

Connecticut's E-Cigarette Laws

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Issue

This report describes Connecticut laws related to the regulation of electronic nicotine delivery systems and vapor products (hereafter referred to as “e-cigarettes”). It updates OLR Report [2018-R-0040](#). For the purposes of this report, “minor” means an individual under age 21.

Summary

Like many states, Connecticut has enacted laws in recent years to regulate the sale and use of e-cigarettes, such as (1) raising, from 18 to 21, the legal age to purchase e-cigarettes; (2) prohibiting anyone from selling, giving, or delivering e-cigarettes to individuals under the legal age; (3) imposing a tax on the sale of e-cigarettes by wholesalers; (4) restricting e-cigarette use in various establishments and public places, such as state buildings and restaurants; and (4) requiring dealers and manufacturers to register with the Department of Consumer Protection (DCP).

This report highlights provisions of Connecticut laws that regulate the sale and use of e-cigarettes. It does not include all of the laws’ provisions; to read the laws in their entirety, visit the Connecticut General Assembly’s [website](#). Nor does the report include provisions of the federal Family Smoking and Tobacco Control Act (TCA) that apply to the manufacturing, sale, and use of e-cigarettes. (A federal rule finalized in 2016 extends the Food and Drug Administration’s regulatory authority under the TCA to include e-cigarettes). For information on federal laws related to e-cigarettes and minors, see OLR Report [2019-R-0280](#).

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E-Cigarette Systems

E-cigarette systems consist of specific delivery devices and products. Under Connecticut law, an “electronic nicotine delivery system” is an electronic device used to deliver nicotine or another substance to a person who inhales from it.

These systems include electronic (1) cigarettes, (2) cigars, (3) cigarillos, (4) pipes, (5) and hookahs. It also includes related devices, cartridges, or other components, including e-cigarette liquid.

Additionally, the law defines a “vapor product” as a product that uses a heating element; power source; electronic circuit; or other electronic, chemical, or mechanical means, regardless of shape or size, to produce a vapor that users inhale. The vapor may or may not include nicotine.

The law exempts from this definition, a medicinal or therapeutic product (1) used by licensed health care provider to treat a

patient in a health care setting; (2) used by a patient in any setting, if prescribed or directed by a licensed health care provider, or (3) authorized for sale by the federal Food and Drug Administration and used to prevent, treat, or cure diseases or injuries, including biological products ([CGS §§ 21a-415](#), as amended by [PA 19-13](#)).

Examples of E-Cigarette Systems



E-Cigarettes and Minors

Connecticut law makes it illegal for (1) a minor (under age 21) to buy an e-cigarette or vapor product and (2) anyone to sell, give, or deliver them to a minor. Violators are subjected to some of the same penalties the law imposes on those who commit similar violations involving tobacco cigarettes (see below).

Purchase of E-Cigarettes by Minors

By law, a minor who buys an e-cigarette or misrepresents his or her age to do so faces a fine of up to \$50 for the first offense and between \$50 and \$100 for each subsequent offense ([CGS § 53-344b](#), as amended by [PA 19-13](#)). By law, violators may pay the fines by mail, without making a court appearance ([CGS § 51-164n](#)).

Sale, Gift, or Delivery of E-Cigarettes to Minors

Consumer Notice. A new law requires sellers (i.e., 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. 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 ([PA 19-13](#)).

Maximum Fines. By law, sellers and their agents or employees who sell e-cigarettes must 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 (ID) card. Sellers are prohibited from selling an e-cigarette to someone who does not provide this proof.

The law subjects anyone who sells, gives, or delivers an e-cigarette to a minor to a maximum fine of:

1. \$300 for a first offense,
2. \$750 for a second offense committed within 24 months of the first offense, and
3. \$1,000 for each subsequent offense committed within 24 months.

But it exempts from fines anyone who sells, gives, or delivers e-cigarettes to, or receives one from, a minor who receives or delivers it (1) as an employee or (2) as part of a scientific study conducted by an organization for medical research purposes. The study must further efforts in tobacco and e-cigarette use prevention and cessation and be approved by the organization's institutional review board ([CGS § 53-344b](#) as amended by [PA 19-13](#)).

DCP and DRS Penalties. A new law also allows the Department of Revenue Services (DRS) commissioner, after a hearing, to impose civil penalties on sellers and their employees for sales to minors in generally the same manner as the law allows him to do for cigarette dealers, distributors, or their employees ([PA 19-13](#)). But he may only impose these fines on sellers or their or their employees referred to him by the Department of Mental Health and Addiction Services (DMHAS) commissioner after completing unannounced compliance checks (see below). Table 1 lists the penalties the DRS commissioner may impose on e-cigarette dealers and their employees. 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

	<i>Penalties on E-Cigarette Dealers</i>	<i>Penalties on Employees of E-Cigarette Dealers</i>
1st Violation	\$300, if they fail to complete an online tobacco prevention education program within 30 days	\$200, if they fail to complete an online tobacco education program within 30 days
2nd Violation	\$750	\$250
3rd Violation	\$1,000, plus 30-day license suspension	
4th Violation	\$1,000, plus license revocation	

Under the new law, fines for second and subsequent violations may be imposed for violations that occur within 24 months after the first violation. 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 commissioner must notify the 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 10 days before the hearing date. When the DRS commissioner directs the DCP commissioner to suspend or revoke the dealer’s registration, the DCP commissioner is not required to hold an additional hearing before doing so ([PA 19-13](#)).

Public Notice of License Suspension or Revocation. If the DCP commissioner suspends or revokes an e-cigarette dealer’s registration, the commissioner must order the dealer to conspicuously post a notice in a public place in the establishment stating that e-cigarettes cannot be sold during the suspension or revocation period as well as the reasons for the suspension or revocation. A dealer who sells these products during the suspension or revocation period commits an additional violation ([PA 19-13](#)).

Reinstating an E-Cigarette Dealer Registration. By law, the DCP commissioner cannot reinstate an e-cigarette dealer’s registration that was revoked unless she is satisfied that the dealer will comply with the state’s e-cigarette laws and regulations ([PA 19-13](#)).

Unannounced Compliance Checks. A new law requires DMHAS to conduct unannounced compliance checks on e-cigarette dealers by having individuals ages 16 to 20 enter the dealers’ place of business and attempt to purchase e-cigarettes ([PA 19-13](#)).

The department 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 as described above ([PA 19-13](#)).

Use of Electronic Scanners to Verify Age

Connecticut subjects e-cigarettes to the laws regarding the use of electronic scanners to verify the age of prospective cigarette purchasers. These include:

1. allowing sellers to check the validity of certain documents other than driver's licenses and ID cards,
2. barring sellers from selling to someone if the scan fails to match the information on the license or ID card,
3. limiting the information a transaction scanner can record and maintain to the license or card holder's name and birthdate and the license's or card's expiration date and identification number,
4. prohibiting sellers or their employees from selling the information from a transaction scan, and
5. allowing an affirmative defense in prosecutions for selling e-cigarettes to minors where the seller relied on an electronic scan indicating a valid license or ID card.

As under the law regarding tobacco cigarettes, violators of the electronic scanner laws are subject to a civil penalty of up to \$1,000 ([CGS § 53-344b](#), as amended by [PA 19-13](#)).

General E-Cigarette Sales and Promotions

Employee and Owner Assisted E-Cigarette Sales

Connecticut law generally requires e-cigarette dealers to sell e-cigarettes at the place of business listed 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 also prohibits e-cigarette sales using self-service displays.

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 ([CGS § 21a-416](#), as amended by [PA 19-13](#)).

Online E-Cigarette Sales

A new law requires e-cigarette dealers who sell e-cigarettes and ship them directly to in-state consumers (e.g., through online sales) to (1) obtain the signature of a person aged 21 or older at the shipping address prior to delivery and (2) require the signer to provide a driver's license or identification card as proof of age ([PA 19-13](#)).

The seller must also 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.”

E-Cigarette Promotional Samples

A new law 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 existing 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;
2. the sample contains at least two e-cigarettes, for which taxes have previously been paid; and
3. the samples are delivered or given in accordance with federal laws and regulations.

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 promoting or advertising the product. The new law does not apply to e-cigarette samples given or delivered in connection with the sale of a similar product ([PA 19-13](#)).

E-Cigarette Tax

The 2019 budget act imposes a tax on e-cigarette sales by wholesalers at a rate of (1) 40 cents per milliliter of e-cigarette liquid, for any e-cigarette product that is pre-filled, manufacturer-sealed, and not intended to be refillable, and (2) 10% of the wholesale price for all other e-cigarette products. The tax took effect October 1, 2019, and applies to sales occurring on or after that date ([PA 19-117](#), § 351). DRS [Special Notice 2019\(7\)](#) explains the application of the tax and special rules that apply to e-cigarette products that are bundled together in one package.

Prohibition on Use in Certain Establishments and Public Places

Prohibited Locations

Connecticut law restricts the use of e-cigarettes in various establishments and public places, such as restaurants, health care institutions, and state buildings. These restrictions are similar to those placed on smoking tobacco products in these areas.

The law makes exceptions for e-cigarette use in certain areas and facilities, including designated smoking areas, tobacco bars, and outdoor areas in establishments serving alcohol. Table 2 lists the locations where e-cigarette use is generally prohibited as well as the locations exempt from this prohibition ([CGS § 19a-342a](#), as amended by [PA 19-13](#)).

Table 2: E-Cigarette Use: Prohibited Locations and Exemptions

<i>Locations Where E-Cigarette Use is Prohibited</i>	
<ul style="list-style-type: none"> • Buildings owned or leased and operated by the state or its political subdivisions 	<ul style="list-style-type: none"> • Restaurants
<ul style="list-style-type: none"> • Health care institutions 	<ul style="list-style-type: none"> • Retail food stores
<ul style="list-style-type: none"> • Places that serve alcohol under specified permits, such as hotels, universities, sporting facilities, and airports, among others 	<ul style="list-style-type: none"> • Dog race tracks or facilities equipped with screens for simulcasting off-track betting racing programs or jai alai games
<ul style="list-style-type: none"> • Licensed child care facilities, including the facility grounds (it applies to family child care homes only when a child enrolled in the home is present) 	<ul style="list-style-type: none"> • Passenger elevators
<ul style="list-style-type: none"> • Dormitories at public or private higher education institutions 	<ul style="list-style-type: none"> • All public and private school property, inside or outside
<i>Locations Exempted From the Prohibition</i>	
<ul style="list-style-type: none"> • Correctional facilities 	<ul style="list-style-type: none"> • Public housing projects
<ul style="list-style-type: none"> • Classrooms, during e-cigarette demonstrations that are part of a medical or scientific experiment or lesson 	<ul style="list-style-type: none"> • Outdoor portions of establishments serving alcohol, provided e-cigarette use is prohibited in at least 75% of outdoor areas where food is served and these areas are designated with a “nonsmoking sign”
<ul style="list-style-type: none"> • Employee smoking rooms provided by employers 	<ul style="list-style-type: none"> • Tobacco bars, provided they did not expand or change their location as of October 1, 2015
<ul style="list-style-type: none"> • Up to 25% of guest rooms in hotels, motels, or similar lodging 	<ul style="list-style-type: none"> • Designated smoking areas in psychiatric facilities
<ul style="list-style-type: none"> • Medical research sites where smoking and e-cigarette use is integral to the research being conducted 	<ul style="list-style-type: none"> • Establishments without an alcohol permit that sell e-cigarettes on-site and allow customers to use them on-site

Signage Requirements

In each room, elevator, area, or building in which e-cigarette use is prohibited, the person in control of the premises must post or have someone post a sign indicating that state law prohibits e-cigarette use. The signs are not required to be in each room of a building, provided they are posted in conspicuous places ([CGS § 19a-342a](#), as amended by [PA 19-13](#)).

Penalties

By law, a person commits an infraction if he or she is found guilty of (1) using an e-cigarette in a location that is prohibited, (2) failing to post required signs, or (3) removing the signs without authorization ([CGS § 19a-342a](#), as amended by [PA 19-13](#)).

E-Cigarette Dealer and Manufacturer Registration

Connecticut law requires business entities that sell e-cigarettes (i.e., dealers) and manufacturers of these products to register with DCP and annually renew their registration. The law requires a separate dealer registration for each place of business that sells e-cigarettes and prohibits anyone from selling these products unless they are an employee, agent, or direct affiliate of a business with a DCP-issued dealer registration.

The law requires dealers to post their registrations in a prominent location next to the e-cigarettes they sell ([CGS §§ 21a-415](#) and [415a](#), as amended by [PA 19-13](#)).

Application and Fee

To register with DCP, the dealer or manufacturer must submit an application along with a \$75 nonrefundable application fee and the following registration fees:

1. \$800 for e-cigarette dealers with a single registration and \$400 for dealers with multiple registrations and
2. \$400 for e-cigarette manufacturers with a single registration and \$200 for manufacturers with multiple registrations.

By law, DCP may ask the applicant to provide proof that the business complies with state and local building, fire, and zoning requirements.

The DCP commissioner must issue the registration within 30 days after the application date, unless she finds that the applicant (1) willfully made a materially false statement on the registration application or other DCP application or (2) owes state taxes ([CGS §§ 21a-415](#) and [415a](#), as amended by [PA 19-13](#)).

Penalties

Connecticut law prohibits anyone from knowingly manufacturing, selling, offering for sale, or possessing with intent to sell an e-cigarette from a business without a manufacturer or dealer registration. The penalty for each violation is a fine of up to \$50 per day. But the DCP commissioner may waive the fine if he determines that there was reasonable cause for failing to obtain or renew the registration.

Under the law, the penalty is an infraction with a \$90 fine per day, payable by mail without court appearance, for a manufacturer or dealer who operates up to 90 days after the registration expires. Before imposing a penalty, the DCP commissioner must notify the dealer or manufacturer of the violation and give them 60 days to comply ([CGS §§ 21a-415](#) and [415a](#), as amended by [PA 19-13](#)).

Suspending or Revoking a Registration

DCP may suspend or revoke a registration at its discretion. Anyone aggrieved by a denial, suspension, or revocation may appeal using the appeal process for liquor sale permits ([CGS §§ 21a-415](#) and [415a](#), as amended by [PA 19-13](#)).

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