



# House of Representatives

**File No. 938**

General Assembly

January Session, 2019

**(Reprint of File No. 579)**

Substitute House Bill No. 7200  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 20, 2019

**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 Section 12-285 of the general statutes is repealed and the  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, unless the context otherwise  
4 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, as  
51 amended by this act, at 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 products" has the same meaning as provided in  
69 section 12-330a, as amended by this act; and

70 (11) "Taxed tobacco products" has the same meaning as provided in  
71 section 12-330a, as amended by this act.

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

74 (1) "Cigarette" means and includes any roll for smoking made  
75 wholly or in part of tobacco, irrespective of size or shape, and

76 irrespective of whether the tobacco is flavored, adulterated or mixed  
77 with any other ingredient, where such roll has a wrapper or cover  
78 made of paper or any other material, except where such wrapper is  
79 wholly or in the greater part made of tobacco and such roll weighs  
80 over three pounds per thousand, provided, if any roll for smoking has  
81 a wrapper made of homogenized tobacco or natural leaf tobacco, and  
82 the roll is a cigarette size so that it weighs three pounds or less per  
83 thousand, such roll is a cigarette and subject to the tax imposed by part  
84 I and part II of this chapter; and

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

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89 repealed and the following is substituted in lieu thereof (*Effective*  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

91 (a) Each distributor and each dealer [, as defined in section 12-285,]  
92 shall place and maintain in legible condition at each point of sale of  
93 cigarettes to consumers, including the front of each cigarette vending  
94 machine, and each restricted cigarette vending machine a notice which  
95 states (1) that the sale, giving or delivering of tobacco products,  
96 including cigarettes, to any person under [~~eighteen~~] twenty-one years  
97 of age is prohibited by section 53-344, as amended by this act, (2) the  
98 [~~purchase or~~] misrepresentation of age through the use of false  
99 identification by a person under [~~eighteen~~] twenty-one years of age to  
100 purchase cigarettes or tobacco products is prohibited by said section,  
101 [~~53-344,~~] and (3) the penalties and fines for violating said section [~~53-~~  
102 ~~344~~] and section 12-295a, as amended by this act.

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

105 Each person engaging in, or intending to engage in, the business of  
106 selling cigarettes in this state as a dealer, and each person engaging in  
107 or intending to engage in, the business of selling taxed tobacco

108 products at retail, shall secure a dealer's license from the  
109 Commissioner of Revenue Services before engaging in such business  
110 or continuing to engage therein. Subject to the provisions of section 12-  
111 286, such license shall be renewable annually. The annual fee for a  
112 dealer's license shall be [fifty] two hundred dollars. Such license shall  
113 be valid for a period beginning with the date of license to the thirtieth  
114 day of September next succeeding the date of license unless sooner  
115 revoked as provided in section 12-295, as amended by this act, or  
116 unless the person to whom it was issued discontinues business, in  
117 either of which cases the holder of the license shall immediately return  
118 it to the commissioner. In the event of mutilation or destruction of such  
119 license, a duplicate copy, marked as such, shall be issued by said  
120 commissioner upon application accompanied by a fee of fifteen  
121 dollars.

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

124 (a) No cigarette vending machine or restricted cigarette vending  
125 machine may be placed in an area, facility or business which [is  
126 frequented primarily by minors] may be accessed by persons under  
127 the age of twenty-one unless it is placed in an area, facility or business  
128 permitted under chapter 545 that has a separate area accessible only to  
129 persons twenty-one years of age or older and the machine is placed in  
130 such separate area. No cigarettes may be dispensed from any machine  
131 other than a cigarette vending machine or a restricted cigarette  
132 vending machine.

133 [(b) A cigarette vending machine may be placed only in (1) an area,  
134 facility or business which is accessible only to adults or (2) an area,  
135 facility or business permitted under chapter 545 if the area, facility or  
136 business has a separate area accessible only to adults and the machine  
137 is placed in such area.

138 (c) A cigarette vending machine, until July 1, 1998, may be placed in  
139 an area, facility or business permitted under chapter 545 which does

140 not have a separate area accessible only to adults provided the  
141 machine is not placed in a vestibule, lobby, entryway, exit or restroom  
142 and the machine is under the direct supervision, and in the direct line  
143 of sight of, an adult employee of the permittee.

144 (d) A cigarette vending machine, until May 1, 1997, may be placed  
145 in an area, facility or business not provided for under subsections (b)  
146 and (c) of this section provided the machine is not placed in a  
147 vestibule, lobby, entryway, exit or restroom and the machine is under  
148 the direct supervision, and in the direct line of sight of, an adult  
149 employee.

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

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

156 [(g)] (b) The Commissioner of Revenue Services shall assess any  
157 person, dealer or distributor who violates the provisions of this section  
158 a civil penalty of two hundred fifty dollars for a first violation and five  
159 hundred dollars for a second violation within eighteen months. For a  
160 third violation within eighteen months, such penalty shall be five  
161 hundred dollars and any such machine shall be immediately removed  
162 from such area, facility or business and no such machine may be  
163 placed in such area, facility or business for a period of one year  
164 following such removal.

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

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

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

178 Sec. 6. Section 12-295 of the general statutes is repealed and the  
179 following is substituted in lieu thereof (*Effective October 1, 2019*):

180 (a) The commissioner may suspend or revoke the license of any  
181 dealer or distributor for (1) failure to comply with any provision of this  
182 chapter or regulations related thereto, or (2) for the sale or delivery of  
183 [tobacco in any form] cigarettes or tobacco products to a [minor under  
184 eighteen] person under twenty-one years of age, following a hearing  
185 with respect to which notice in writing, specifying the time and place  
186 of such hearing and requiring such dealer or distributor to show cause  
187 why such license should not be revoked, is mailed or delivered to such  
188 dealer or distributor not less than ten days preceding the date of such  
189 hearing. Such notice may be served personally or by registered or  
190 certified mail.

191 (b) If the commissioner finds, after a hearing as provided in  
192 subsection (a) of this section, that a dealer has violated any provision  
193 of sections 12-326a to 12-326h, inclusive, the commissioner shall, for a  
194 first violation, suspend such dealer's license for not less than seven  
195 days and assess a civil penalty of not less than one thousand dollars  
196 and, for a second or subsequent violation [within a five-year period]  
197 on or before five years after the date of the first violation, suspend such  
198 dealer's license for not less than thirty days and assess a civil penalty of  
199 not less than five thousand dollars. The commissioner shall order such  
200 dealer to conspicuously post a notice in a public place stating that  
201 cigarettes and tobacco products cannot be sold during the period of  
202 such suspension and the reason therefor. Any sale of cigarettes or  
203 tobacco products by such dealer during the period of such suspension

204 shall be deemed an additional violation of said sections.

205 (c) If the commissioner finds, after a hearing as provided in  
206 subsection (a) of this section, that a distributor has violated any  
207 provision of sections 12-326a to 12-326h, inclusive, the commissioner  
208 shall (1) for a first violation, suspend such distributor's license for not  
209 less than seven days and assess a civil penalty of not more than ten  
210 thousand dollars, (2) for a second violation [within a five-year period]  
211 on or before five years after the date of the first violation, suspend such  
212 distributor's license for not less than thirty days and assess a civil  
213 penalty of not more than twenty-five thousand dollars, and (3) for a  
214 subsequent violation [within a five-year period] on or before five years  
215 after the date of the first violation, revoke such distributor's license and  
216 assess a civil penalty of not more than fifty thousand dollars, except  
217 that if the violation is of subsection (b) of section 12-326b, the  
218 commissioner shall assess an additional civil penalty of one thousand  
219 dollars for each carton of cigarettes sold or bought in violation of said  
220 subsection. The commissioner shall order such distributor to  
221 conspicuously post a notice in a public place stating that cigarettes or  
222 tobacco products cannot be sold during the period of such suspension  
223 and the reason therefor. Any sale of cigarettes or tobacco products by  
224 such distributor during the period of such suspension shall be deemed  
225 an additional violation of said sections.

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

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

232 [(a) If the Commissioner of Revenue Services finds, after a hearing,  
233 that a minor has purchased cigarettes or tobacco products, said  
234 commissioner shall assess such minor a civil penalty of not more than  
235 one hundred dollars for the first violation and not more than one



236 hundred fifty dollars for any second or subsequent offense within  
237 twenty-four months after the first violation.]

238 [(b)] (a) If [said commissioner] the Commissioner of Revenue  
239 Services finds, after a hearing, that any person employed by a dealer or  
240 distributor, as defined in section 12-285, as amended by this act, has  
241 sold, given or delivered cigarettes or tobacco products to a [minor]  
242 person under twenty-one years of age other than a [minor] person  
243 under twenty-one years of age who is delivering or accepting delivery  
244 in [his] such person's capacity as an employee, said commissioner  
245 shall, for the first violation, require such person to successfully  
246 complete an online tobacco prevention education program  
247 administered by the Department of Mental Health and Addiction  
248 Services not later than thirty days after said commissioner's finding.  
249 Said commissioner shall assess any person who fails to complete such  
250 program a civil penalty of two hundred dollars. Said commissioner  
251 shall assess any person employed by a dealer or distributor a civil  
252 penalty of two hundred fifty dollars for a second or subsequent  
253 violation [within twenty-four months] on or before twenty-four  
254 months after the date of the first violation.

255 [(c)] (b) If [said commissioner] the Commissioner of Revenue  
256 Services finds, after a hearing, that any dealer or distributor has sold,  
257 given or delivered cigarettes or a tobacco [products] product to a  
258 [minor] person under twenty-one years of age other than a [minor]  
259 person under twenty-one years of age who is delivering or accepting  
260 delivery in [his] such person's capacity as an employee, or such dealer  
261 or distributor's employee has sold, given or delivered cigarettes or a  
262 tobacco [products] product to such [minor] person, said commissioner  
263 shall require such dealer or distributor, for the first violation, to  
264 successfully complete an online tobacco prevention education program  
265 administered by the Department of Mental Health and Addiction  
266 Services not later than thirty days after said commissioner's finding.  
267 Said commissioner shall assess any dealer or distributor who fails to  
268 complete such program a civil penalty of three hundred dollars. Said  
269 commissioner shall assess any dealer or distributor a civil penalty of

270 seven hundred fifty dollars for a second violation [within twenty-four  
271 months of] on or before twenty-four months after the date of the first  
272 violation. For a third violation [within twenty-four months of] on or  
273 before twenty-four months after the date of the first violation, said  
274 commissioner shall assess such dealer or distributor [shall be assessed]  
275 a civil penalty of [seven hundred fifty] one thousand dollars and  
276 suspend any license held by such dealer or distributor under this  
277 chapter [shall be suspended] for not less than thirty days. For a fourth  
278 violation on or before twenty-four months after the date of the first  
279 violation, said commissioner shall assess such dealer or distributor a  
280 civil penalty of one thousand dollars and revoke any license issued to  
281 such dealer or distributor under this chapter. Said commissioner shall  
282 order such distributor or dealer to conspicuously post a notice in a  
283 public place within such distributor's or dealer's establishment stating  
284 that cigarettes and tobacco products cannot be sold during the period  
285 of such suspension or revocation and the reasons for such suspension  
286 or revocation. Any sale of cigarettes or a tobacco product by such  
287 dealer or distributor during such suspension or revocation shall be  
288 deemed an additional violation of this subsection.

289 [(d)] (c) If [said commissioner] the Commissioner of Revenue  
290 Services finds, after a hearing, that any owner of an establishment in  
291 which a cigarette vending machine or restricted cigarette vending  
292 machine is located has sold, given or delivered cigarettes or tobacco  
293 products from any such machine to a [minor] person under twenty-  
294 one years of age other than a [minor] person under twenty-one years  
295 of age who is delivering or accepting delivery in [his] such person's  
296 capacity as an employee, or has allowed cigarettes or tobacco products  
297 to be sold, given or delivered to such [minor] person from any such  
298 machine, said commissioner shall require such owner, for the first  
299 violation, to successfully complete an online tobacco prevention  
300 education program administered by the Department of Mental Health  
301 and Addiction Services not later than thirty days after said  
302 commissioner's finding. Said commissioner shall assess any owner  
303 who fails to complete such program a civil penalty of five hundred

304 dollars. Said commissioner shall assess any owner a civil penalty of  
305 seven hundred fifty dollars for a second violation [within twenty-four  
306 months] on or before twenty-four months after the date of the first  
307 violation. For a third violation [within twenty-four months] on or  
308 before twenty-four months after the date of the first violation, said  
309 commissioner shall assess such owner [shall be assessed] a civil  
310 penalty of [seven hundred fifty] one thousand dollars and immediately  
311 remove any such machine [shall be immediately removed] from such  
312 establishment and no such machine may be placed in such  
313 establishment for a period of one year following such removal.

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

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

319 The Commissioner of Revenue Services may authorize a dealer or  
320 distributor to give or deliver [any] a cigarette, as defined in section 12-  
321 285, as amended by this act, or tobacco product, as defined in section  
322 12-330a, as amended by this act, in connection with the promotion or  
323 advertisement of such cigarette or tobacco product without receiving  
324 monetary consideration from the person receiving the cigarette or  
325 tobacco product, provided (1) such [distribution] giving or delivery is  
326 on the premises of a licensed dealer, as defined in said section, [12-285]  
327 or at any event or establishment with an area the access to which is  
328 limited to [adult] patrons twenty-one years of age or older, provided  
329 such [distribution] giving or delivery is restricted to such area, (2) the  
330 sample of cigarettes, if applicable, contains no less than two cigarettes,  
331 [and] (3) the taxes on such cigarettes have been previously paid, and  
332 (4) the giving or delivery of the sample is done in accordance with  
333 federal laws and regulations governing the giving or delivery of  
334 samples of cigarettes and tobacco products. The licensed dealer or  
335 distributor shall be liable for any gift or delivery of cigarettes or  
336 tobacco products to [minors] a person under twenty-one years of age

337 on [his] the premises by any person conducting a promotion or  
338 advertisement of such cigarette or tobacco product in accordance with  
339 this section. This section shall not apply to the gift or delivery of a  
340 cigarette package in connection with a sale of similar package of  
341 cigarettes.

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

344 (a) As used in this chapter, section 53-344, as amended by this act,  
345 and sections 12 and 13 of this act:

346 (1) "Authorized owner" means the owner or authorized designee of  
347 a business entity that is applying for a registration or is registered with  
348 the Department of Consumer Protection pursuant to this chapter;

349 (2) "Business entity" means any corporation, limited liability  
350 company, association, partnership, sole proprietorship, government,  
351 governmental subdivision or agency, business trust, estate, trust or any  
352 other legal entity;

353 (3) "Dealer registration" means an electronic nicotine delivery  
354 system certificate of dealer registration issued by the Commissioner of  
355 Consumer Protection pursuant to this section;

356 (4) "Manufacturer registration" means an electronic nicotine  
357 delivery system certificate of manufacturer registration issued by the  
358 Commissioner of Consumer Protection pursuant to section 21a-415a, as  
359 amended by this act, to any person who mixes, compounds,  
360 repackages or resizes any nicotine-containing electronic nicotine  
361 delivery system or vapor product;

362 (5) "Electronic cigarette liquid" means a liquid that, when used in an  
363 electronic nicotine delivery system or vapor product, produces a vapor  
364 that may or may not include nicotine and is inhaled by the user of such  
365 electronic nicotine delivery system or vapor product;

366 (6) "Electronic nicotine delivery system" means an electronic device

367 used in the delivery of nicotine or other substances to a person  
368 inhaling from the device, and includes, but is not limited to, an  
369 electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe  
370 or electronic hookah and any related device and any cartridge or other  
371 component of such device, including, but not limited to, electronic  
372 cigarette liquid;

373 (7) "Vapor product" means any product that employs a heating  
374 element, power source, electronic circuit or other electronic, chemical  
375 or mechanical means, regardless of shape or size, to produce a vapor  
376 that may include nicotine and is inhaled by the user of such product.  
377 "Vapor product" does not include a medicinal or therapeutic product  
378 that is (A) used by a licensed health care provider to treat a patient in a  
379 health care setting, (B) used by a patient, as prescribed or directed by a  
380 licensed health care provider in any setting, or (C) any drug or device,  
381 as defined in the federal Food, Drug and Cosmetic Act, 21 USC 321, as  
382 amended from time to time, any combination product, as described in  
383 said act, 21 USC 353(g), as amended from time to time, or any  
384 biological product, as described in 42 USC 262, as amended from time  
385 to time, and 21 CFR 600.3, as amended from time to time, authorized  
386 for sale by the United States Food and Drug Administration;

387 (8) "Sale" or "sell" means an act done intentionally by any person,  
388 whether done as principal, proprietor, agent, servant or employee, of  
389 transferring, or offering or attempting to transfer, for consideration,  
390 including bartering or exchanging, or offering to barter or exchange;  
391 and

392 (9) "Deliver" or "delivering" means an act done intentionally by any  
393 person, whether as principal, proprietor, agent, servant or employee,  
394 of transferring, or offering or attempting to transfer, physical  
395 possession or control of an electronic nicotine delivery system or vapor  
396 product.

397 [(a) On and after March 1, 2016, no] (b) No person in this state may  
398 sell, offer for sale or possess with intent to sell an electronic nicotine

399 delivery system or a vapor product unless such person [has obtained  
400 an electronic nicotine delivery system certificate of] is employed by, an  
401 agent of or directly affiliated with a business entity that maintains a  
402 dealer registration [from] issued by the Commissioner of Consumer  
403 Protection pursuant to this section. A separate dealer registration shall  
404 be required for [the] each place of business where such system or  
405 product is sold, offered for sale or possessed with the intent to sell. [An  
406 electronic nicotine delivery system certificate of] A dealer registration  
407 shall allow the sale of electronic nicotine delivery systems or vapor  
408 products at such place of business. A holder of [an electronic nicotine  
409 delivery system certificate of] a dealer registration shall post such  
410 registration in a prominent location adjacent to electronic nicotine  
411 delivery system products or vapor products offered for sale. [For the  
412 purposes of this section, "person" means each owner of a business  
413 organization, or such owner's authorized designee, provided each  
414 affiliate of a business organization that is under common control or  
415 ownership shall constitute a separate person and "person" includes,  
416 but is not limited to, retailers, wholesalers and dealers.]

417 [(b)] (c) (1) [On or after January 1, 2016, any person desiring an  
418 electronic nicotine delivery system certificate of] Any applicant for a  
419 dealer registration or a renewal of [such a certificate of] a dealer  
420 registration shall [make a sworn application therefor] apply to the  
421 Department of Consumer Protection upon forms to be furnished by the  
422 department, showing the name, address and electronic mail address of  
423 the applicant and the location of the [place of business which] business  
424 entity that is to be operated under such [certificate of] dealer  
425 registration. The department may require that an applicant submit  
426 documents sufficient to establish that state and local building, fire and  
427 zoning requirements will be met at the location of any sale. The  
428 department may, in its discretion, conduct an investigation to  
429 determine whether a [certificate of] dealer registration shall be issued  
430 to an applicant.

431 (2) The commissioner shall issue [an electronic nicotine delivery  
432 system certificate of] a dealer registration to any such applicant not

433 later than thirty days after the date of application unless the  
434 commissioner finds: (A) The applicant has wilfully made a materially  
435 false statement in such application or in any other application made to  
436 the commissioner; or (B) the applicant has neglected to pay any taxes  
437 due to this state.

438 (3) A [certificate of] dealer registration issued under this section  
439 shall be renewed annually and may be suspended or revoked at the  
440 discretion of the Department of Consumer Protection. Any [person]  
441 applicant or business entity aggrieved by a denial of an application,  
442 refusal to renew a dealer registration or suspension or revocation of a  
443 dealer registration may appeal in the manner prescribed for permits  
444 under section 30-55. [An electronic nicotine delivery system certificate  
445 of] A dealer registration shall not constitute property, nor shall it be  
446 subject to attachment and execution, nor shall it be alienable.

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

452 [(c)] (d) The annual fee for [an electronic nicotine delivery system  
453 certificate of] a dealer registration shall be [four hundred dollars] eight  
454 hundred dollars, except that the annual fee shall be four hundred  
455 dollars for any person holding a dealer registration who also holds any  
456 additional dealer registrations issued by the department under this  
457 chapter.

458 [(d)] (e) The department may renew a [certificate of] dealer  
459 registration issued under this section that has expired if the applicant  
460 pays to the department any fine imposed by the commissioner  
461 pursuant to subsection (c) of section 21a-4, which fine shall be in  
462 addition to the fees prescribed in this section for the [certificate of]  
463 dealer registration applied for. The provisions of this subsection shall  
464 not apply to any [certificate of] dealer registration which is the subject

465 of administrative or court proceedings.

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

475 (2) Notwithstanding the provisions of subdivision (1) of this  
476 subsection, any [person whose electronic nicotine delivery system  
477 certificate of] business entity with a dealer registration [for the place of  
478 business where electronic nicotine delivery systems or vapor products  
479 are sold, offered for sale or possessed with the intent to sell] that has  
480 expired [and who knowingly] for a period of ninety calendar days or  
481 less and that, during such ninety-day period, sells, offers for sale or  
482 possesses with intent to sell an electronic nicotine delivery system or  
483 vapor product [, where such person's period of operation without such  
484 certificate of dealer registration is not more than ninety days from the  
485 date of expiration of such certificate of dealer registration.] shall have  
486 committed an infraction and shall be fined ninety dollars for each day  
487 such business entity is in violation of the provisions of this  
488 subdivision.

489 (3) Notwithstanding the provisions of subdivisions (1) and (2) of  
490 this subsection, no penalty shall be imposed under this subsection  
491 unless the commissioner sends written notice of any violation to the  
492 [person who] authorized owner of the business entity is subject to a  
493 penalty under subdivision (1) or (2) of this subsection and allows such  
494 [person] business entity sixty days from the date such notice was sent  
495 to cease such violation and comply with the requirements of this  
496 section. [Such written notice shall be sent by mail evidenced by a  
497 certificate of mailing or other similar United States Postal Service form



498 from which the date of deposit can be verified or by electronic mail to  
499 the electronic mail address designated by such person on its  
500 application or renewal application for nicotine delivery system  
501 certificate of dealer registration.]

502 Sec. 10. Section 21a-415a of the general statutes is repealed and the  
503 following is substituted in lieu thereof (*Effective October 1, 2019*):

504 (a) [On and after March 1, 2016, no] No person in this state may  
505 manufacture an electronic nicotine delivery system or vapor product  
506 unless such person has obtained [an electronic nicotine delivery  
507 system certificate of] a manufacturer registration from the  
508 Commissioner of Consumer Protection pursuant to this section for the  
509 place of business where such system or product is manufactured. [An  
510 electronic nicotine delivery system certificate of] A manufacturer  
511 registration shall allow the manufacture of electronic nicotine delivery  
512 systems or vapor products in this state at such place of business. [For  
513 the purposes of this section, "manufacturer" means any person who  
514 mixes, compounds, repackages or resizes any nicotine-containing  
515 electronic nicotine delivery system or vapor product, and "person"  
516 means each owner of a business organization, provided each affiliate  
517 of a business organization that is under common control or ownership  
518 shall constitute a separate person.]

519 (b) (1) [On or after January 1, 2016, any person desiring an electronic  
520 nicotine delivery system certificate of manufacturer registration or a  
521 renewal of such a certificate of] Any applicant for a manufacturer  
522 registration or renewal of a manufacturer registration shall [make a  
523 sworn application therefor] apply to the Department of Consumer  
524 Protection upon forms to be furnished by the department, showing the  
525 name, address and electronic mail address of the applicant and the  
526 location of the place of business which is to be operated under such  
527 [certificate of] manufacturer registration. The department may require  
528 that an applicant submit documents sufficient to establish that state  
529 and local building, fire and zoning requirements will be met at the  
530 place of manufacture. The department may, in its discretion, conduct

531 an investigation to determine whether a [certificate of] manufacturer  
532 registration shall be issued to an applicant.

533 (2) The commissioner shall issue [an electronic nicotine delivery  
534 system certificate of] a manufacturer registration to any such applicant  
535 not later than thirty days after the date of application unless the  
536 commissioner finds: (A) The applicant has wilfully made a materially  
537 false statement in such application or in any other application made to  
538 the commissioner; or (B) the applicant has neglected to pay any taxes  
539 due to this state.

540 (3) A [certificate of] manufacturer registration issued under this  
541 section shall be renewed annually and may be suspended or revoked  
542 at the discretion of the Department of Consumer Protection. Any  
543 person aggrieved by a denial of an application, refusal to renew a  
544 [certificate of] manufacturer registration or suspension or revocation of  
545 a [certificate of] manufacturer registration may appeal in the manner  
546 prescribed for permits under section 30-55. [An electronic nicotine  
547 delivery system certificate of] A manufacturer registration shall not  
548 constitute property, nor shall it be subject to attachment and execution,  
549 nor shall it be alienable.

550 (4) The applicant shall pay to the department a nonrefundable  
551 application fee of seventy-five dollars, which fee shall be in addition to  
552 the annual fee prescribed in subsection (c) of this section. An  
553 application fee shall not be charged for an application to renew a  
554 [certificate of] manufacturer registration.

555 (c) The annual fee for [an electronic nicotine delivery system  
556 certificate of] a manufacturer registration shall be four hundred  
557 dollars, except that the annual fee shall be two hundred dollars for any  
558 person holding a manufacturer registration who also holds any  
559 additional manufacturer registrations or dealer registrations issued by  
560 the department under this chapter.

561 (d) The department may renew a [certificate of] manufacturer  
562 registration issued under this section that has expired for a period of

563 six months or less if the applicant pays to the department any fine  
564 imposed by the commissioner pursuant to subsection (c) of section  
565 21a-4, which fine shall be in addition to the fees prescribed in this  
566 section for the certificate of manufacturer registration applied for. The  
567 provisions of this subsection shall not apply to any [certificate of]  
568 manufacturer registration which is the subject of administrative or  
569 court proceedings.

570 (e) (1) Any person in this state who knowingly manufactures an  
571 electronic nicotine delivery system or vapor product from a place of  
572 business that does not have a [certificate of] manufacturer registration  
573 as required under this section shall be fined not more than fifty dollars  
574 for each day of such violation, except that the commissioner may  
575 waive all or any part of such fine if it is proven to the commissioner's  
576 satisfaction that the failure to obtain or renew such [certificate of]  
577 manufacturer registration was due to reasonable cause.

578 (2) Notwithstanding the provisions of subdivision (1) of this  
579 subsection, any person whose [electronic nicotine delivery system  
580 certificate of] manufacturer registration for the place of business where  
581 electronic nicotine delivery systems or vapor products are  
582 manufactured has expired for a period of ninety calendar days or less  
583 and who manufactures in [this] the state during such ninety-day  
584 period an electronic nicotine delivery system or vapor product [,  
585 where such person's period of operation without such certificate of  
586 manufacturer registration is not more than ninety days from the date  
587 of expiration of such certificate of manufacturer registration,] shall  
588 have committed an infraction and shall be fined ninety dollars for each  
589 day such person is in violation of the provisions of this subdivision.

590 (3) Notwithstanding the provisions of subdivisions (1) and (2) of  
591 this subsection, no penalty shall be imposed under this subsection  
592 unless the commissioner sends written notice of any violation to the  
593 person who is subject to a penalty under subdivision (1) or (2) of this  
594 subsection and allows such person sixty days from the date such notice  
595 was sent to cease such violation and comply with the requirements of

596 this section. [Such written notice shall be sent by mail evidenced by a  
597 certificate of mailing or other similar United States Postal Service form  
598 from which the date of deposit can be verified or by electronic mail to  
599 the electronic mail address designated by such person on its  
600 application or renewal application for nicotine delivery system  
601 certificate of dealer registration.]

602 Sec. 11. Section 21a-416 of the general statutes is repealed and the  
603 following is substituted in lieu thereof (*Effective October 1, 2019*):

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

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

607 (2) "Vapor product" has the same meaning as provided in section  
608 19a-342.

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

611 [(b) (1)] (a) Except as provided in [subdivision (3) of this] subsection  
612 (b) of this section, no [retail establishment] business entity with a  
613 dealer registration may sell or offer for sale at the place of business  
614 identified in the business entity's application for dealer registration, an  
615 electronic nicotine delivery system or a vapor product by any means  
616 other than an employee-assisted sale where the customer has no direct  
617 access to the electronic nicotine delivery system or vapor product  
618 except through the assistance of the employee of such [retail  
619 establishment] business entity.

620 (2) No [retail establishment] business entity may sell or offer for sale  
621 an electronic nicotine delivery system or a vapor product from a self-  
622 service display.

623 [(3)] (b) The provisions of [subdivisions (1) and (2) of this]  
624 subsection (a) of this section shall not apply to a [retail establishment if  
625 minors] business entity with a dealer registration if persons under the

626 age of twenty-one are prohibited from entering the [retail  
627 establishment] place of business identified in the business entity's  
628 application for dealer registration and the prohibition on [minors]  
629 persons under the age of twenty-one entering [the retail establishment]  
630 such place of business is posted clearly on all entrances of [the retail  
631 establishment] such place of business.

632 Sec. 12. (NEW) (*Effective October 1, 2019*) (a) Each business entity  
633 with a dealer registration shall place and maintain in legible condition  
634 at each point of sale of electronic nicotine delivery systems or vapor  
635 products a notice to consumers that states (1) the sale, giving or  
636 delivering of electronic nicotine delivery systems and vapor products  
637 to any person under twenty-one years of age is prohibited by section  
638 53-344b of the general statutes, as amended by this act, (2) the use of  
639 false identification by a person under twenty-one years of age to  
640 purchase an electronic nicotine delivery system or a vapor product is  
641 prohibited, and (3) the penalties and fines for violating the provisions  
642 of this section and section 53-344b of the general statutes, as amended  
643 by this act.

644 (b) The Commissioner of Mental Health and Addiction Services, or  
645 the commissioner's designee, shall conduct unannounced compliance  
646 checks on business entities holding a dealer registration by engaging  
647 persons between the ages of sixteen and twenty to enter the place of  
648 business of each such business entity to attempt to purchase an  
649 electronic nicotine delivery system or a vapor product. The  
650 commissioner shall conduct unannounced follow-up compliance  
651 checks of all noncompliant business entities and shall refer all  
652 noncompliant business entities to the Commissioner of Revenue  
653 Services.

654 (c) Upon receipt of a referral made pursuant to subsection (b) of this  
655 section, the Commissioner of Revenue Services may, following a  
656 hearing, impose a civil penalty and direct the Commissioner of  
657 Consumer Protection to suspend or revoke the dealer registration of  
658 the business entity that is the subject of such referral. The

659 Commissioner of Revenue Services shall provide such business entity  
660 with written notice of the hearing, specifying the time and place of  
661 such hearing and requiring such business entity to show cause why  
662 such dealer registration should not be suspended or revoked. The  
663 written notice of the hearing shall be mailed or delivered to such  
664 business entity not less than ten days preceding the date of the  
665 hearing. Such notice may be served personally or by registered or  
666 certified mail.

667 (d) If the Commissioner of Revenue Services finds, after a hearing  
668 pursuant to subsection (c) of this section, that any person employed by  
669 any business entity issued a dealer registration under section 21a-415  
670 of the general statutes, as amended by this act, has sold, given or  
671 delivered an electronic nicotine delivery system or vapor product to a  
672 person under twenty-one years of age, other than a person under  
673 twenty-one years of age who is delivering or accepting delivery in  
674 such person's capacity as an employee, said commissioner shall, for the  
675 first violation, require such employee to successfully complete an  
676 online prevention education program administered by the Department  
677 of Mental Health and Addiction Services not later than thirty days  
678 after said commissioner's finding. Said commissioner shall assess any  
679 employee who fails to complete such program a civil penalty of two  
680 hundred dollars. Said commissioner shall assess any employee a civil  
681 penalty of two hundred fifty dollars for a second or subsequent  
682 violation on or before twenty-four months after the date of the first  
683 violation.

684 (e) If the Commissioner of Revenue Services finds, after a hearing  
685 pursuant to subsection (c) of this section, that (1) any business entity  
686 issued a dealer registration under section 21a-415 of the general  
687 statutes, as amended by this act, has sold, given or delivered an  
688 electronic nicotine delivery system or vapor product to a person under  
689 twenty-one years of age, other than a person under twenty-one years  
690 of age who is delivering or accepting delivery in such person's capacity  
691 as an employee, or (2) such person's employee has sold, given or  
692 delivered an electronic nicotine delivery system or vapor product to a

693 person under twenty-one years of age, the commissioner shall, for the  
694 first violation, require the authorized owner of such business entity to  
695 successfully complete an online prevention education program  
696 administered by the Department of Mental Health and Addiction  
697 Services not later than thirty days after said commissioner's finding.  
698 Said commissioner shall assess any business entity issued a dealer  
699 registration, whose authorized owner fails to complete such program,  
700 a civil penalty of three hundred dollars for the first violation. Said  
701 commissioner shall assess such business entity a civil penalty of seven  
702 hundred fifty dollars for a second violation on or before twenty-four  
703 months after the date of the first violation. For a third violation by such  
704 business entity on or before twenty-four months after the date of the  
705 first violation, said commissioner shall assess such business entity a  
706 civil penalty of one thousand dollars and notify the Commissioner of  
707 Consumer Protection that the dealer registration held by such business  
708 entity under chapter 420g of the general statutes shall be suspended  
709 for not less than thirty days. For a fourth violation on or before twenty-  
710 four months after the date of the first violation, the Commissioner of  
711 Revenue Services shall assess such business entity a civil penalty of  
712 one thousand dollars and notify the Commissioner of Consumer  
713 Protection that the dealer registration held by such business entity  
714 under said chapter shall be revoked. The Commissioner of Revenue  
715 Services shall order such business entity to conspicuously post a notice  
716 in a public place stating that electronic nicotine delivery systems and  
717 vapor products cannot be sold during the period of suspension or  
718 revocation and the reasons for such suspension or revocation. Any sale  
719 of an electronic nicotine delivery system or vapor product by such  
720 business entity during the period of such suspension or revocation  
721 shall be deemed an additional violation of this section.

722 (f) Upon receipt of notice of determination from the Commissioner  
723 of Revenue Services made under subsection (e) of this section, the  
724 Commissioner of Consumer Protection shall suspend or revoke the  
725 dealer registration of the business entity that is the subject of said  
726 determination. The Commissioner of Consumer Protection shall not be

727 required to hold a hearing in connection with any notice of  
728 determination received from the Commissioner of Revenue Services  
729 under this section.

730 (g) The Commissioner of Consumer Protection shall not issue a new  
731 dealer registration to a former registrant whose dealer registration was  
732 revoked unless the commissioner is satisfied that such business entity  
733 that holds a dealer registration will comply with the provisions of  
734 chapter 420g of the general statutes and any regulations related  
735 thereto, and section 53-344b of the general statutes, as amended by this  
736 act.

737 Sec. 13. (NEW) (*Effective October 1, 2019*) Any business entity  
738 holding a dealer registration under section 21a-415 of the general  
739 statutes, as amended by this act, may give or deliver an electronic  
740 nicotine delivery system or vapor product in connection with the  
741 promotion or advertisement of such electronic nicotine delivery  
742 system or vapor product without receiving monetary consideration  
743 from the person receiving the electronic nicotine delivery system or  
744 vapor product, provided (1) such giving or delivery is at the location  
745 identified by the business entity in its application for the dealer  
746 registration or at any event or establishment with an area the access to  
747 which is limited to persons twenty-one years of age or older, provided  
748 such giving or delivery is restricted to such area, (2) the sample of  
749 electronic nicotine delivery systems or vapor products, if applicable,  
750 contains no less than two such systems or products, (3) the taxes on  
751 such electronic nicotine delivery system or vapor product have been  
752 previously paid, and (4) the giving or delivery of the sample is done in  
753 accordance with federal laws and regulations governing the giving or  
754 delivery of electronic nicotine delivery systems and vapor products.  
755 The business entity that holds a dealer registration shall be liable for  
756 any gift or delivery of an electronic nicotine delivery system or vapor  
757 product to a person under twenty-one years of age on the premises by  
758 any person conducting a promotion or advertisement of such  
759 electronic nicotine delivery system or vapor product in accordance  
760 with this section. This section shall not apply to the gift or delivery of



761 an electronic nicotine delivery system or vapor product in connection  
762 with a sale of a similar electronic nicotine delivery system or vapor  
763 product.

764 Sec. 14. Section 53-344 of the general statutes is repealed and the  
765 following is substituted in lieu thereof (*Effective October 1, 2019*):

766 (a) As used in this section:

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

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

772 ~~[(2)]~~ (3) "Identity card" means an identification card issued in  
773 accordance with the provisions of section 1-1h;

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

776 (5) "Give" or "giving" has the same meaning as provided in section  
777 53-344b, as amended by this act;

778 (6) "Deliver" or "delivering" has the same meaning as provided in  
779 section 53-344b, as amended by this act;

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

782 (8) "Tobacco products" has the same meaning as provided in section  
783 12-330a, as amended by this act;

784 ~~[(3)]~~ (9) "Transaction scan" means the process by which a seller or  
785 seller's agent or employee checks, by means of a transaction scan  
786 device, the validity of a driver's license or an identity card; and

787 ~~[(4)]~~ (10) "Transaction scan device" means any commercial device or

788 combination of devices used at a point of sale that is capable of  
789 deciphering in an electronically readable format the information  
790 encoded on the magnetic strip or bar code of a driver's license or an  
791 identity card.

792 (b) Any person who sells, gives or delivers to any person under  
793 [eighteen] twenty-one years of age [tobacco] cigarettes or a tobacco  
794 product shall be fined not more than [two] three hundred dollars for  
795 the first offense, not more than [three] seven hundred fifty dollars for a  
796 second offense [within a twenty-four-month period] on or before  
797 twenty-four months after the date of the first offense and not more  
798 than [five hundred] one thousand dollars for each subsequent offense  
799 [within a twenty-four-month period] on or before twenty-four months  
800 after the date of the first offense. The provisions of this subsection shall  
801 not apply to a person under [eighteen] twenty-one years of age who is  
802 delivering or accepting delivery of cigarettes or a tobacco product (1)  
803 in such person's capacity as an employee, or (2) as part of a scientific  
804 study being conducted by an organization for the purpose of medical  
805 research to further efforts in cigarette and tobacco product use  
806 prevention and cessation, provided such medical research has been  
807 approved by the organization's institutional review board, as defined  
808 in section 21a-408.

809 (c) Any person under [eighteen] twenty-one years of age who  
810 [purchases or] misrepresents such person's age to purchase cigarettes  
811 or a tobacco [in any form or possesses tobacco in any form in any  
812 public place] product shall be fined not more than fifty dollars for the  
813 first offense and not less than fifty dollars or more than one hundred  
814 dollars for each subsequent offense. [For purposes of this subsection,  
815 "public place" means any area that is used or held out for use by the  
816 public whether owned or operated by public or private interests.]

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

821 cardholder.

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

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

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

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

846 (3) No seller or seller's agent or employee shall sell or otherwise  
847 disseminate the information derived from a transaction scan to any  
848 third party, including, but not limited to, selling or otherwise  
849 disseminating that information for any marketing, advertising or  
850 promotional activities, but a seller or seller's agent or employee may  
851 release that information pursuant to a court order.

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

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

859 (f) (1) In any prosecution of a seller or seller's agent or employee for  
860 a violation of subsection (b) of this section, it shall be an affirmative  
861 defense that all of the following occurred: (A) A cardholder attempting  
862 to purchase or receive cigarettes or a tobacco product presented a  
863 driver's license or an identity card; (B) a transaction scan of the driver's  
864 license or identity card that the cardholder presented indicated that the  
865 license or card was valid and indicated that the cardholder was at least  
866 twenty-one years of age; and (C) the cigarettes or a tobacco product  
867 was sold, given away or otherwise distributed to the cardholder in  
868 reasonable reliance upon the identification presented and the  
869 completed transaction scan.

870 (2) In determining whether a seller or seller's agent or employee has  
871 proven the affirmative defense provided by subdivision (1) of this  
872 section, the trier of fact in such prosecution shall consider that  
873 reasonable reliance upon the identification presented and the  
874 completed transaction scan may require a seller or seller's agent or  
875 employee to exercise reasonable diligence and that the use of a  
876 transaction scan device does not excuse a seller or seller's agent or  
877 employee from exercising such reasonable diligence to determine the  
878 following: (A) Whether a person to whom the seller or seller's agent or  
879 employee sells, gives away or otherwise distributes cigarettes or a  
880 tobacco product is [eighteen] twenty-one years of age or older; and (B)  
881 whether the description and picture appearing on the driver's license  
882 or identity card presented by a cardholder is that of the cardholder.

883 Sec. 15. Section 53-344a of the general statutes is repealed and the

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

885 Each retailer of cigarettes or tobacco products or agent, employee or  
886 representative of such retailer shall require a person who is purchasing  
887 or attempting to purchase cigarettes or tobacco products, [whose age is  
888 in question] who appears to be under the age of thirty, to exhibit  
889 proper proof of age. If a person fails to provide such proof of age, such  
890 retailer or agent, employee or representative shall not sell cigarettes or  
891 tobacco products to the person. As used in this section, "proper proof"  
892 means a motor vehicle operator's license, a valid passport or an  
893 identity card issued in accordance with the provisions of section 1-1h.

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

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

897 (1) "Electronic nicotine delivery system" [means an electronic device  
898 that may be used to simulate smoking in the delivery of nicotine or  
899 other substance to a person inhaling from the device, and includes, but  
900 is not limited to, an electronic cigarette, electronic cigar, electronic  
901 cigarillo, electronic pipe or electronic hookah and any related device  
902 and any cartridge, electronic cigarette liquid or other component of  
903 such device] has the same meaning as provided in section 21a-415, as  
904 amended by this act;

905 (2) "Cardholder" means any person who presents a driver's license  
906 or an identity card to a seller or seller's agent or employee, to purchase  
907 or receive an electronic nicotine delivery system or vapor product from  
908 such seller or seller's agent or employee;

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

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

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

919 (6) "Sale" or "sell" means an act done intentionally by any person,  
920 whether done as principal, proprietor, agent, servant or employee, of  
921 transferring, or offering or attempting to transfer, for consideration, an  
922 electronic nicotine delivery system or vapor product, including  
923 bartering or exchanging, or offering to barter or exchange, an  
924 electronic nicotine delivery system or vapor product;

925 (7) "Give" or "giving" means an act done intentionally by any  
926 person, whether done as principal, proprietor, agent, servant or  
927 employee, of transferring, or offering or attempting to transfer,  
928 without consideration, an electronic nicotine delivery system or vapor  
929 product;

930 (8) "Deliver" or "delivering" means an act done intentionally by any  
931 person, whether as principal, proprietor, agent, servant or employee,  
932 of transferring, or offering or attempting to transfer, physical  
933 possession or control of an electronic nicotine delivery system or vapor  
934 product;

935 (9) "Vapor product" [means any product that employs a heating  
936 element, power source, electronic circuit or other electronic, chemical  
937 or mechanical means, regardless of shape or size, to produce a vapor  
938 that may or may not include nicotine, that is inhaled by the user of  
939 such product] has the same meaning as provided in section 21a-415, as  
940 amended by this act; and

941 [(10) "Electronic cigarette liquid" means a liquid that, when used in  
942 an electronic nicotine delivery system or vapor product, produces a  
943 vapor that may or may not include nicotine and is inhaled by the user  
944 of such electronic nicotine delivery system or vapor product.]

945       (10) "Seller" means any person who sells, gives or delivers an  
946       electronic nicotine delivery system or vapor product.

947       (b) Any person who sells, gives or delivers to any person under  
948       [~~eighteen~~] twenty-one years of age an electronic nicotine delivery  
949       system or vapor product in any form shall be fined not more than  
950       [~~two~~] three hundred dollars for the first offense, not more than [~~three~~]  
951       seven hundred fifty dollars for a second offense [within a twenty-four-  
952       month period] on or before twenty-four months after the date of the  
953       first offense and not more than [~~five hundred~~] one thousand dollars for  
954       each subsequent offense [within a twenty-four-month period] on or  
955       before twenty-four months after the date of the first offense. The  
956       provisions of this subsection shall not apply to a person under  
957       [~~eighteen~~] twenty-one years of age who is delivering or accepting  
958       delivery of an electronic nicotine delivery system or vapor product (1)  
959       in such person's capacity as an employee, or (2) as part of a scientific  
960       study being conducted by an organization for the purpose of medical  
961       research to further efforts in tobacco use prevention and cessation,  
962       provided such medical research has been approved by the  
963       organization's institutional review board, as defined in section 21a-408.

964       (c) Any person under [~~eighteen~~] twenty-one years of age who  
965       [~~purchases or~~] misrepresents such person's age to purchase an  
966       electronic nicotine delivery system or vapor product in any form [or  
967       possesses an electronic nicotine delivery system or vapor product in  
968       any form in any public place] shall be fined not more than fifty dollars  
969       for the first offense and not less than fifty dollars or more than one  
970       hundred dollars for each subsequent offense. [For purposes of this  
971       subsection "public place" means any area that is used or held out for  
972       use by the public whether owned or operated by public or private  
973       interests.]

974       (d) (1) A seller or seller's agent or employee may perform a  
975       transaction scan to check the validity of a driver's license or identity  
976       card presented by a cardholder as a condition for selling, giving or  
977       otherwise delivering an electronic nicotine delivery system or vapor

978 product to the cardholder.

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

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

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

999 (2) No seller or seller's agent or employee shall use a transaction  
1000 scan device for a purpose other than the purposes specified in  
1001 subsection (d) of this section, subsection (d) of section 53-344, as  
1002 amended by this act, or subsection (c) of section 30-86.

1003 (3) No seller or seller's agent or employee shall sell or otherwise  
1004 disseminate the information derived from a transaction scan to any  
1005 third party, including, but not limited to, selling or otherwise  
1006 disseminating that information for any marketing, advertising or  
1007 promotional activities, but a seller or seller's agent or employee may  
1008 release that information pursuant to a court order.



1009 (4) Nothing in subsection (d) of this section or this subsection  
1010 relieves a seller or seller's agent or employee of any responsibility to  
1011 comply with any other applicable state or federal laws or rules  
1012 governing selling, giving or otherwise delivering electronic nicotine  
1013 delivery systems or vapor products.

1014 (5) Any person who violates this subsection shall be subject to a civil  
1015 penalty of not more than one thousand dollars.

1016 (f) (1) In any prosecution of a seller or seller's agent or employee for  
1017 a violation of subsection (b) of this section, it shall be an affirmative  
1018 defense that all of the following occurred: (A) A cardholder attempting  
1019 to purchase or receive an electronic nicotine delivery system or vapor  
1020 product presented a driver's license or an identity card; (B) a  
1021 transaction scan of the driver's license or identity card that the  
1022 cardholder presented indicated that the license or card was valid and  
1023 indicated that the cardholder was at least twenty-one years of age; and  
1024 (C) the electronic nicotine delivery system or vapor product was sold,  
1025 given or otherwise delivered to the cardholder in reasonable reliance  
1026 upon the identification presented and the completed transaction scan.

1027 (2) In determining whether a seller or seller's agent or employee has  
1028 proven the affirmative defense provided by subdivision (1) of this  
1029 section, the trier of fact in such prosecution shall consider that  
1030 reasonable reliance upon the identification presented and the  
1031 completed transaction scan may require a seller or seller's agent or  
1032 employee to exercise reasonable diligence and that the use of a  
1033 transaction scan device does not excuse a seller or seller's agent or  
1034 employee from exercising such reasonable diligence to determine the  
1035 following: (A) Whether a person to whom the seller or seller's agent or  
1036 employee sells, gives or otherwise delivers an electronic nicotine  
1037 delivery system or vapor product is [~~eighteen~~] twenty-one years of age  
1038 or older; and (B) whether the description and picture appearing on the  
1039 driver's license or identity card presented by a cardholder is that of the  
1040 cardholder.

1041 (g) Each seller of electronic nicotine delivery systems or vapor  
1042 products or such seller's agent or employee shall require a person who  
1043 is purchasing or attempting to purchase an electronic nicotine delivery  
1044 system or vapor product [ whose age is in question,] and appears to be  
1045 under the age of thirty to exhibit proper proof of age. If a person fails  
1046 to provide such proof of age, such seller or seller's agent or employee  
1047 shall not sell an electronic nicotine delivery system or vapor product to  
1048 the person. As used in this subsection, "proper proof" means a motor  
1049 vehicle operator's license, a valid passport or an identity card issued in  
1050 accordance with the provisions of section 1-1h.

1051 Sec. 17. Subdivision (1) of subsection (b) of section 19a-342 of the  
1052 general statutes is repealed and the following is substituted in lieu  
1053 thereof (*Effective October 1, 2019*):

1054 (b) (1) Notwithstanding the provisions of section 31-40q, no person  
1055 shall smoke: (A) In any building or portion of a building, partially  
1056 enclosed shelter on a rail platform or bus shelter owned and operated  
1057 or leased and operated by the state or any political subdivision thereof;  
1058 (B) in any area of a health care institution; (C) in any area of a retail  
1059 food store; (D) in any restaurant; (E) in any area of an establishment  
1060 with a permit issued for the sale of alcoholic liquor pursuant to section  
1061 30-20a, 30-21, 30-21b, 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-  
1062 35a, 30-37a, 30-37e or 30-37f, in any area of an establishment with a  
1063 permit for the sale of alcoholic liquor pursuant to section 30-23 issued  
1064 after May 1, 2003, and, on and after April 1, 2004, in any area of an  
1065 establishment with a permit issued for the sale of alcoholic liquor  
1066 pursuant to section 30-22a or 30-26 or the bar area of a bowling  
1067 establishment holding a permit pursuant to subsection (a) of section  
1068 30-37c; (F) within a school building [while school is in session or  
1069 student activities are being conducted] or on the grounds of such  
1070 school; (G) within a child care facility or on the grounds of such child  
1071 care facility, except, if the child care facility is a family child care home,  
1072 as defined in section 19a-77, such smoking is prohibited only when a  
1073 child enrolled in such home is present; (H) in any passenger elevator,  
1074 provided no person shall be arrested for violating this subsection

1075 unless there is posted in such elevator a sign which indicates that  
1076 smoking is prohibited by state law; [(H)] (I) in any dormitory in any  
1077 public or private institution of higher education; or [(I)] (I) on and after  
1078 April 1, 2004, in any area of a dog race track or a facility equipped with  
1079 screens for the simulcasting of off-track betting race programs or jai  
1080 alai games. For purposes of this subsection, "restaurant" means space,  
1081 in a suitable and permanent building, kept, used, maintained,  
1082 advertised and held out to the public to be a place where meals are  
1083 regularly served to the public, "school" has the same meaning as  
1084 provided in section 10-154a and "child care facility" has the same  
1085 meaning as provided in section 19a-342a, as amended by this act.

1086 Sec. 18. Subdivision (1) of subsection (b) of section 19a-342a of the  
1087 general statutes is repealed and the following is substituted in lieu  
1088 thereof (*Effective October 1, 2019*):

1089 (b) (1) No person shall use an electronic nicotine delivery system or  
1090 vapor product: (A) In any building or portion of a building owned and  
1091 operated or leased and operated by the state or any political  
1092 subdivision thereof; (B) in any area of a health care institution; (C) in  
1093 any area of a retail food store; (D) in any restaurant; (E) in any area of  
1094 an establishment with a permit issued for the sale of alcoholic liquor  
1095 pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22a, 30-22c, 30-26,  
1096 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any  
1097 area of establishment with a permit issued for the sale of alcoholic  
1098 liquor pursuant to section 30-23 issued after May 1, 2003, or the bar  
1099 area of a bowling establishment holding a permit pursuant to  
1100 subsection (a) of section 30-37c; (F) within a school building [while  
1101 school is in session or student activities are being conducted] or on the  
1102 grounds of such school; (G) within a child care facility or on the  
1103 grounds of such child care facility, except, if the child care facility is a  
1104 family child care home as defined in section 19a-77, such use is  
1105 prohibited only when a child enrolled in such home is present; (H) in  
1106 any passenger elevator, provided no person shall be arrested for  
1107 violating this subsection unless there is posted in such elevator a sign  
1108 which indicates that such use is prohibited by state law; (I) in any

1109 dormitory in any public or private institution of higher education; or  
1110 (J) in any area of a dog race track or a facility equipped with screens for  
1111 the simulcasting of off-track betting race programs or jai alai games.  
1112 For purposes of this subsection, "restaurant" means space, in a suitable  
1113 and permanent building, kept, used, maintained, advertised and held  
1114 out to the public to be a place where meals are regularly served to the  
1115 public, and "school" has the same meaning as provided in section 10-  
1116 154a.

1117 Sec. 19. (NEW) (*Effective October 1, 2019*) (a) As used in this section:

1118 (1) "Person" means any individual, firm, fiduciary, partnership,  
1119 corporation, limited liability company, trust or association, however  
1120 formed;

1121 (2) "Electronic nicotine delivery system" has the same meaning as  
1122 provided in section 21a-415 of the general statutes, as amended by this  
1123 act; and

1124 (3) "Vapor product" has the same meaning as provided in section  
1125 21a-415 of the general statutes, as amended by this act.

1126 (b) A person with an electronic nicotine delivery system certificate  
1127 of dealer registration, when selling and shipping an electronic nicotine  
1128 delivery system or a vapor product directly to a consumer in the state,  
1129 shall: (1) Ensure that the shipping labels on all containers of an  
1130 electronic nicotine delivery system or vapor product shipped directly  
1131 to a consumer in the state conspicuously states the following:  
1132 "CONTAINS AN ELECTRONIC NICOTINE DELIVERY SYSTEM OR  
1133 VAPOR PRODUCT—SIGNATURE OF A PERSON AGE 21 OR  
1134 OLDER REQUIRED FOR DELIVERY"; and (2) obtain the signature of a  
1135 person age twenty-one or older at the shipping address prior to  
1136 delivery, after requiring the signer to demonstrate that he or she is age  
1137 twenty-one or older by providing a valid motor vehicle operator's  
1138 license or a valid identity card described in section 1-1h of the general  
1139 statutes.

1140 Sec. 20. Section 12-285a of the general statutes is repealed and the  
1141 following is substituted in lieu thereof (*Effective October 1, 2019*):

1142 For purposes of sections 12-286a, as amended by this act, 12-295a, as  
1143 amended by this act, and 12-314a, as amended by this act: [and  
1144 subsection (a) of section 53-344:] (1) "Distributor" includes a  
1145 manufacturer of tobacco products; (2) "sale" or "sell" means an act done  
1146 intentionally by any person, whether done as principal, proprietor,  
1147 agent, servant or employee, of transferring, or offering or attempting to  
1148 transfer, for consideration, cigarettes or tobacco products, including  
1149 bartering or exchanging, or offering to barter or exchange, cigarettes or  
1150 tobacco products; (3) "give" or "giving" means an act done intentionally  
1151 by any person, whether done as principal, proprietor, agent, servant or  
1152 employee, of transferring, or offering or attempting to transfer,  
1153 without consideration, cigarettes or tobacco products; (4) "deliver" or  
1154 "delivering" means an act done intentionally by any person, whether as  
1155 principal, proprietor, agent, servant or employee, of transferring, or  
1156 offering or attempting to transfer, physical possession or control of  
1157 cigarettes or tobacco products.

1158 Sec. 21. Subdivision (2) of section 12-330a of the general statutes is  
1159 repealed and the following is substituted in lieu thereof (*Effective*  
1160 *October 1, 2019*):

1161 (2) "Tobacco products" means [cigars, cheroots, stogies, periques,  
1162 granulated, plug cut, crimp cut, ready rubbed and other smoking  
1163 tobacco, snuff tobacco products, cavendish, plug and twist tobacco,  
1164 fine cut and other chewing tobaccos, shorts, refuse scraps, clippings,  
1165 cuttings and sweepings of tobacco and all other kinds and forms of  
1166 tobacco, prepared in such manner as to be suitable for chewing or  
1167 smoking in a pipe or otherwise or for both chewing and smoking] any  
1168 product, regardless of form, that is made from or otherwise contains  
1169 tobacco, but shall not include any cigarette, as defined in section 12-  
1170 285, as amended by this act, any electronic nicotine delivery system, as  
1171 defined in section 21a-415, as amended by this act, or any vapor  
1172 product, as defined in section 21a-415, as amended by this act;

1173 Sec. 22. Subsection (a) of section 19a-342a of the general statutes is  
1174 repealed and the following is substituted in lieu thereof (*Effective*  
1175 *October 1, 2019*):

1176 (a) As used in this section and section 2 of public act 15-206:

1177 (1) "Child care facility" means a provider of child care services as  
1178 defined in section 19a-77, or a person or entity required to be licensed  
1179 under section 17a-145;

1180 (2) "Electronic nicotine delivery system" [means an electronic device  
1181 that may be used to simulate smoking in the delivery of nicotine or  
1182 other substances to a person inhaling from the device, and includes,  
1183 but is not limited to, an electronic cigarette, electronic cigar, electronic  
1184 cigarillo, electronic pipe or electronic hookah and any related device  
1185 and any cartridge or other component of such device] has the same  
1186 meaning as provided in section 21a-415, as amended by this act;

1187 (3) "Liquid nicotine container" means a container that holds a liquid  
1188 substance containing nicotine that is sold, marketed or intended for  
1189 use in an electronic nicotine delivery system or vapor product, except  
1190 "liquid nicotine container" does not include such a container that is  
1191 prefilled and sealed by the manufacturer and not intended to be  
1192 opened by the consumer; and

1193 (4) "Vapor product" [means any product that employs a heating  
1194 element, power source, electronic circuit or other electronic, chemical  
1195 or mechanical means, regardless of shape or size, to produce a vapor  
1196 that may or may not include nicotine, that is inhaled by the user of  
1197 such product, but shall not include a medicinal or therapeutic product  
1198 used by a (A) licensed health care provider to treat a patient in a health  
1199 care setting, or (B) a patient, as prescribed or directed by a licensed  
1200 health care provider in any setting] has the same meaning as provided  
1201 in section 21a-415, as amended by this act.

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-415a
Sec. 11	<i>October 1, 2019</i>	21a-416
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>	53-344
Sec. 15	<i>October 1, 2019</i>	53-344a
Sec. 16	<i>October 1, 2019</i>	53-344b
Sec. 17	<i>October 1, 2019</i>	19a-342(b)(1)
Sec. 18	<i>October 1, 2019</i>	19a-342a(b)(1)
Sec. 19	<i>October 1, 2019</i>	New section
Sec. 20	<i>October 1, 2019</i>	12-285a
Sec. 21	<i>October 1, 2019</i>	12-330a(2)
Sec. 22	<i>October 1, 2019</i>	19a-342a(a)

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 \$
Department of Revenue Services	GF - Revenue Loss	4.3 million	5.5 million
Department of Revenue Services	Various - Revenue Loss	600,000	800,000
Department of Revenue Services	GF - Revenue Gain	483,750	645,000
Consumer Protection, Dept.	GF - Revenue Gain	Up to 350,000	Up to 460,000
Resources of the General Fund	GF - Revenue Gain	Potential	Potential
Mental Health & Addiction Serv., Dept.	GF - Cost	161,826	165,781
Department of Revenue Services	GF - Cost	165,310	170,119
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	120,331	123,941

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:

#### Revenue Impact

The bill 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

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.19% of payroll in FY 20 and FY 21.



products taxes, as well as a revenue loss to various funds<sup>2</sup> of \$600,000 in FY 20 (partial year) and \$800,000 in FY 21 from sales taxes due to the anticipated smoking cessation of individuals aged 18 to 20.

The bill modifies the electronic nicotine delivery system or vapor product dealer and manufacturer permits which results in a General Fund potential revenue gain of up to \$350,000 in FY 20 and up to \$460,000 in FY 21. The revenue impact is dependent on how many of these permittees hold additional dealer and manufacturer permits because the bill establishes different fees if this is the permittee's sole permit or an additional permit.

The bill also increases, from \$50 to \$200, the annual license fee for cigarette and tobacco products dealers, which results in a General Fund revenue gain of approximately \$483,750 in FY 20 and \$645,000 in FY 21.

Finally, there is a potential General Fund revenue gain by raising the maximum fines and penalties 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.

### ***Cost Impact***

The bill specifies that the Department of Mental Health and Addiction Services (DMHAS) conduct compliance checks and make referrals to the Department of Revenue Services (DRS) to hold hearings and impose penalties for e-cigarette sales to minors. The expanded compliance checks result in a cost to the DMHAS which is estimated to total \$216,125 in FY 20 and \$221,709 in FY 21.<sup>3</sup> It is anticipated that the DRS would also incur costs for hearings of non-compliance referrals

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<sup>2</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%.

<sup>3</sup> This consists of costs for two Special Investigators (annual salary of \$65,900 and fringe costs of \$27,150) and related operating expenses of approximately \$30,000.

from the DMHAS at a cost of \$231,342 in FY 20 and \$238,132 in FY 21.<sup>4</sup>

House "A" alters the original bill by adjusting the fee and enforcement provisions.

### ***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"*  
*Hentry J. Kaiser Family Foundation "Percent of Adults Who Smoke"*  
*Judicial Department Offenses and Revenue Database*  
*United States Census Bureau*

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<sup>4</sup> This consists of costs for two Tax Hearing Officers (annual salary of \$80,155 and fringe costs of \$33,016) and related operating expenses of approximately \$5,000.

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**OLR Bill Analysis****sHB 7200 (as amended by House "A")\******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. requires dealers who sell e-cigarettes and ship them directly to consumers (e.g., through online sales) 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 (§ 19);
2. increases, from \$50 to \$200, the annual license fee for cigarette dealers (§§ 3 & 5);
3. increases, from \$400 to \$800, the annual registration fee for e-cigarette dealers and retains the \$400 fee for dealers with multiple registrations (§ 9);
4. reduces, from \$400 to \$200, the annual registration fee for e-cigarette manufacturers who hold multiple registrations (§ 10);
5. generally increases certain penalties for cigarette, tobacco

product, and e-cigarette sales and purchases involving individuals under the legal age (§§ 7, 12, & 14-16);

6. requires the Department of Mental Health and Addiction Services (DMHAS) commissioner to conduct unannounced compliance checks on e-cigarette dealers and refer non-compliant dealers to the Department of Revenue Services (DRS) commissioner who may impose civil penalties (§ 12);
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 & 13);
8. bans smoking and e-cigarettes on the grounds of child care centers and schools (§§ 17 & 18); and
9. makes other changes affecting the sale of these products.

Additionally, the bill excludes from the definition of “vapor product,” biological products used to prevent, treat, or cure diseases or injuries that are authorized for sale by the federal Food and Drug Administration. It also makes minor changes to other related definitions.

Lastly, the bill makes technical and conforming changes.

\*House Amendment “A” replaces the original bill (File 579). It removes the provisions (1) prohibiting the sale of flavored cigarettes and e-cigarettes; (2) establishing a nonlapsing Tobacco Control Enforcement Account and Electronic Nicotine Delivery System and Vapor Product Account in the General Fund; (3) extending the timeframe, from 24 to 36 months, within which the DRS and Department of Consumer Protection (DCP) commissioners may impose certain fines for illegal sales; and (4) requiring the DRS commissioner to conduct annual unannounced compliance checks on cigarette dealers and distributors.

It also (1) increases the cigarette dealer license fee from \$50 to \$200, instead of \$250; (2) increases the e-cigarette dealer registration fee from \$400 to \$800, instead of \$1,000; (3) creates a tiered registration fee for e-cigarette dealers and manufacturers; (4) requires DMHAS, instead of DCP, to conduct unannounced compliance checks of e-cigarette dealers; and (5) requires DMHAS to refer non-compliant e-cigarette dealers to DRS.

EFFECTIVE DATE: October 1, 2019

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

The bill increases, from \$50 to \$200, the annual license fee for cigarette dealers. It 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**

Current law allows the DRS commissioner, after a hearing, to impose penalties on owners of establishments with cigarette vending machines and restricted cigarette vending machines (see BACKGROUND) 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. As under current law, the commissioner may impose fines for 2<sup>nd</sup> and 3<sup>rd</sup> violations that occur within 24 months after the date of the first violation.

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, 14, & 16 — 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, 12, & 14-16 — 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.

As under current law, the fines for second and subsequent offenses apply to those that occur within 24 months of the first offense.

Under existing law and the bill, these penalties do 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 impose civil penalties on cigarette dealers, distributors, or their employees for sales to individuals under the legal age. The bill increases the penalties on dealers or distributors for 3<sup>rd</sup> or 4<sup>th</sup> violations. It also allows the DRS commissioner, after a hearing, to impose civil penalties on e-cigarette dealers or their employees for sales to individuals under the legal age in generally the same manner as current law and the bill allows him to do for cigarette dealers, distributors, or their employees.

Table 1 compares the penalties under current law with those under the bill. As under current law, the penalties do not apply if the person under the legal age is delivering or accepting delivery of the product in his or her capacity as an employee.

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

	<b><i>Current Law</i></b>	<b><i>Under the Bill</i></b>
	<b><i>Penalties on Cigarette Dealers and Distributors</i></b>	
<b>1<sup>st</sup> violation</b>	\$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
<b>2<sup>nd</sup> violation</b>	\$750	\$750
<b>3<sup>rd</sup> violation</b>	\$750, plus 30-day license or certificate suspension	\$1000, plus 30-day license suspension
<b>4<sup>th</sup> violation</b>	N/A	\$1000, plus license revocation
	<b><i>Penalties on Employees of Dealers and Distributors</i></b>	
<b>1<sup>st</sup> violation</b>	\$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
<b>2<sup>nd</sup> violation</b>	\$250, if it occurred within 24 months of the first violation	\$250, if it occurred within 24 months of the first violation

As under current law, the above fines for second and subsequent violations may be imposed for violations that occur within 24 months after the first violation.

Under the bill, the DRS commissioner may only impose the above fines on e-cigarette dealers (or their employees) referred to him by the DMHAS commissioner after completing unannounced compliance checks (see below). For third and fourth violations, the DRS commissioner must direct the DCP commissioner to suspend or revoke the e-cigarette dealer's registration. Before taking such action, the bill requires the DRS commissioner to notify the e-cigarette dealer in writing of the hearing time and location and require the dealer to show cause why the registration should not be suspended or revoked. The notice must be delivered personally, or by registered or certified mail at least ten days before the hearing date. The DCP commissioner is not required to hold a hearing before suspending or revoking the e-cigarette dealer's registration.

Existing law similarly requires the DRS commissioner to do this for cigarette dealers and distributors and allows him, 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.

#### ***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 DRS commissioner to order them to conspicuously post a notice in a public place in the establishment 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.

#### ***Reinstating an E-Cigarette Dealer Registration***

If the DCP commissioner revokes an e-cigarette 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.

### ***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-cigarette to someone who does not provide this proof.

### ***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 DMHAS commissioner to conduct unannounced compliance checks on e-cigarette dealers by having adults ages 16 to 20 enter the dealers' place of business and attempt to purchase e-cigarettes.

The commissioner must also conduct an unannounced follow-up

compliance check of all non-compliant dealers and refer them to the DRS commissioner, who may then impose a penalty (see above). (The bill does not specify a timeframe for the initial and follow-up compliance checks.)

### **§§ 8 & 13 — PROMOTIONAL SAMPLES**

The bill allows e-cigarette dealers to give or deliver free e-cigarette samples in connection with the promotion or advertisement of a product in a similar 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 location identified on the dealer's registration application 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 & 10 — E-CIGARETTE DEALER AND MANUFACTURER REGISTRATIONS AND ENFORCEMENT ACCOUNT**

#### ***Dealer Registration Requirements and Increased Fees***

The bill specifies that a person cannot sell, offer for sale, or possess with the intent to sell, e-cigarettes unless he or she is an employee,

agent, or direct affiliate of a business with an active e-cigarette dealer registration from DCP. It also specifically requires a separate dealer registration for each place of business that sells these products.

Additionally, the bill increases, from \$400 to \$800, the annual e-cigarette dealer registration fee. But it retains the \$400 registration fee for e-cigarette dealers with multiple dealer registrations.

The bill also makes related minor, technical, and conforming changes.

### ***Manufacturer Registration Requirements***

Under current law, e-cigarette manufacturers must register with DCP and annually pay a \$400 registration fee. The bill reduces the registration fee to \$200 for e-cigarette manufacturers who hold multiple manufacturer registrations.

### ***Expired Registrations***

Under current law, an e-cigarette manufacturer or dealer who knowingly (1) manufacturers or (2) sells, offers for sale, or possesses with the intent to sell an e-cigarette with a registration that has expired for 90 days or less commits an infraction and is subject to a \$90 fine. The bill specifies that the fine applies to each day the dealer or manufacturer is in violation of the law.

Existing law requires the commissioner, before imposing such fines, to notify the manufacturer or dealer in writing and allow him or her 60 days to correct the violation. The bill eliminates the requirement that the written notice be sent by (1) certified mail, or similar United States Postal Service delivery method, or (2) electronic mail.

Current law allows DCP to renew a manufacturer's expired registration if the applicant pays any required fines. The bill allows the commissioner to do this only for registrations that have expired for six months or less.

**§ 11 — EMPLOYEE AND OWNER ASSISTED E-CIGARETTE SALES**

The bill specifies that e-cigarette dealers generally may only sell e-cigarettes at the place of business identified on their dealer application through employee- or owner-assisted sales where customers cannot access the e-cigarettes without the employee's or owner's assistance. It continues to prohibit e-cigarette sales using self-service displays.

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

**§§ 17 & 18 — SMOKING AND E-CIGARETTE BAN AT CHILD CARE CENTERS AND SCHOOLS**

Current law generally 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 specifies that the ban applies to public and private schools.

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.

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

The bill requires e-cigarette dealers who sell e-cigarettes and ship them directly to in-state consumers (e.g., through online sales) to obtain the signature of a person aged 21 or older at the shipping address prior to delivery, and require 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.”

## **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)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 44 Nay 6 (05/01/2019)