



General Assembly

February Session, 2022

***Raised Bill No. 367***

LCO No. 2867



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***AN ACT CONCERNING 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2 repealed and the following is substituted in lieu thereof (*Effective January*  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, 2023*):

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, including, but not  
21 limited to, a concentrated plant extract or oil containing natural or  
22 synthetic ingredients, that, when used in an electronic nicotine delivery  
23 system or vapor product, produces a vapor that may or may not include  
24 nicotine and [is] may be inhaled by the user of such electronic nicotine  
25 delivery system or vapor product;

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

33 (7) "Vapor product" means any product that employs a heating  
34 element, power source, electronic circuit or other electronic, chemical or  
35 mechanical means, regardless of shape or size, to produce a vapor that  
36 may include nicotine and is inhaled by the user of such product. "Vapor  
37 product" does not include a medicinal or therapeutic product that is (A)  
38 used by a licensed health care provider to treat a patient in a health care  
39 setting, (B) used by a patient, as prescribed or directed by a licensed  
40 health care provider in any setting, or (C) any drug or device, as defined  
41 in the federal Food, Drug and Cosmetic Act, 21 USC 321, as amended  
42 from time to time, any combination product, as described in said act, 21  
43 USC 353(g), as amended from time to time, or any biological product, as  
44 described in 42 USC 262, as amended from time to time, and 21 CFR  
45 600.3, as amended from time to time, authorized for sale by the United

46 States Food and Drug Administration;

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

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

57 (10) "Flavored electronic nicotine delivery system or vapor product"  
58 means any flavored electronic nicotine delivery system or vapor  
59 product that imparts a taste or smell, other than the taste or smell of  
60 tobacco, either prior to or during the use of an electronic nicotine  
61 delivery system or vapor product, including, but not limited to, any  
62 taste or smell relating to fruit, menthol, mint, wintergreen, chocolate,  
63 cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb or  
64 spice.

65 Sec. 2. (NEW) (*Effective January 1, 2023*) (a) No person shall sell, give,  
66 deliver or possess with intent to sell in this state any flavored electronic  
67 nicotine delivery system or vapor product.

68 (b) (1) No person shall sell, give, deliver or possess with intent to sell,  
69 in this state an electronic nicotine delivery system or a vapor product  
70 with a nicotine content that is greater than thirty-five milligrams per  
71 milliliter. Each person with a manufacturer registration shall provide  
72 documentation to a person with a dealer registration, indicating the  
73 nicotine content, expressed as milligrams per milliliter, for each  
74 electronic nicotine delivery system and vapor product sold by such  
75 person with a manufacturer registration to such person with a dealer  
76 registration.

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

88 (c) As used in this section, "person" means any individual, authorized  
89 owner of a business entity, retail establishment, as defined in section  
90 19a-106a of the general statutes, partnership, company, limited liability  
91 company, public or private corporation, association, trustee, executor,  
92 administrator or other fiduciary or custodian.

93 Sec. 3. Section 21a-415b of the general statutes is repealed and the  
94 following is substituted in lieu thereof (*Effective January 1, 2023*):

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

105 (b) (1) The Commissioner of Mental Health and Addiction Services,  
106 or the commissioner's designee, shall conduct unannounced compliance  
107 checks on business entities [holding] with a dealer registration by  
108 engaging persons between the ages of sixteen and twenty to enter the

109 place of business of each such business entity to attempt to purchase an  
110 electronic nicotine delivery system or a vapor product.

111 (2) The Commissioner of Mental Health and Addiction Services, or  
112 the commissioner's designee, shall conduct unannounced compliance  
113 checks on business entities with a dealer registration to determine  
114 whether any such business entity is selling, giving or delivering or has  
115 sold, given or delivered any flavored electronic nicotine delivery system  
116 or vapor product in violation of subsection (a) of section 2 of this act.

117 (3) The Commissioner of Mental Health and Addiction Services, or  
118 the commissioner's designee, shall conduct unannounced compliance  
119 checks on business entities with a dealer registration to determine  
120 whether each such business entity is in possession of the documentation  
121 required under subsection (b) of section 2 of this act and whether such  
122 documentation indicates that electronic nicotine delivery systems or  
123 vapor products with a nicotine content greater than thirty-five  
124 milligrams per milliliter were sold, given or delivered by such business  
125 entity. The commissioner shall refer all business entities that do not  
126 possess such documentation or that sold, gave, delivered or possessed  
127 with intent to sell an electronic nicotine delivery system or a vapor  
128 product with a nicotine content that is greater than thirty-five  
129 milligrams per milliliter to the Commissioner of Revenue Services.

130 (4) The [commissioner] Commissioner of Mental Health and  
131 Addiction Services shall conduct unannounced follow-up compliance  
132 checks of all noncompliant business entities and shall refer all  
133 noncompliant business entities to the Commissioner of Revenue  
134 Services.

135 (c) Upon receipt of a referral made pursuant to subsection (b) of this  
136 section, the Commissioner of Revenue Services may, following a  
137 hearing, impose a civil penalty and direct the Commissioner of  
138 Consumer Protection to suspend or revoke the dealer registration of the  
139 business entity that is the subject of such referral. The Commissioner of  
140 Revenue Services shall provide such business entity with written notice

141 of the hearing, specifying the time and place of such hearing and  
142 requiring such business entity to show cause why such dealer  
143 registration should not be suspended or revoked. The written notice of  
144 the hearing shall be mailed or delivered to such business entity not less  
145 than ten days preceding the date of the hearing. Such notice may be  
146 served personally or by registered or certified mail.

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

164 (e) (1) If the Commissioner of Revenue Services finds, after a hearing  
165 pursuant to subsection (c) of this section, that [(1)] (A) any business  
166 entity issued a dealer registration under section 21a-415, as amended by  
167 this act, has sold, given or delivered an electronic nicotine delivery  
168 system or vapor product to a person under twenty-one years of age,  
169 other than a person under twenty-one years of age who is delivering or  
170 accepting delivery in such person's capacity as an employee, or [(2)] (B)  
171 such person's employee has sold, given or delivered an electronic  
172 nicotine delivery system or vapor product to a person under twenty-one  
173 years of age, the commissioner shall, for the first violation, require the

174 authorized owner of such business entity to successfully complete an  
175 online prevention education program administered by the Department  
176 of Mental Health and Addiction Services not later than thirty days after  
177 said commissioner's finding. [Said commissioner] The Commissioner of  
178 Revenue Services shall assess any business entity issued a dealer  
179 registration, whose authorized owner fails to complete such program, a  
180 civil penalty of [three] six hundred dollars for the first violation. [Said  
181 commissioner]

182 (2) The Commissioner of Revenue Services shall assess such business  
183 entity a civil penalty of [seven hundred fifty] one thousand five hundred  
184 dollars for a second violation on or before twenty-four months after the  
185 date of the first violation.

186 (3) For a third violation by such business entity on or before twenty-  
187 four months after the date of the first violation, [said commissioner] the  
188 Commissioner of Revenue Services shall assess such business entity a  
189 civil penalty of [one] two thousand dollars and notify the Commissioner  
190 of Consumer Protection that the dealer registration held by such  
191 business entity under this chapter shall be suspended for not less than  
192 thirty days.

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

206 (f) (1) If the Commissioner of Revenue Services finds, after a hearing  
207 pursuant to subsection (c) of this section, that (A) any business entity  
208 issued a dealer registration under section 21a-415, as amended by this  
209 act, has sold, given or delivered any flavored electronic nicotine delivery  
210 system or vapor product, or (B) any such business entity does not  
211 possess documentation of nicotine content or nicotine content that  
212 indicates a level of nicotine that is greater than thirty-five milligrams per  
213 milliliter for any electronic nicotine delivery system or vapor product  
214 sold, given or delivered within the retail establishment of the business  
215 entity, the commissioner shall, for the first violation, require the  
216 authorized owner of such business entity to successfully complete an  
217 online prevention education program administered by the Department  
218 of Mental Health and Addiction Services not later than thirty days after  
219 said commissioner's finding. The Commissioner of Revenue Services  
220 shall assess any business entity issued a dealer registration, whose  
221 authorized owner fails to complete such program, a civil penalty of six  
222 hundred dollars for the first violation.

223 (2) The Commissioner of Revenue Services shall assess such business  
224 entity a civil penalty of one thousand five hundred dollars for a second  
225 violation on or before twenty-four months after the date of the first  
226 violation.

227 (3) For a third violation by such business entity on or before twenty-  
228 four months after the date of the first violation, the Commissioner of  
229 Revenue Services shall assess such business entity a civil penalty of two  
230 thousand dollars and notify the Commissioner of Consumer Protection  
231 that the dealer registration held by such business entity under this  
232 chapter shall be suspended for not less than thirty days.

233 (4) For a fourth violation on or before twenty-four months after the  
234 date of the first violation, the Commissioner of Revenue Services shall  
235 assess such business entity a civil penalty of two thousand dollars and  
236 notify the Commissioner of Consumer Protection that the dealer  
237 registration held by such business entity under this chapter shall be  
238 revoked. The Commissioner of Revenue Services shall order such



239 business entity to conspicuously post a notice in a public place stating  
240 that electronic nicotine delivery systems and vapor products cannot be  
241 sold during the period of suspension or revocation and the reasons for  
242 such suspension or revocation. Any sale of an electronic nicotine  
243 delivery system or vapor product by such business entity during the  
244 period of such suspension or revocation shall be deemed an additional  
245 violation of this section.

246 [(f)] (g) Upon receipt of notice of determination from the  
247 Commissioner of Revenue Services made under subsection (e) or (f) of  
248 this section, the Commissioner of Consumer Protection shall suspend or  
249 revoke the dealer registration of the business entity that is the subject of  
250 said determination. The Commissioner of Consumer Protection shall  
251 not be required to hold a hearing in connection with any notice of  
252 determination received from the Commissioner of Revenue Services  
253 under this section.

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

260 Sec. 4. Section 12-295a of the general statutes is repealed and the  
261 following is substituted in lieu thereof (*Effective January 1, 2023*):

262 (a) If the Commissioner of Revenue Services finds, after a hearing,  
263 that any person employed by a dealer or distributor, as defined in  
264 section 12-285, has sold, given or delivered cigarettes or tobacco  
265 products to a person under twenty-one years of age other than a person  
266 under twenty-one years of age who is delivering or accepting delivery  
267 in such person's capacity as an employee, said commissioner shall, for  
268 the first violation, require such person to successfully complete an  
269 online tobacco prevention education program administered by the  
270 Department of Mental Health and Addiction Services not later than

271 thirty days after said commissioner's finding. [Said commissioner] The  
272 Commissioner of Revenue Services shall assess any person who fails to  
273 complete such program a civil penalty of [two] four hundred dollars.  
274 Said commissioner shall assess any person employed by a dealer or  
275 distributor a civil penalty of [two hundred fifty] five hundred dollars  
276 for a second or subsequent violation on or before twenty-four months  
277 after the date of the first violation.

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

292 (2) The Commissioner of Revenue Services shall assess [any] such  
293 dealer or distributor a civil penalty of [seven hundred fifty] one  
294 thousand five hundred dollars for a second violation on or before  
295 twenty-four months after the date of the first violation.

296 (3) For a third violation on or before twenty-four months after the  
297 date of the first violation, [said commissioner] the Commissioner of  
298 Revenue Services shall assess such dealer or distributor a civil penalty  
299 of [one] two thousand dollars and suspend any license held by such  
300 dealer or distributor under this chapter for not less than thirty days.

301 (4) For a fourth violation on or before twenty-four months after the  
302 date of the first violation, [said commissioner] the Commissioner of

303 Revenue Services shall assess such dealer or distributor a civil penalty  
304 of [one] two thousand dollars and revoke any license issued to such  
305 dealer or distributor under this chapter. Said commissioner shall order  
306 such distributor or dealer to conspicuously post a notice in a public  
307 place within such distributor's or dealer's establishment stating that  
308 cigarettes and tobacco products cannot be sold during the period of such  
309 suspension or revocation and the reasons for such suspension or  
310 revocation. Any sale of cigarettes or a tobacco product by such dealer or  
311 distributor during such suspension or revocation shall be deemed an  
312 additional violation of this subsection.

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

329 (2) The Commissioner of Revenue Services shall assess [any] such  
330 owner a civil penalty of [seven hundred fifty] one thousand five  
331 hundred dollars for a second violation on or before twenty-four months  
332 after the date of the first violation.

333 (3) For a third violation on or before twenty-four months after the  
334 date of the first violation, [said commissioner] the Commissioner of  
335 Revenue Services shall assess such owner a civil penalty of [one] two

336 thousand dollars and immediately remove any such machine from such  
337 establishment and no such machine may be placed in such  
338 establishment for a period of one year following such removal.

339 (d) Any person aggrieved by any action of the [commissioner]  
340 Commissioner of Revenue Services pursuant to this section may take  
341 any appeal of such action as provided in sections 12-311 and 12-312.

342 Sec. 5. Subsection (b) of section 53-344 of the general statutes is  
343 repealed and the following is substituted in lieu thereof (*Effective January*  
344 *1, 2023*):

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

360 Sec. 6. Subsection (b) of section 53-344b of the general statutes is  
361 repealed and the following is substituted in lieu thereof (*Effective January*  
362 *1, 2023*):

363 (b) Any person who sells, gives or delivers to any person under  
364 twenty-one years of age an electronic nicotine delivery system or vapor  
365 product in any form shall be fined not more than [three] six hundred  
366 dollars for the first offense, not more than [seven hundred fifty] one

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2023</i>	21a-415(a)
Sec. 2	<i>January 1, 2023</i>	New section
Sec. 3	<i>January 1, 2023</i>	21a-415b
Sec. 4	<i>January 1, 2023</i>	12-295a
Sec. 5	<i>January 1, 2023</i>	53-344(b)
Sec. 6	<i>January 1, 2023</i>	53-344b(b)

**PH**      *Joint Favorable*