

**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 21a-415 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective January*  
3 *1, 2022*):

4 (a) As used in this chapter and section [53-344] 2 of this act:

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

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

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

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

19 containing electronic nicotine delivery system or vapor product;

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

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

31 (7) "Vapor product" means any product that employs a heating  
32 element, power source, electronic circuit or other electronic, chemical or  
33 mechanical means, regardless of shape or size, to produce a vapor that  
34 may include nicotine and is inhaled by the user of such product. "Vapor  
35 product" does not include a medicinal or therapeutic product that is (A)  
36 used by a licensed health care provider to treat a patient in a health care  
37 setting, (B) used by a patient, as prescribed or directed by a licensed  
38 health care provider in any setting, or (C) any drug or device, as defined  
39 in the federal Food, Drug and Cosmetic Act, 21 USC 321, as amended  
40 from time to time, any combination product, as described in said act, 21  
41 USC 353(g), as amended from time to time, or any biological product, as  
42 described in 42 USC 262, as amended from time to time, and 21 CFR  
43 600.3, as amended from time to time, authorized for sale by the United  
44 States Food and Drug Administration;

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

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

54 (10) "Flavoring agent" means an additive used in food or drugs when  
55 such additive (A) is used in accordance with good manufacturing  
56 practice principles and in the minimum quantity required to produce its  
57 intended effect; (B) (i) consists of one or more ingredients generally  
58 recognized as safe in food or drugs, (ii) has been previously sanctioned  
59 for use in food or drugs by the state or the federal government, (iii)  
60 meets United States Pharmacopeia standards, or (iv) is an additive  
61 permitted for direct addition to food for human consumption pursuant  
62 to 21 CFR 172, as amended from time to time; (C) is inert and produces  
63 no effect other than the instillation or modification of flavor; and (D) is  
64 not greater than five per cent of the total weight of the product.

65 Sec. 2. (NEW) (*Effective January 1, 2022*) (a) No person shall sell, give,  
66 deliver or possess with intent to sell in this state an electronic nicotine  
67 delivery system or a vapor product with a flavoring agent, other than  
68 tobacco flavor, that has been added for the purpose of flavoring the  
69 contents of the electronic nicotine delivery system or vapor product.  
70 This section shall not apply to any product (1) that the United States  
71 Secretary of Health and Human Services determines to be a modified  
72 risk tobacco product pursuant to 21 USC 387k, as amended from time to  
73 time, or (2) for which the manufacturer has applied for or received a  
74 marketing order from the federal Food and Drug Administration under  
75 21 USC 387j, as amended from time to time.

76 (b) (1) No person shall sell, give, deliver or possess with intent to sell,  
77 in this state an electronic nicotine delivery system or a vapor product  
78 with a nicotine content that is greater than thirty-five milligrams per  
79 milliliter. Each person with a manufacturer registration shall provide  
80 documentation to a person with a dealer registration, indicating the  
81 nicotine content, expressed as milligrams per milliliter, for each

82 electronic nicotine delivery system and vapor product sold by such  
83 person with a manufacturer registration to such person with a dealer  
84 registration.

85 (2) Each business entity holding a dealer registration shall (A)  
86 maintain documentation, within the place of business identified in the  
87 business entity's application for dealer registration, of the nicotine  
88 content provided pursuant to subdivision (1) of this subsection by the  
89 person with a manufacturer registration, for each electronic nicotine  
90 delivery system and vapor product sold, given or delivered by such  
91 person to the business entity, and (B) provide such documentation at the  
92 request of the Commissioner of Mental Health and Addiction Services,  
93 or the commissioner's designee, during any unannounced compliance  
94 check conducted pursuant to section 21-415b of the general statutes, as  
95 amended by this act.

96 (c) As used in this section, "person" means any individual, authorized  
97 owner of a business entity, retail establishment, as defined in section  
98 19a-106a of the general statutes, partnership, company, limited liability  
99 company, public or private corporation, association, trustee, executor,  
100 administrator or other fiduciary or custodian.

101 Sec. 3. Section 21a-415b of the general statutes is repealed and the  
102 following is substituted in lieu thereof (*Effective January 1, 2022*):

103 (a) Each business entity with a dealer registration shall place and  
104 maintain in legible condition at each point of sale of electronic nicotine  
105 delivery systems or vapor products a notice to consumers that states (1)  
106 the sale, giving or delivering of electronic nicotine delivery systems and  
107 vapor products to any person under twenty-one years of age is  
108 prohibited by section 53-344b, as amended by this act, (2) the use of false  
109 identification by a person under twenty-one years of age to purchase an  
110 electronic nicotine delivery system or a vapor product is prohibited, and  
111 (3) the penalties and fines for violating the provisions of this section and  
112 section 53-344b, as amended by this act.

113 (b) (1) The Commissioner of Mental Health and Addiction Services,  
114 or the commissioner's designee, shall conduct unannounced compliance  
115 checks on business entities [holding] with a dealer registration by  
116 engaging persons between the ages of sixteen and twenty to enter the  
117 place of business of each such business entity to attempt to purchase an  
118 electronic nicotine delivery system or a vapor product.

119 (2) The Commissioner of Mental Health and Addiction Services, or  
120 the commissioner's designee, shall conduct unannounced compliance  
121 checks on business entities with a dealer registration to determine  
122 whether any such business entity is selling, giving or delivering or has  
123 sold, given or delivered any electronic nicotine delivery system or vapor  
124 product with a flavoring agent, other than tobacco flavor, that has been  
125 added for the purpose of flavoring the contents of the electronic delivery  
126 system or vapor product, in violation of subsection (a) of section 2 of  
127 this act.

128 (3) The Commissioner of Mental Health and Addiction Services, or  
129 the commissioner's designee, shall conduct unannounced compliance  
130 checks on business entities with a dealer registration to determine  
131 whether each such business entity is in possession of the documentation  
132 required under subsection (b) of section 2 of this act and whether such  
133 documentation indicates that electronic nicotine delivery systems or  
134 vapor products with a nicotine content greater than thirty-five  
135 milligrams per milliliter were sold, given or delivered by such business  
136 entity. The commissioner shall refer all business entities that do not  
137 possess such documentation or that sold, gave, delivered or possessed  
138 with intent to sell an electronic nicotine delivery system or a vapor  
139 product with a nicotine content that is greater than 35 milligrams per  
140 milliliter to the Commissioner of Revenue Services.

141 (4) The commissioner shall conduct unannounced follow-up  
142 compliance checks of all noncompliant business entities and shall refer  
143 all noncompliant business entities to the Commissioner of Revenue  
144 Services.

145 (c) Upon receipt of a referral made pursuant to subsection (b) of this  
146 section, the Commissioner of Revenue Services may, following a  
147 hearing, impose a civil penalty and direct the Commissioner of  
148 Consumer Protection to suspend or revoke the dealer registration of the  
149 business entity that is the subject of such referral. The Commissioner of  
150 Revenue Services shall provide such business entity with written notice  
151 of the hearing, specifying the time and place of such hearing and  
152 requiring such business entity to show cause why such dealer  
153 registration should not be suspended or revoked. The written notice of  
154 the hearing shall be mailed or delivered to such business entity not less  
155 than ten days preceding the date of the hearing. Such notice may be  
156 served personally or by registered or certified mail.

157 (d) If the Commissioner of Revenue Services finds, after a hearing  
158 pursuant to subsection (c) of this section, that any person employed by  
159 any business entity issued a dealer registration under section 21a-415,  
160 as amended by this act, has sold, given or delivered an electronic  
161 nicotine delivery system or vapor product to a person under twenty-one  
162 years of age, other than a person under twenty-one years of age who is  
163 delivering or accepting delivery in such person's capacity as an  
164 employee, said commissioner shall, for the first violation, require such  
165 employee to successfully complete an online prevention education  
166 program administered by the Department of Mental Health and  
167 Addiction Services not later than thirty days after said commissioner's  
168 finding. Said commissioner shall assess any employee who fails to  
169 complete such program a civil penalty of [two] four hundred dollars.  
170 Said commissioner shall assess any employee a civil penalty of [two  
171 hundred fifty] five hundred dollars for a second or subsequent violation  
172 on or before twenty-four months after the date of the first violation.

173 (e) (1) If the Commissioner of Revenue Services finds, after a hearing  
174 pursuant to subsection (c) of this section, that [(1)] (A) any business  
175 entity issued a dealer registration under section 21a-415, as amended by  
176 this act, has sold, given or delivered an electronic nicotine delivery  
177 system or vapor product to a person under twenty-one years of age,

178 other than a person under twenty-one years of age who is delivering or  
179 accepting delivery in such person's capacity as an employee, or [(2)] (B)  
180 such person's employee has sold, given or delivered an electronic  
181 nicotine delivery system or vapor product to a person under twenty-one  
182 years of age, the commissioner shall, for the first violation, require the  
183 authorized owner of such business entity to successfully complete an  
184 online prevention education program administered by the Department  
185 of Mental Health and Addiction Services not later than thirty days after  
186 said commissioner's finding. Said commissioner shall assess any  
187 business entity issued a dealer registration, whose authorized owner  
188 fails to complete such program, a civil penalty of [three] six hundred  
189 dollars for the first violation.

190 (2) Said commissioner shall assess such business entity a civil penalty  
191 of [seven hundred fifty] one thousand five hundred dollars for a second  
192 violation on or before twenty-four months after the date of the first  
193 violation.

194 (3) For a third violation by such business entity on or before twenty-  
195 four months after the date of the first violation, said commissioner shall  
196 assess such business entity a civil penalty of [one] two thousand dollars  
197 and notify the Commissioner of Consumer Protection that the dealer  
198 registration held by such business entity under this chapter shall be  
199 suspended for not less than thirty days.

200 (4) For a fourth violation on or before twenty-four months after the  
201 date of the first violation, the Commissioner of Revenue Services shall  
202 assess such business entity a civil penalty of [one] two thousand dollars  
203 and notify the Commissioner of Consumer Protection that the dealer  
204 registration held by such business entity under [said] this chapter shall  
205 be revoked. The Commissioner of Revenue Services shall order such  
206 business entity to conspicuously post a notice in a public place stating  
207 that electronic nicotine delivery systems and vapor products cannot be  
208 sold during the period of suspension or revocation and the reasons for  
209 such suspension or revocation. Any sale of an electronic nicotine

210 delivery system or vapor product by such business entity during the  
211 period of such suspension or revocation shall be deemed an additional  
212 violation of this section.

213 (f) (1) If the Commissioner of Revenue Services finds, after a hearing  
214 pursuant to subsection (c) of this section, that (A) any business entity  
215 issued a dealer registration under section 21a-415, as amended by this  
216 act, has sold, given or delivered an electronic nicotine delivery system  
217 or vapor product with a flavoring agent, other than tobacco flavor, that  
218 has been added for the purpose of flavoring the contents of the  
219 electronic nicotine delivery system or vapor product, or (B) any such  
220 business entity does not possess documentation of nicotine content or  
221 nicotine content that indicates a level of nicotine that is greater than  
222 thirty-five milligrams per milliliter for any electronic nicotine delivery  
223 system or vapor product sold, given or delivered within the retail  
224 establishment of the business entity, the commissioner shall, for the first  
225 violation, require the authorized owner of such business entity to  
226 successfully complete an online prevention education program  
227 administered by the Department of Mental Health and Addiction  
228 Services not later than thirty days after said commissioner's finding.  
229 Said commissioner shall assess any business entity issued a dealer  
230 registration, whose authorized owner fails to complete such program, a  
231 civil penalty of six hundred dollars for the first violation.

232 (2) Said commissioner shall assess such business entity a civil penalty  
233 of one thousand five hundred dollars for a second violation on or before  
234 twenty-four months after the date of the first violation.

235 (3) For a third violation by such business entity on or before twenty-  
236 four months after the date of the first violation, said commissioner shall  
237 assess such business entity a civil penalty of two thousand dollars and  
238 notify the Commissioner of Consumer Protection that the dealer  
239 registration held by such business entity under this chapter shall be  
240 suspended for not less than thirty days.

241 (4) For a fourth violation on or before twenty-four months after the



242 date of the first violation, the Commissioner of Revenue Services shall  
243 assess such business entity a civil penalty of two thousand dollars and  
244 notify the Commissioner of Consumer Protection that the dealer  
245 registration held by such business entity under this chapter shall be  
246 revoked. The Commissioner of Revenue Services shall order such  
247 business entity to conspicuously post a notice in a public place stating  
248 that electronic nicotine delivery systems and vapor products cannot be  
249 sold during the period of suspension or revocation and the reasons for  
250 such suspension or revocation. Any sale of an electronic nicotine  
251 delivery system or vapor product by such business entity during the  
252 period of such suspension or revocation shall be deemed an additional  
253 violation of this section.

254 [(f)] (g) Upon receipt of notice of determination from the  
255 Commissioner of Revenue Services made under subsection (e) or (f) of  
256 this section, the Commissioner of Consumer Protection shall suspend or  
257 revoke the dealer registration of the business entity that is the subject of  
258 [said] the determination. The Commissioner of Consumer Protection  
259 shall not be required to hold a hearing in connection with any notice of  
260 determination received from the Commissioner of Revenue Services  
261 under this section.

262 [(g)] (h) The Commissioner of Consumer Protection shall not issue a  
263 new dealer registration to a former registrant whose dealer registration  
264 was revoked unless the commissioner is satisfied that such business  
265 entity that holds a dealer registration will comply with the provisions of  
266 this chapter and any regulations related thereto, and section 53-344b, as  
267 amended by this act.

268 Sec. 4. Section 12-295a of the general statutes is repealed and the  
269 following is substituted in lieu thereof (*Effective January 1, 2022*):

270 (a) If the Commissioner of Revenue Services finds, after a hearing,  
271 that any person employed by a dealer or distributor, as defined in  
272 section 12-285, has sold, given or delivered cigarettes or tobacco  
273 products to a person under twenty-one years of age other than a person

274 under twenty-one years of age who is delivering or accepting delivery  
275 in such person's capacity as an employee, said commissioner shall, for  
276 the first violation, require such person to successfully complete an  
277 online tobacco prevention education program administered by the  
278 Department of Mental Health and Addiction Services not later than  
279 thirty days after said commissioner's finding. Said commissioner shall  
280 assess any person who fails to complete such program a civil penalty of  
281 [two] four hundred dollars. Said commissioner shall assess any person  
282 employed by a dealer or distributor a civil penalty of [two hundred fifty]  
283 five hundred dollars for a second or subsequent violation on or before  
284 twenty-four months after the date of the first violation.

285 (b) (1) If the Commissioner of Revenue Services finds, after a hearing,  
286 that any dealer or distributor has sold, given or delivered cigarettes or a  
287 tobacco product to a person under twenty-one years of age other than a  
288 person under twenty-one years of age who is delivering or accepting  
289 delivery in such person's capacity as an employee, or such dealer or  
290 distributor's employee has sold, given or delivered cigarettes or a  
291 tobacco product to such person, said commissioner shall require such  
292 dealer or distributor, for the first violation, to successfully complete an  
293 online tobacco prevention education program administered by the  
294 Department of Mental Health and Addiction Services not later than  
295 thirty days after said commissioner's finding. Said commissioner shall  
296 assess any dealer or distributor who fails to complete such program a  
297 civil penalty of [three] six hundred dollars.

298 (2) Said commissioner shall assess [any] such dealer or distributor a  
299 civil penalty of [seven hundred fifty] one thousand five hundred dollars  
300 for a second violation on or before twenty-four months after the date of  
301 the first violation.

302 (3) For a third violation on or before twenty-four months after the  
303 date of the first violation, said commissioner shall assess such dealer or  
304 distributor a civil penalty of [one] two thousand dollars and suspend  
305 any license held by such dealer or distributor under this chapter for not

306 less than thirty days.

307 (4) For a fourth violation on or before twenty-four months after the  
308 date of the first violation, said commissioner shall assess such dealer or  
309 distributor a civil penalty of [one] two thousand dollars and revoke any  
310 license issued to such dealer or distributor under this chapter. Said  
311 commissioner shall order such distributor or dealer to conspicuously  
312 post a notice in a public place within such distributor's or dealer's  
313 establishment stating that cigarettes and tobacco products cannot be  
314 sold during the period of such suspension or revocation and the reasons  
315 for such suspension or revocation. Any sale of cigarettes or a tobacco  
316 product by such dealer or distributor during such suspension or  
317 revocation shall be deemed an additional violation of this subsection.

318 (c) (1) If the Commissioner of Revenue Services finds, after a hearing,  
319 that any owner of an establishment in which a cigarette vending  
320 machine or restricted cigarette vending machine is located has sold,  
321 given or delivered cigarettes or tobacco products from any such  
322 machine to a person under twenty-one years of age other than a person  
323 under twenty-one years of age who is delivering or accepting delivery  
324 in such person's capacity as an employee, or has allowed cigarettes or  
325 tobacco products to be sold, given or delivered to such person from any  
326 such machine, said commissioner shall require such owner, for the first  
327 violation, to successfully complete an online tobacco prevention  
328 education program administered by the Department of Mental Health  
329 and Addiction Services not later than thirty days after said  
330 commissioner's finding. Said commissioner shall assess any owner who  
331 fails to complete such program a civil penalty of [five hundred] one  
332 thousand dollars.

333 (2) Said commissioner shall assess [any] such owner a civil penalty of  
334 [seven hundred fifty] one thousand five hundred dollars for a second  
335 violation on or before twenty-four months after the date of the first  
336 violation.

337 (3) For a third violation on or before twenty-four months after the

338 date of the first violation, said commissioner shall assess such owner a  
339 civil penalty of [one] two thousand dollars and immediately remove any  
340 such machine from such establishment and no such machine may be  
341 placed in such establishment for a period of one year following such  
342 removal.

343 (d) Any person aggrieved by any action of the commissioner  
344 pursuant to this section may take any appeal of such action as provided  
345 in sections 12-311 and 12-312.

346 Sec. 5. Subsection (b) of section 53-344 of the general statutes is  
347 repealed and the following is substituted in lieu thereof (*Effective January*  
348 *1, 2022*):

349 (b) Any person who sells, gives or delivers to any person under  
350 twenty-one years of age cigarettes or a tobacco product shall be fined  
351 not more than [three] six hundred dollars for the first offense, not more  
352 than [seven hundred fifty] one thousand five hundred dollars for a  
353 second offense on or before twenty-four months after the date of the first  
354 offense and not more than [one] two thousand dollars for each  
355 subsequent offense on or before twenty-four months after the date of the  
356 first offense. The provisions of this subsection shall not apply to a person  
357 under twenty-one years of age who is delivering or accepting delivery  
358 of cigarettes or a tobacco product (1) in such person's capacity as an  
359 employee, or (2) as part of a scientific study being conducted by an  
360 organization for the purpose of medical research to further efforts in  
361 cigarette and tobacco product use prevention and cessation, provided  
362 such medical research has been approved by the organization's  
363 institutional review board, as defined in section 21a-408.

364 Sec. 6. Subsection (b) of section 53-344b of the general statutes is  
365 repealed and the following is substituted in lieu thereof (*Effective January*  
366 *1, 2022*):

367 (b) Any person who sells, gives or delivers to any person under  
368 twenty-one years of age an electronic nicotine delivery system or vapor

369 product in any form shall be fined not more than [three] six hundred  
370 dollars for the first offense, not more than [seven hundred fifty] one  
371 thousand five hundred dollars for a second offense on or before twenty-  
372 four months after the date of the first offense and not more than [one]  
373 two thousand dollars for each subsequent offense on or before twenty-  
374 four months after the date of the first offense. The provisions of this  
375 subsection shall not apply to a person under twenty-one years of age  
376 who is delivering or accepting delivery of an electronic nicotine delivery  
377 system or vapor product (1) in such person's capacity as an employee,  
378 or (2) as part of a scientific study being conducted by an organization  
379 for the purpose of medical research to further efforts in tobacco use  
380 prevention and cessation, provided such medical research has been  
381 approved by the organization's institutional review board, as defined in  
382 section 21a-408.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2022</i>	21a-415(a)
Sec. 2	<i>January 1, 2022</i>	New section
Sec. 3	<i>January 1, 2022</i>	21a-415b
Sec. 4	<i>January 1, 2022</i>	12-295a
Sec. 5	<i>January 1, 2022</i>	53-344(b)
Sec. 6	<i>January 1, 2022</i>	53-344b(b)