AN ACT PROHIBITING THE SALE OF FLAVORED CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS.

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

Section 1. Subsection (a) of section 12-285 of the 2020 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

(a) As used in this chapter and section 2 of this act, unless the context otherwise requires:

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

(2) "Distributor" means (A) any person in this state engaged in the business of manufacturing cigarettes; (B) any person, other than a buying pool, who purchases cigarettes at wholesale from manufacturers or other distributors for sale to licensed dealers, and who maintains an established place of business, including a location used exclusively for

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

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

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

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

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

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

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

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

(10) "Tobacco products" has the same meaning as provided in section 
12-330a; and

(11) "Taxed tobacco products" has the same meaning as provided in 
section 12-330a.

Sec. 2. (NEW) (Effective from passage) (a) For purposes of this section, 
(1) "flavored" means imparting a characterizing flavor, and (2) 
"characterizing flavor" means a distinguishable taste or aroma, 
including, but not limited to, tastes or aromas relating to any fruit, 
chocolate, menthol, mint, wintergreen, vanilla, honey, candy, cocoa, 
dessert, alcoholic beverage, herb or spice, but does not include the taste 
or aroma of tobacco.

(b) On and after October 1, 2020, no distributor or dealer shall sell,
offer for sale, display for sale or possess with intent to sell any flavored
cigarette or flavored tobacco product. No cigarette or tobacco product
shall be determined to be flavored solely because of the use of additives
or flavoring or the inclusion of ingredient information. A public
statement, claim or indicia made or disseminated by the manufacturer
of the cigarette or tobacco product, or any person authorized by the
manufacturer to make or disseminate public statements concerning
such cigarette or tobacco product, that such cigarette or tobacco product
has or produces a characterizing flavor shall constitute prima facie
evidence that such cigarette or tobacco product is a flavored cigarette or
tobacco product.

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

Sec. 3. Subsection (a) of section 21a-415 of the 2020 supplement to the
general statutes is repealed and the following is substituted in lieu
thereof (Effective from passage):

(a) As used in this chapter, [and] section 53-344 and section 4 of this
act:

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

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

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

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

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

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

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

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

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

Sec. 4. (NEW) (Effective from passage) (a) For purposes of this section, (1) "flavored" means imparting a characterizing flavor, and (2) "characterizing flavor" means a distinguishable taste or aroma imparted either prior to or during the use or consumption of an electronic nicotine delivery system or vapor product, including, but not limited to, tastes or aromas relating to any fruit, chocolate, menthol, mint, wintergreen, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice, but does not include the taste or aroma of tobacco.

(b) No person with an electronic nicotine delivery system certificate of dealer registration under section 21a-415 of the general statutes, as amended by this act, shall sell, offer for sale, display for sale or possess with intent to sell any flavored electronic nicotine delivery system or flavored vapor product. No electronic nicotine delivery system or vapor product shall be determined to be flavored solely because of the use of additives or flavoring or the inclusion of ingredient information. A public statement, claim or indicia made or disseminated by the manufacturer of the electronic nicotine delivery system, vapor product
or a component part of such system or product that such system, product or component part thereof has or produces a characterizing flavor shall constitute prima facie that such system, product or component part thereof is a flavored electronic nicotine delivery system or flavored vapor product.

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

This act shall take effect as follows and shall amend the following sections:

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Statement of Purpose:
To prohibit the sale of flavored cigarettes, tobacco products, electronic nicotine delivery systems and vapor products.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]