



House of Representatives

General Assembly

File No. 8

January Session, 2021

House Bill No. 5305

House of Representatives, March 4, 2021

The Committee on General Law reported through REP. D'AGOSTINO of the 91st Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING TOBACCO BARS.

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

1 Section 1. Section 19a-342 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) As used in this section, "smoke" or "smoking" means the lighting
4 or carrying of a lighted cigarette, cigar, pipe or similar device.

5 (b) (1) Notwithstanding the provisions of section 31-40q, no person
6 shall smoke: (A) In any building or portion of a building, partially
7 enclosed shelter on a rail platform or bus shelter owned and operated
8 or leased and operated by the state or any political subdivision thereof;
9 (B) in any area of a health care institution; (C) in any area of a retail food
10 store; (D) in any restaurant; (E) in any area of an establishment with a
11 permit issued for the sale of alcoholic liquor pursuant to section 30-20a,
12 30-21, 30-21b, 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a,
13 30-37e or 30-37f, in any area of an establishment with a permit for the
14 sale of alcoholic liquor pursuant to section 30-23 issued after May 1,

15 2003, and, on and after April 1, 2004, in any area of an establishment
16 with a permit issued for the sale of alcoholic liquor pursuant to section
17 30-22a or 30-26 or the bar area of a bowling establishment holding a
18 permit pursuant to subsection (a) of section 30-37c; (F) within a school
19 building or on the grounds of such school; (G) within a child care facility
20 or on the grounds of such child care facility, except, if the child care
21 facility is a family child care home, as defined in section 19a-77, such
22 smoking is prohibited only when a child enrolled in such home is
23 present; (H) in any passenger elevator, provided no person shall be
24 arrested for violating this subsection unless there is posted in such
25 elevator a sign which indicates that smoking is prohibited by state law;
26 (I) in any dormitory in any public or private institution of higher
27 education; or (J) on and after April 1, 2004, in any area of a dog race track
28 or a facility equipped with screens for the simulcasting of off-track
29 betting race programs or jai alai games. For purposes of this subsection,
30 "restaurant" means space, in a suitable and permanent building, kept,
31 used, maintained, advertised and held out to the public to be a place
32 where meals are regularly served to the public, "school" has the same
33 meaning as provided in section 10-154a and "child care facility" has the
34 same meaning as provided in section 19a-342a, as amended by this act.

35 (2) This section shall not apply to (A) correctional facilities; (B)
36 designated smoking areas in psychiatric facilities; (C) public housing
37 projects, as defined in subsection (b) of section 21a-278a; (D) any
38 classroom where demonstration smoking is taking place as part of a
39 medical or scientific experiment or lesson; (E) smoking rooms provided
40 by employers for employees, pursuant to section 31-40q; (F)
41 notwithstanding the provisions of subparagraph (E) of subdivision (1)
42 of this subsection, the outdoor portion of the premises of any permittee
43 listed in subparagraph (E) of subdivision (1) of this subsection,
44 provided, in the case of any seating area maintained for the service of
45 food, at least seventy-five per cent of the outdoor seating capacity is an
46 area in which smoking is prohibited and which is clearly designated
47 with written signage as a nonsmoking area, except that any temporary
48 seating area established for special events and not used on a regular
49 basis shall not be subject to the smoking prohibition or signage

50 requirements of this subparagraph; (G) any medical research site where
51 smoking is integral to the research being conducted; or (H) any tobacco
52 bar, provided [no tobacco bar shall expand in size or change its location
53 from its size or location as of December 31, 2002] a tobacco bar that first
54 begins operating on or after October 1, 2021, shall (i) be located in a
55 stand-alone building, (ii) have a walk-in humidor on the premises, (iii)
56 not be located within a five-mile radius of any existing tobacco bar, or
57 (iv) if such tobacco bar is connected to another building, use its own
58 heating, ventilation or air conditioning system to prevent the
59 comingling of air. For purposes of this subdivision, "outdoor" means an
60 area which has no roof or other ceiling enclosure, "tobacco bar" means
61 an establishment with a permit for the sale of alcoholic liquor to
62 consumers issued pursuant to chapter 545 that, (I) in the calendar year
63 ending December 31, 2002, generated ten per cent or more of its total
64 annual gross income from the on-site sale of tobacco products and the
65 rental of on-site humidors, or (II) for any tobacco bar that first begins
66 operating on or after October 1, 2021, generates fifty-one per cent or
67 more of its total annual gross income in a calendar year from the on-site
68 sale of tobacco products and the rental of on-site humidors, and "tobacco
69 product" means any substance that contains tobacco, including, but not
70 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco.

71 (c) The operator of a hotel, motel or similar lodging may allow guests
72 to smoke in not more than twenty-five per cent of the rooms offered as
73 accommodations to guests.

74 (d) In each room, elevator, area or building in which smoking is
75 prohibited by this section, the person in control of the premises shall
76 post or cause to be posted in a conspicuous place signs stating that
77 smoking is prohibited by state law. Such signs, except in elevators,
78 restaurants, establishments with permits to sell alcoholic liquor to
79 consumers issued pursuant to chapter 545, hotels, motels or similar
80 lodgings, and health care institutions, shall have letters at least four
81 inches high with the principal strokes of letters not less than one-half
82 inch wide.

83 (e) Any person found guilty of smoking in violation of this section,
84 failure to post signs as required by this section or the unauthorized
85 removal of such signs shall have committed an infraction. Nothing in
86 this section shall be construed to require the person in control of a
87 building to post such signs in every room of a building, provided such
88 signs are posted in a conspicuous place in such building.

89 (f) Nothing in this section shall be construed to require any smoking
90 area in any building.

91 (g) The provisions of this section shall supersede and preempt the
92 provisions of any municipal law or ordinance relative to smoking
93 effective prior to, on or after October 1, 1993.

94 Sec. 2. Section 19a-342a of the general statutes is repealed and the
95 following is substituted in lieu thereof (*Effective October 1, 2021*):

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

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

100 (2) "Electronic nicotine delivery system" has the same meaning as
101 provided in section 21a-415;

102 (3) "Liquid nicotine container" means a container that holds a liquid
103 substance containing nicotine that is sold, marketed or intended for use
104 in an electronic nicotine delivery system or vapor product, except
105 "liquid nicotine container" does not include such a container that is
106 prefilled and sealed by the manufacturer and not intended to be opened
107 by the consumer; and

108 (4) "Vapor product" has the same meaning as provided in section 21a-
109 415.

110 (b) (1) No person shall use an electronic nicotine delivery system or
111 vapor product: (A) In any building or portion of a building owned and

112 operated or leased and operated by the state or any political subdivision
113 thereof; (B) in any area of a health care institution; (C) in any area of a
114 retail food store; (D) in any restaurant; (E) in any area of an
115 establishment with a permit issued for the sale of alcoholic liquor
116 pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22a, 30-22c, 30-26, 30-
117 28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any area of
118 establishment with a permit issued for the sale of alcoholic liquor
119 pursuant to section 30-23 issued after May 1, 2003, or the bar area of a
120 bowling establishment holding a permit pursuant to subsection (a) of
121 section 30-37c; (F) within a school building or on the grounds of such
122 school; (G) within a child care facility or on the grounds of such child
123 care facility, except, if the child care facility is a family child care home
124 as defined in section 19a-77, such use is prohibited only when a child
125 enrolled in such home is present; (H) in any passenger elevator,
126 provided no person shall be arrested for violating this subsection unless
127 there is posted in such elevator a sign which indicates that such use is
128 prohibited by state law; (I) in any dormitory in any public or private
129 institution of higher education; or (J) in any area of a dog race track or a
130 facility equipped with screens for the simulcasting of off-track betting
131 race programs or jai alai games. For purposes of this subsection,
132 "restaurant" means space, in a suitable and permanent building, kept,
133 used, maintained, advertised and held out to the public to be a place
134 where meals are regularly served to the public, and "school" has the
135 same meaning as provided in section 10-154a.

136 (2) This section shall not apply to (A) correctional facilities; (B)
137 designated smoking areas in psychiatric facilities; (C) public housing
138 projects, as defined in subsection (b) of section 21a-278a; (D) any
139 classroom where a demonstration of the use of an electronic nicotine
140 delivery system or vapor product is taking place as part of a medical or
141 scientific experiment or lesson; (E) any medical research site where the
142 use of an electronic nicotine delivery system or vapor product is integral
143 to the research being conducted; (F) establishments without a permit for
144 the sale of alcoholic liquor that sell electronic nicotine delivery systems,
145 vapor products or liquid nicotine containers on-site and allow their
146 customers to use such systems, products or containers on-site; (G)

147 smoking rooms provided by employers for employees, pursuant to
148 section 31-40q; (H) notwithstanding the provisions of subparagraph (E)
149 of subdivision (1) of this subsection, the outdoor portion of the premises
150 of any permittee listed in subparagraph (E) of subdivision (1) of this
151 subsection, provided, in the case of any seating area maintained for the
152 service of food, at least seventy-five per cent of the outdoor seating
153 capacity is an area in which smoking is prohibited and which is clearly
154 designated with written signage as a nonsmoking area, except that any
155 temporary seating area established for special events and not used on a
156 regular basis shall not be subject to the prohibition on the use of an
157 electronic nicotine delivery system or vapor product or the signage
158 requirements of this subparagraph; or (I) any tobacco bar, provided [no
159 tobacco bar shall expand in size or change its location from its size or
160 location as of October 1, 2015] a tobacco bar that first begins operating
161 on or after October 1, 2021, shall (i) be located in a stand-alone building,
162 (ii) have a walk-in humidor on the premises, (iii) not be located within
163 a three-mile radius of any existing tobacco bar, unless allowed pursuant
164 to municipal zoning, or (iv) if such tobacco bar is connected to another
165 building, use its own heating, ventilation or air conditioning system to
166 prevent the comingling of air. For purposes of this subdivision,
167 "outdoor" means an area which has no roof or other ceiling enclosure,
168 "tobacco bar" means an establishment with a permit for the sale of
169 alcoholic liquor to consumers issued pursuant to chapter 545 that, (I) in
170 the calendar year ending December 31, 2015, generated ten per cent or
171 more of its total annual gross income from the on-site sale of tobacco
172 products and the rental of on-site humidors, or (II) for any tobacco bar
173 that first begins operating on or after October 1, 2021, generates fifty-
174 one per cent or more of its total annual gross income in a calendar year
175 from the on-site sale of tobacco products and the rental of on-site
176 humidors, and "tobacco product" means any substance that contains
177 tobacco, including, but not limited to, cigarettes, cigars, pipe tobacco or
178 chewing tobacco.

179 (c) The operator of a hotel, motel or similar lodging may allow guests
180 to use an electronic nicotine delivery system or vapor product in not
181 more than twenty-five per cent of the rooms offered as accommodations

182 to guests.

183 (d) In each room, elevator, area or building in which the use of an
184 electronic nicotine delivery system or vapor product is prohibited by
185 this section, the person in control of the premises shall post or cause to
186 be posted in a conspicuous place signs stating that such use is prohibited
187 by state law. Such signs, except in elevators, restaurants, establishments
188 with permits to sell alcoholic liquor to consumers issued pursuant to
189 chapter 545, hotels, motels or similar lodgings, and health care
190 institutions, shall have letters at least four inches high with the principal
191 strokes of letters not less than one-half inch wide.

192 (e) Any person found guilty of using an electronic nicotine delivery
193 system or vapor product in violation of this section, failure to post signs
194 as required by this section or the unauthorized removal of such signs
195 shall have committed an infraction.

196 (f) Nothing in this section shall be construed to require the
197 designation of any area for the use of electronic nicotine delivery system
198 or vapor product in any building.

199 (g) The provisions of this section shall supersede and preempt the
200 provisions of any municipal law or ordinance relative to the use of an
201 electronic nicotine delivery system or vapor product effective prior to,
202 on or after October 1, 2015.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	19a-342
Sec. 2	October 1, 2021	19a-342a

GL *Joint Favorable*

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 22 \$	FY 23 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows additional tobacco bars in the state and results in a potential revenue gain to the General Fund. A tobacco bar is required to have an alcoholic liquor permit from the Department of Consumer Protection and to the extent new permits are requested, there is a potential revenue gain.

The bill also modifies the type of tobacco bars in which people can smoke and vape which could result in potential fines from infractions. Infractions are not crimes and are punishable by fines set by the judge but are usually \$100.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of new permits requested and the number of infractions.

OLR Bill Analysis**HB 5305*****AN ACT CONCERNING TOBACCO BARS.*****SUMMARY**

This bill allows the establishment of additional tobacco bars to allow smoking indoors, including the smoking of e-cigarettes. It also allows tobacco bars to expand in size or change locations, which is prohibited under current law.

Under current law, only tobacco bars with an alcoholic liquor permit that generated 10% or more of their total annual gross income from onsite tobacco product sales and onsite humidor rentals in (1) 2002 can allow smoking indoors and (2) 2015 can allow indoor vaping of e-cigarettes. By law, "tobacco product" means any substance that contains tobacco, including cigarettes, cigars, pipe tobacco, or chewing tobacco.

The bill allows additional tobacco bars that hold alcoholic liquor permits and begin operating on or after October 1, 2021, to permit smoking indoors or indoor vaping if they meet the following requirements:

1. are located in a stand-alone building or, if connected to another building, use their own heating, ventilation, or air conditioning system to prevent co-mingling of air;
2. have a walk-in humidor on the premises; or
3. generate 51% or more of their total annual gross income in a calendar year from onsite tobacco product sales and humidor rentals.

Under the bill, tobacco bars that allow (1) smoking indoors cannot be located within a five-mile radius of any existing tobacco bar and (2)

indoor vaping cannot be located within a three-mile radius of any existing tobacco bar, unless municipal zoning allows it.

EFFECTIVE DATE: October 1, 2021

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 18 Nay 1 (02/16/2021)