



General Assembly

February Session, 2020

Raised Bill No. 76

LCO No. 1146



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***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:

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2 the general statutes is repealed and the following is substituted in lieu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

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

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

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

14 such business, which has facilities in which a substantial stock of
15 cigarettes and related merchandise for resale can be kept at all times,
16 and who sells at least seventy-five per cent of such cigarettes to retailers
17 who, at no time, shall own any interest in the business of the distributor
18 as a partner, stockholder or trustee; (C) any person operating five or
19 more retail stores in this state for the sale of cigarettes, or franchising
20 five or more retail stores in this state for the sale of cigarettes who shares
21 in the gross profits generated by such stores and who purchases
22 cigarettes at wholesale for sale to dealers but sells such cigarettes
23 exclusively to retail stores such person is operating or franchising; (D)
24 any person operating and servicing twenty-five or more cigarette
25 vending machines in this state who buys such cigarettes at wholesale
26 and sells them exclusively in such vending machines. If a person
27 qualified as a distributor in accordance with this subparagraph, in
28 addition sells cigarettes other than in vending machines, such person
29 shall be required to be qualified as a distributor in accordance with
30 subparagraph (B) of this subdivision and have an additional
31 distributor's license for purposes of such other sales; (E) any person who
32 imports into this state unstamped cigarettes, at least seventy-five per
33 cent of which are to be sold to others for resale; and (F) any person
34 operating storage facilities for unstamped cigarettes in 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, but
38 does not mean a restricted cigarette vending machine;

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

45 (5) "Dealer" means any person other than a distributor who is
46 engaged in this state in the business of selling cigarettes, including any

47 person operating and servicing fewer than twenty-five cigarette
48 vending machines, and any person who is engaged in the business of
49 selling taxed tobacco products, as defined in section 12-330a, at retail;

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

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

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

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

65 (10) "Tobacco products" has the same meaning as provided in section
66 12-330a; and

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

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

76 (b) On and after October 1, 2020, no distributor or dealer shall sell,

77 offer for sale, display for sale or possess with intent to sell any flavored
78 cigarette or flavored tobacco product. No cigarette or tobacco product
79 shall be determined to be flavored solely because of the use of additives
80 or flavoring or the inclusion of ingredient information. A public
81 statement, claim or indicia made or disseminated by the manufacturer
82 of the cigarette or tobacco product, or any person authorized by the
83 manufacturer to make or disseminate public statements concerning
84 such cigarette or tobacco product, that such cigarette or tobacco product
85 has or produces a characterizing flavor shall constitute prima facie
86 evidence that such cigarette or tobacco product is a flavored cigarette or
87 tobacco product.

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

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

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

107 (1) "Authorized owner" means the owner or authorized designee of a
108 business entity that is applying for a registration or is registered with

109 the Department of Consumer Protection pursuant to this chapter;

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

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

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

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

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

133 (7) "Vapor product" means any product that employs a heating
134 element, power source, electronic circuit or other electronic, chemical or
135 mechanical means, regardless of shape or size, to produce a vapor that
136 may include nicotine and is inhaled by the user of such product. "Vapor
137 product" does not include a medicinal or therapeutic product that is (A)
138 used by a licensed health care provider to treat a patient in a health care
139 setting, (B) used by a patient, as prescribed or directed by a licensed

140 health care provider in any setting, or (C) any drug or device, as defined
141 in the federal Food, Drug and Cosmetic Act, 21 USC 321, as amended
142 from time to time, any combination product, as described in said act, 21
143 USC 353(g), as amended from time to time, or any biological product, as
144 described in 42 USC 262, as amended from time to time, and 21 CFR
145 600.3, as amended from time to time, authorized for sale by the United
146 States Food and Drug Administration;

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

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

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

163 (b) No person with an electronic nicotine delivery system certificate
164 of dealer registration under section 21a-415 of the general statutes, as
165 amended by this act, shall sell, offer for sale, display for sale or possess
166 with intent to sell any flavored electronic nicotine delivery system or
167 flavored vapor product. No electronic nicotine delivery system or vapor
168 product shall be determined to be flavored solely because of the use of
169 additives or flavoring or the inclusion of ingredient information. A
170 public statement, claim or indicia made or disseminated by the
171 manufacturer of the electronic nicotine delivery system, vapor product

172 or a component part of such system or product that such system,
173 product or component part thereof has or produces a characterizing
174 flavor shall constitute prima facie that such system, product or
175 component part thereof is a flavored electronic nicotine delivery system
176 or flavored vapor product.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	12-285(a)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	21a-415(a)
Sec. 4	<i>from passage</i>	New section

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.]