delivery system or  
1081 flavored vapor product. No electronic nicotine delivery system or  
1082 vapor product shall be determined to be flavored solely because of the  
1083 use of additives or flavoring or the inclusion of ingredient information.  
1084 A public statement, claim or indicia made or disseminated by the

1085 manufacturer of the electronic nicotine delivery system, vapor product  
1086 or a component part of such system or product that such system,  
1087 product or component part thereof has or produces a characterizing  
1088 flavor shall constitute prima facie evidence that such system, product  
1089 or component part thereof is a flavored electronic nicotine delivery  
1090 system or flavored vapor product.

1091 (c) If the Commissioner of Consumer Protection finds, after a  
1092 hearing, that any such certificate holder knowingly violated any  
1093 provision of subsection (b) of this section, the commissioner shall find  
1094 that such certificate holder committed an infraction and assess such  
1095 certificate holder a civil penalty of three hundred dollars for the first  
1096 infraction or a civil penalty of seven hundred fifty dollars for any  
1097 second infraction on or before thirty-six months after the date of the  
1098 first infraction. For a third violation on or before thirty-six months after  
1099 the date of the first violation, the commissioner shall assess such  
1100 certificate holder a civil penalty of one thousand dollars and any  
1101 license or certificate held by such certificate holder under chapter 214  
1102 or 420g of the general statutes shall be revoked.

1103 Sec. 23. Section 12-285a of the general statutes is repealed and the  
1104 following is substituted in lieu thereof (*Effective October 1, 2019*):

1105 For purposes of sections 12-286a, as amended by this act, 12-295a, as  
1106 amended by this act, and 12-314a, as amended by this act: [and  
1107 subsection (a) of section 53-344:] (1) "Distributor" includes a  
1108 manufacturer of tobacco products; (2) "sale" or "sell" means an act done  
1109 intentionally by any person, whether done as principal, proprietor,  
1110 agent, servant or employee, of transferring, or offering or attempting to  
1111 transfer, for consideration, cigarettes or tobacco products, including  
1112 bartering or exchanging, or offering to barter or exchange, cigarettes or  
1113 tobacco products; (3) "give" or "giving" means an act done intentionally  
1114 by any person, whether done as principal, proprietor, agent, servant or  
1115 employee, of transferring, or offering or attempting to transfer,  
1116 without consideration, cigarettes or tobacco products; (4) "deliver" or  
1117 "delivering" means an act done intentionally by any person, whether as

1118 principal, proprietor, agent, servant or employee, of transferring, or  
1119 offering or attempting to transfer, physical possession or control of  
1120 cigarettes or tobacco products.

1121 Sec. 24. Subdivision (2) of subsection (e) of section 12-286 of the  
1122 general statutes is repealed and the following is substituted in lieu  
1123 thereof (*Effective October 1, 2019*):

1124 (2) Any person who knowingly sells at retail, offers for sale at retail  
1125 or possesses with intent to sell at retail any taxed tobacco products [, as  
1126 defined in section 12-330a,] without a dealer's license as provided in  
1127 this chapter, shall be fined not more than one thousand dollars or  
1128 imprisoned for not more than six months, or both, for each offense.  
1129 Each day of such unauthorized operation may be deemed a separate  
1130 offense. The provisions of this subdivision shall not apply to any  
1131 person whose dealer's license has expired, provided the period of  
1132 operation without such license is not more than ninety days from the  
1133 date of expiration.

1134 Sec. 25. Subdivision (2) of section 12-330a of the general statutes is  
1135 repealed and the following is substituted in lieu thereof (*Effective*  
1136 *October 1, 2019*):

1137 (2) ["Tobacco products" means cigars, cheroots, stogies, periques,  
1138 granulated, plug cut, crimp cut, ready rubbed and other smoking  
1139 tobacco, snuff tobacco products, cavendish, plug and twist tobacco,  
1140 fine cut and other chewing tobaccos, shorts, refuse scraps, clippings,  
1141 cuttings and sweepings of tobacco and all other kinds and forms of  
1142 tobacco, prepared in such manner as to be suitable for chewing or  
1143 smoking in a pipe or otherwise or for both chewing and smoking, but  
1144 shall not include any cigarette, as defined in section 12-285] "Tobacco  
1145 product" means (A) any product, other than a cigarette, that is made or  
1146 derived from tobacco and intended for human consumption, or likely  
1147 to be consumed, whether smoked, heated, chewed, absorbed,  
1148 dissolved, inhaled or ingested by any other means, including, but not  
1149 limited to, a cigar, pipe tobacco, chewing tobacco, snuff and snus, and  
1150 any component or accessory thereof, including, but not limited to, a

1151 filter, rolling paper or pipe, and (B) shall not include any drug or  
 1152 device, as defined in the federal Food, Drug and Cosmetic Act, 21 USC  
 1153 321, as amended from time to time, or any combination product, as  
 1154 described in said act, 21 USC 353(g), as amended from time to time,  
 1155 authorized for sale by the United States Food and Drug  
 1156 Administration;

1157 Sec. 26. Subdivision (2) of subsection (a) of section 19a-342a of the  
 1158 general statutes is repealed and the following is substituted in lieu  
 1159 thereof (*Effective October 1, 2019*):

1160 (2) "Electronic nicotine delivery system" means an electronic device  
 1161 [that may be used to simulate smoking] used in the delivery of nicotine  
 1162 or other substances to a person inhaling from the device, and includes,  
 1163 but is not limited to, an electronic cigarette, electronic cigar, electronic  
 1164 cigarillo, electronic pipe or electronic hookah and any related device  
 1165 and any cartridge or other component of such device;

|   |                        |               |
|---|------------------------|---------------|
| This act shall take effect as follows and shall amend the following sections: |                        |               |
| Section 1   | <i>October 1, 2019</i> | 12-285        |
| Sec. 2  | <i>October 1, 2019</i> | 12-286a(a)    |
| Sec. 3  | <i>October 1, 2019</i> | 12-287        |
| Sec. 4  | <i>October 1, 2019</i> | 12-289a       |
| Sec. 5  | <i>October 1, 2019</i> | 12-291a       |
| Sec. 6  | <i>October 1, 2019</i> | 12-295        |
| Sec. 7  | <i>October 1, 2019</i> | 12-295a       |
| Sec. 8  | <i>October 1, 2019</i> | 12-314a       |
| Sec. 9  | <i>October 1, 2019</i> | 21a-415       |
| Sec. 10   | <i>October 1, 2019</i> | 21a-416       |
| Sec. 11   | <i>October 1, 2019</i> | New section   |
| Sec. 12   | <i>October 1, 2019</i> | New section   |
| Sec. 13   | <i>October 1, 2019</i> | New section   |
| Sec. 14   | <i>October 1, 2019</i> | New section   |
| Sec. 15   | <i>October 1, 2019</i> | 53-344        |
| Sec. 16   | <i>October 1, 2019</i> | 53-344a       |
| Sec. 17   | <i>October 1, 2019</i> | 53-344b       |
| Sec. 18   | <i>October 1, 2019</i> | 19a-342(b)(1) |

|         |                 |                |
|---------|-----------------|----------------|
| Sec. 19 | October 1, 2019 | 19a-342a(b)(1) |
| Sec. 20 | October 1, 2019 | New section    |
| Sec. 21 | October 1, 2019 | New section    |
| Sec. 22 | October 1, 2019 | New section    |
| Sec. 23 | October 1, 2019 | 12-285a        |
| Sec. 24 | October 1, 2019 | 12-286(e)(2)   |
| Sec. 25 | October 1, 2019 | 12-330a(2)     |
| Sec. 26 | October 1, 2019 | 19a-342a(a)(2) |

**Statement of Legislative Commissioners:**

In Section 4, Subparagraphs (c) to (h), inclusive, were added, Subsecs. (c) to (f), inclusive, were bracketed, and Subsecs. (g) and (h) were redesignated as Subsecs. (b) and (c) for consistency with standard drafting conventions; in Section 18(b)(1)(F), "or a child care center" and "or child care center" were deleted, a new Subpara. (F) was added and Subparas. (H) and (I) were redesignated as Subparas. (I) and (J) for consistency; and in Section 19, in Subsec. (b)(1)(F), "or a child care center" and "or child care center" were deleted and in Subsec. (b)(1)(G) "or on the grounds of such child care facility" was added for consistency.

**PH**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## OFA Fiscal Note

### State Impact:

| Agency Affected                | Fund-Effect   | FY 20 \$            | FY 21 \$            |
|--------------------------------|---|---------------------|---------------------|
| Revenue Serv., Dept.           | GF - Revenue<br>Loss  | 4.3 million         | 5.5 million         |
| Revenue Serv., Dept.           | Various - Revenue<br>Loss   | 600,000             | 800,000             |
| Department of Revenue Services | GF Tobacco<br>Control<br>Enforcement<br>Account -<br>Revenue Gain   | 516,000             | 688,000             |
| Department of Revenue Services | GF Tobacco<br>Control<br>Enforcement<br>Account - Cost  | 582,952             | 599,390             |
| Consumer Protection, Dept.     | GF Electronic<br>Nicotine Delivery<br>System and Vapor<br>Product<br>Enforcement<br>Account -<br>Revenue Gain | 400,000             | 530,000             |
| Consumer Protection, Dept.     | GF Electronic<br>Nicotine Delivery<br>System and Vapor<br>Product<br>Enforcement<br>Account - Cost            | 547,802             | 575,714             |
| Resources of the General Fund  | GF - Revenue<br>Gain  | At least<br>226,500 | At least<br>302,000 |

Note: GF=General Fund; Various=Various

**Municipal Impact:** None

### Explanation

The bill, which increases the legal tobacco product purchasing age to 21 and increases various associated fees and penalties, results in the following impacts:

***Department of Revenue Services Impact***

The bill requires the Department of Revenue Services (DRS) to annually inspect and conduct compliance checks on all 4,300 cigarette and tobacco products dealers in the state, which results in a cost of \$582,952 in FY 20 and \$599,390 in FY 21. To meet the requirements of the bill the DRS will need to hire four new employees (three Special Investigators and one Tax Hearing Officer), as well as incur associated vehicles and travel costs.

The bill increases, from \$50 to \$250, the annual license fee for cigarette and tobacco products dealers and requires \$160 of the fee to be deposited in a new account, called the Tobacco Control Enforcement Account. This results in a revenue gain of approximately \$688,000 on an annualized basis to the new account which is anticipated to offset most of costs incurred by DRS to implement the requirements of this bill. The bill does not specify how costs incurred by the DRS will be paid if there are not sufficient resources to meet the new requirements established by the bill.

Furthermore, the increased fee results in a revenue gain to the General Fund of at least \$172,000 per year on an annualized basis. The bill also increases the fines and civil penalties that DRS may levy which could increase this amount.

The bill also results in a General Fund revenue loss of \$4.3 million in FY 20 (partial year) and \$5.5 million in FY 21 from cigarette and tobacco products taxes, as well as a revenue loss to various funds<sup>1</sup> of \$600,000 in FY 20 (partial year) and \$800,000 in FY 21 from sales taxes

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<sup>1</sup> Current law requires a diversion of a portion of the sales tax generated into (1) the Special Transportation Fund and (2) the Municipal Revenue Sharing Account beginning in FY 22. The general sales and use tax rate, from which the diversion occurs, remains at 6.35%.



due to the anticipated smoking cessation of individuals aged 18 to 20.

### *Department of Consumer Protection Impact*

The bill requires the Department of Consumer Protection (DCP) to annually inspect and conduct compliance checks on all e-cigarette dealers in the state and results in a cost of \$547,802 in FY 20 and \$575,714 in FY 21. To meet the requirements of the bill the DCP will need to hire 4 new employees (3 inspectors and one attorney).

The bill increases, from \$400 to \$1,000, the annual registration fee for e-cigarette dealers and requires \$480 of the fee to be deposited into a new account, called the Electronic Nicotine Delivery System and Vapor Product Enforcement Account. This results in a revenue gain of approximately \$530,000 on an annualized basis to the new account which is anticipated to offset most of costs incurred by the DCP to implement the requirements of this bill. The bill does not specify how costs incurred by the DCP will be paid if there are not sufficient resources to meet the new requirements established by the bill.

Furthermore, the increased fee results in a revenue gain to the General Fund of at least \$130,000 per year on an annualized basis. The bill also increases the fines and civil penalties that DCP may levy which could increase this amount.

### *Fines Impact*

There is a potential revenue gain by raising the maximum fines that may be imposed on someone who sells, gives, or delivers tobacco products or e-cigarettes to someone under the legal age. In FY 18, 124 violators were fined a total of \$13,460 for related offenses.

### *The Out Years*

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, growth in the tobacco product and e-cigarette market, number of permits, and number of violations.

Sources: *American Journal of Public Health "Retail Impact of Raising Tobacco Sales Age to 21 Years"*  
*Henry J. Kaiser Family Foundation "Percent of Adults Who Smoke"*  
*Judicial Department Offenses and Revenue Database*  
*United States Census Bureau Quick Facts*

**OLR Bill Analysis****sHB 7200*****AN ACT PROHIBITING THE SALE OF CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS TO PERSONS UNDER AGE TWENTY-ONE.*****SUMMARY**

This bill raises, from 18 to 21, the legal age to purchase cigarettes, other tobacco products, and e-cigarettes (i.e., electronic nicotine delivery systems and vapor products). It makes corresponding changes to the laws regarding the sale, giving, and delivery of such products to individuals under the legal age (e.g., updating the age on the required sign that cigarette dealers and distributors must display at the point of sale).

Additionally, the bill:

1. prohibits cigarette dealers and distributors (i.e., those who sell or distribute cigarettes and other tobacco products) and e-cigarette dealers from selling flavored products (§§ 21 & 22);
2. requires dealers who sell e-cigarettes online and ship them directly to consumers to obtain the signature of a person aged 21 or older at the shipping address prior to delivery and require the signer to show proof of age (§ 20);
3. increases, from \$50 to \$250, the annual license fee for cigarette dealers and requires \$160 of the fee to be deposited into a "Tobacco Control Enforcement Account" the bill establishes (§§ 3 & 5);
4. increases, from \$400 to \$1,000, the annual registration fee for e-cigarette dealers and requires \$480 of the fee to be deposited into an "Electronic Nicotine Delivery System and Vapor Product

Enforcement Account” the bill establishes (§§ 9 & 11);

5. generally increases certain penalties for cigarette, tobacco product, and e-cigarette sales and purchases involving individuals under the legal age (§§ 7, 13 & 15-17);
6. requires the consumer protection (DCP) and revenue services (DRS) commissioners to annually conduct unannounced compliance checks on e-cigarette dealers and cigarette dealers and distributors, respectively, and post a list of non-compliant dealers and distributors on their department websites (§§ 7 & 13);
7. allows e-cigarette dealers to give promotional samples in connection with the promotion or advertisement of a product in a similar manner as current law allows for cigarettes and tobacco products (§§ 8 & 14); and
8. bans smoking and e-cigarettes on the grounds of child care centers and schools (§§ 18 & 19); and
9. makes other changes affecting the sale of these products.

The bill also updates and expands the definition of “tobacco product” to include products (1) derived from tobacco, in addition to those made from tobacco and (2) consumed by heating, absorbing, or ingesting them, in addition to those consumed by smoking or chewing.

It excludes from the definition (1) any drug or medical device as defined by the federal Food, Drug, and Cosmetic Act or (2) any combination product authorized for sale by the federal Food and Drug Administration.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2019

### **§§ 3 & 5 — CIGARETTE DEALER LICENSE FEE**

The bill increases, from \$50 to \$250, the annual license fee for cigarette dealers. It requires \$160 of the fee to be deposited into a separate, non-lapsing General Fund “Tobacco Control Enforcement Account” established by the bill.

The bill allows the DRS commissioner to use account funds as necessary to (1) administer cigarette dealer licenses, (2) educate and train dealers, and (3) inspect dealers’ retail establishments and conduct unannounced compliance checks (see § 7 below).

The bill also increases, from \$5 to \$50, the penalty for each day a cigarette dealer or distributor operates without a license.

#### **§ 4 & 7 — VENDING MACHINE SALES**

The bill prohibits e-cigarettes and tobacco products from being sold in cigarette vending machines or restricted cigarette vending machines (see BACKGROUND).

Current law allows the DRS commissioner, after a hearing, to impose penalties on owners of establishments with these vending machines for sales to individuals under the legal age as follows:

1. for a 1<sup>st</sup> violation, if the owner fails to successfully complete an online tobacco education program, \$500 and
2. for a 2<sup>nd</sup> or 3<sup>rd</sup> violation, \$750.

The bill increases, from \$750 to \$1,000, the penalty for a third violation. It also extends, from 24 to 36 months after the date of the first violation, the timeframe within which fines for 2<sup>nd</sup> and 3<sup>rd</sup> violations may be imposed.

Existing law, unchanged by the bill, requires an establishment owner who commits a third violation, to immediately remove the vending machine from the establishment and prohibits any vending machine at the establishment for one year after such removal.

By law, the DRS commissioner may also assess the following civil

penalties against a person, dealer, or distributor who violates the vending machine laws: (1) \$250 for a first violation and (2) \$500 for a second or third violation within 18 months. After the third violation, the vending machine must be immediately removed from the area, facility, or business where it is placed and such machines are prohibited from the location for one year after the removal.

### **§§ 7, 15 & 17 — PENALTIES FOR PURCHASES**

Under current law, a person under the legal age who (1) buys cigarettes, other tobacco products, or e-cigarettes; (2) misrepresents his or her age to do so; or (3) possesses one in public, faces a fine of up to \$50 for a first offense and between \$50 and \$100 for each subsequent offense. The bill eliminates the fine for possessing these products in public. By law, violators may pay the above listed fines by mail, without making a court appearance (CGS § 51-164n).

Additionally, the bill eliminates the DRS commissioner's authority to, after a hearing, also impose civil penalties on individuals under the legal age who purchase cigarettes or other tobacco products.

### **§§ 7, 13 & 15-17 — PENALTIES FOR SALES**

#### ***Maximum Fines***

The bill increases the maximum fines that may be imposed on someone who sells, gives, or delivers cigarettes, other tobacco products, or e-cigarettes to someone under the legal age as follows:

1. for a first offense, from \$200 to \$300;
2. for a second offense, from \$350 to \$750; and
3. for each subsequent offense, from \$500 to \$1,000.

Under the bill, the fines for second and subsequent offenses apply to those that occur within 36 months of the first offense, instead of within 24 months, as under current law.

Under existing law and the bill, this penalty does not apply if the person under the legal age is delivering or accepting delivery of the

product (1) in his or her capacity as an employee or (2) as part of a scientific study for medical research that meets specified criteria.

### ***DCP and DRS Penalties***

Current law allows the DRS commissioner, after a hearing, to also impose civil penalties on cigarette dealers, distributors, or their employees for sales to individuals under the legal age. Table 1 compares the penalties under current law with those proposed under the bill.

**Table 1: Penalties for Sales to Individuals Under the Legal Age**

| <b><i>Instance of Violation</i></b>                          | <b><i>Current Law</i></b>   | <b><i>Under the bill</i></b>  |
|--|---|---|
| <b><i>Sales by Cigarette Dealers and Distributors</i></b>    |   |   |
| 1 <sup>st</sup> violation                                    | \$300, if they fail to complete an online tobacco prevention education program within 30 days | \$300, if they fail to complete an online tobacco prevention education program within 30 days |
| 2 <sup>nd</sup> violation                                    | \$750   | \$750   |
| 3 <sup>rd</sup> violation                                    | \$750, plus 30-day license or certificate suspension  | \$1000, plus 30-day license or certificate suspension   |
| 4 <sup>th</sup> violation                                    | N/A   | \$1000, plus license or certificate revocation  |
| <b><i>Sales by Employees of Dealers and Distributors</i></b> |   |   |
| 1 <sup>st</sup> violation                                    | \$200, if they fail to complete an online tobacco education program within 30 days            | \$200, if they fail to complete an online tobacco education program within 30 days            |
| 2 <sup>nd</sup> violation                                    | \$250   | \$250   |

The bill also extends the timeframe within which the above fines for second and subsequent violations may be imposed, from 24 to 36 months after the date of the first violation.

Additionally, the bill allows the DCP commissioner, after a hearing, to impose similar penalties on e-cigarette dealers for sales to individuals under age 21 as those for cigarette dealers and distributors, under the bill except that:

1. for a first violation, e-cigarette dealers are not required to complete an online tobacco education program;
2. for a third violation, the bill does not specify for how long an e-cigarette dealer's registration must be suspended; and
3. there are no penalties for employees of e-cigarette dealers who sell such products to individuals under age 21 (but the dealers themselves are subject to these penalties for their employees' actions).

#### ***Public Notice of License Suspension or Revocation***

If the DCP or DRS commissioners suspend or revoke the license or certificate of an e-cigarette dealer or a cigarette dealer or distributor, respectively, the bill requires the commissioners to order them to conspicuously post a notice in a public place stating that such products cannot be sold during the suspension or revocation period as well as the reasons for the suspension or revocation. Under the bill, a dealer or distributor who sells these products during the suspension or revocation period commits an additional violation.

#### ***Proof of Age***

The bill requires cigarette, tobacco product, and e-cigarette sellers and their agents or employees to ask a prospective buyer who appears to be under age 30 for proper proof of age, in the form of a driver's license, valid passport, or identity card. Current law requires sellers to do this when a prospective buyer's age is in question.

Under existing law and the bill, sellers are prohibited from selling cigarettes, tobacco products, or e-cigarettes to someone who does not provide this proof.



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**Consumer Notice for E-Cigarette Sales**

The bill requires e-cigarette dealers to place and maintain at each point of sale a notice to consumers that states:

1. the sale, giving, or delivery of e-cigarettes to anyone under age 21 is prohibited by law,
2. a person under age 21 is prohibited from using false identification to purchase e-cigarettes, and
3. the penalties and fines for violating the e-cigarette purchasing laws.

Similar requirements already apply to cigarette dealers and distributors under existing law.

**Compliance Checks**

The bill requires the DCP and DRS commissioners, at least annually, to conduct unannounced compliance checks on (1) e-cigarette dealers and (2) cigarette dealers and distributors, respectively by having adults ages 18 to 20 enter the dealers' and distributors' establishments and attempt to purchase cigarettes, tobacco products, or e-cigarettes.

The commissioners must also conduct an unannounced follow-up compliance check of all non-compliant dealers and distributors no later than three months after the date of non-compliance. The bill requires the commissioners to annually publish the names of non-compliant dealers and distributors on their department websites.

**§§ 8 & 14 — PROMOTIONAL SAMPLES**

The bill authorizes the DCP commissioner to allow an e-cigarette dealer to give or deliver free e-cigarette samples in connection with the promotion or advertisement of a product in the same manner as current law allows for dealers and distributors of cigarettes and tobacco products. Specifically, an e-cigarette dealer may do so if:

1. the product is given or delivered at the dealer's retail establishment or at an event or establishment in an area that can

only be accessed by adults of legal age to purchase and

2. the sample contains at least two e-cigarettes, for which taxes have previously been paid.

Under the bill, the e-cigarette dealer is liable for any e-cigarette sample given or delivered to a person under age 21 on the dealer's premises by someone conducting a promotion or advertisement of the product.

The bill does not apply to e-cigarette samples given or delivered in connection with the sale of a similar product.

Additionally, the bill requires e-cigarette, cigarette, and tobacco product samples to be delivered or given in accordance with federal laws and regulations.

## **§§ 9 & 11 — E-CIGARETTE DEALER REGISTRATION AND ENFORCEMENT ACCOUNT**

### ***Increased Registration Fee and Enforcement Account***

The bill increases, from \$400 to \$1,000, the annual e-cigarette dealer registration fee. It requires \$480 of each registration fee to be deposited into an Electronic Nicotine Delivery System and Vapor Product Enforcement Account that the bill establishes.

Under the bill, the account is a separate, nonlapsing General Fund account, whose funds the DCP commissioner may use as necessary to (1) administer e-cigarette dealer registration, (2) educate and train dealers, and (3) inspect dealers' retail establishments and conduct unannounced compliance checks.

### ***Expired Registrations***

Under current law, a dealer who knowingly sells, offers for sale, or possesses with the intent to sell an e-cigarette with an expired registration commits an infraction and is subject to a \$90 fine. The bill specifies that the fine applies to each day the dealer is in violation of the law.

Existing law requires the commissioner, before imposing such fines, to notify the dealer in writing and allow him or her 60 days to correct the violation.

### **§ 10 — EMPLOYEE ASSISTED E-CIGARETTE SALES**

The bill specifies that e-cigarette dealers generally may only sell e-cigarettes at retail establishments through employee-assisted sales where customers cannot access the e-cigarettes without the employee's assistance.

As under current law, e-cigarette dealers are exempt from the requirements if they prohibit anyone under age 21 from entering the retail establishment and post notice of the prohibition clearly at all of the establishment's entrances.

### **§ 12 — SUSPENSION OR REVOCATION OF E-CIGARETTE DEALER REGISTRATIONS**

The bill allows the DCP commissioner to suspend or revoke an e-cigarette dealer's registration for (1) failing to comply with the bill's provisions or existing e-cigarette laws and regulations or (2) selling or delivering e-cigarettes to someone under age 21.

The commissioner may only take such action after a hearing and must notify the dealer in writing at least ten days before the hearing date. The notice must specify the hearing time and location and require the dealer to show cause for why the registration should not be revoked. The notice may be personally served to the dealer or mailed by registered or certified mail.

If the commissioner revokes a dealer's registration, the bill prohibits her from issuing the dealer a new registration unless she is satisfied that the dealer will comply with the state's e-cigarette laws and regulations.

Existing law allows the DRS commissioner, after a hearing, to suspend or revoke the license of a dealer or distributor for cigarette or tobacco product sales to individuals under the legal age.

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**§§ 18 & 19 — SMOKING AND E-CIGARETTE BAN AT CHILD CARE CENTERS AND SCHOOLS**

Current law prohibits smoking and e-cigarette use in various locations, such as restaurants, health care institutions, and state or municipal buildings.

The bill adds to the law's prohibited locations by including all school property, inside or outside, instead of only within a school building while school is in session or during student activities.

It also (1) expands current law's prohibition on e-cigarette use to include the grounds of a child care facility, instead of only inside the facility and (2) extends the prohibition to include cigarette and other tobacco product use. Under the bill, as under current law for e-cigarette use, the prohibition applies to family child care homes (i.e., private homes caring for up to six children) only when a child enrolled in the home is present.

**§ 20 — ONLINE SALE AND DELIVERY OF E-CIGARETTES**

The bill requires e-cigarette dealers who sell e-cigarettes online and ship them directly to in-state consumers to obtain the signature of a person aged 21 or older at the shipping address prior to delivery, and requires the signer to provide a driver's license or identification card as proof of age.

The bill also requires the seller to ensure that the shipping label on such packages conspicuously states the following:

“CONTAINS AN ELECTRONIC NICOTINE DELIVERY SYSTEM OR VAPOR PRODUCT - SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.”

**§§ 21 & 22 — BAN ON FLAVORED CIGARETTES, E-CIGARETTES, AND TOBACCO PRODUCTS*****Flavorings Prohibited***

The bill prohibits cigarette dealers and distributors and e-cigarette dealers from selling, offering or displaying for sale, or possessing with

the intent to sell, flavored cigarettes, tobacco products, and e-cigarettes.

The bill defines flavored cigarettes, tobacco products, and e-cigarettes as those imparted with a distinguishable taste or aroma (i.e., characterizing flavor) other than tobacco, including fruit, chocolate, menthol, mint, wintergreen, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice. It specifies that these products cannot be determined to be flavored solely because they use additives or flavorings or include ingredient information.

Under the bill, a public statement or claim made or disseminated by a cigarette, e-cigarette, or tobacco product manufacturer, or a person the manufacturer authorizes, that such products have or produce a characterizing flavor is prima facie evidence that the product is flavored.

### ***Civil Penalties***

If the DRS or DCP commissioners find, after a hearing, that (1) a cigarette or tobacco product dealer or distributor or (2) an e-cigarette dealer knowingly violated the bill's ban on flavorings, the respective commissioner must find that the dealer or distributor committed an infraction and assess a civil penalty of (1) \$300 for the first infraction and (2) \$750 and \$1,000, respectively, for a second and third infraction that occurs within 36 months after the first infraction.

### ***License or Certificate Revocation***

Under the bill, if a cigarette or tobacco product dealer or distributor commits a third infraction within 36 months after the first infraction, the DRS commissioner must suspend the dealer's or distributor's license for at least 30 days or may revoke the license. But the commissioner must revoke the license if they commit a fourth infraction within that time period.

For e-cigarette dealers, the bill requires the DCP commissioner to revoke the dealer's license or certificate if they commit a third infraction within that time period.

**BACKGROUND**

***Cigarette Vending Machines***

Existing law distinguishes between two types of machines that it authorizes to dispense cigarettes. One is the traditional coin-operated vending machine. The other is the “restricted cigarette vending machine,” which (1) automatically deactivates and cannot be operated after each sale and (2) requires a face-to-face interaction or display of identification between the purchaser and employee of the business where the machine is located.

***Related Bills***

HB 5975 (File 115), favorably reported by the Children’s Committee, similarly requires a signature and proof of age for the delivery of e-cigarettes purchased online.

HB 6404 (File 118), favorably reported by the Children’s Committee, bans certain retail establishments from selling or offering for sale flavored e-cigarette liquid.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 20 Nay 1 (03/22/2019)