



General Assembly

**Substitute Bill No. 367**

February Session, 2022



**AN ACT CONCERNING THE SALE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS AND INCREASING PENALTIES FOR UNDERAGE SALES OF SUCH SYSTEMS AND PRODUCTS, CIGARETTES AND TOBACCO 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2 repealed and the following is substituted in lieu thereof (*Effective January*  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) "Adult-only tobacco retail store" means a retail establishment, as  
58 defined in section 19a-106a, that holds a dealer registration and  
59 prohibits persons under the age of twenty-one from entering such  
60 establishment.

61 Sec. 2. (NEW) (*Effective January 1, 2023*) For the period commencing  
62 January 1, 2023, to June 30, 2026, inclusive, no business entity other than  
63 an adult-only tobacco retail store or a principal, a proprietor, an agent,  
64 a servant or an employee of such tobacco retail store shall sell, give,  
65 deliver or possess with intent to sell in this state any electronic nicotine  
66 delivery system or vapor product.

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 Section 21a-415b of the general statutes is repealed and the  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

69 (a) Each business entity with a dealer registration shall place and  
70 maintain in legible condition at each point of sale of electronic nicotine  
71 delivery systems or vapor products a notice to consumers that states (1)  
72 the sale, giving or delivering of electronic nicotine delivery systems and  
73 vapor products to any person under twenty-one years of age is  
74 prohibited by section 53-344b, as amended by this act, (2) the use of false  
75 identification by a person under twenty-one years of age to purchase an  
76 electronic nicotine delivery system or a vapor product is prohibited, and  
77 (3) the penalties and fines for violating the provisions of this section and

78 section 53-344b, as amended by this act.

79 (b) The Commissioner of Mental Health and Addiction Services, or  
80 the commissioner's designee, shall conduct unannounced compliance  
81 checks on business entities [holding] with a dealer registration by  
82 engaging persons between the ages of sixteen and twenty to enter the  
83 place of business of each such business entity to attempt to purchase an  
84 electronic nicotine delivery system or a vapor product. The  
85 commissioner shall conduct unannounced follow-up compliance checks  
86 of all noncompliant business entities and shall refer all noncompliant  
87 business entities to the Commissioner of Revenue Services.

88 (c) Upon receipt of a referral made pursuant to subsection (b) of this  
89 section, the Commissioner of Revenue Services may, following a  
90 hearing, impose a civil penalty and direct the Commissioner of  
91 Consumer Protection to suspend or revoke the dealer registration of the  
92 business entity that is the subject of such referral. The Commissioner of  
93 Revenue Services shall provide such business entity with written notice  
94 of the hearing, specifying the time and place of such hearing and  
95 requiring such business entity to show cause why such dealer  
96 registration should not be suspended or revoked. The written notice of  
97 the hearing shall be mailed or delivered to such business entity not less  
98 than ten days preceding the date of the hearing. Such notice may be  
99 served personally or by registered or certified mail.

100 (d) If the Commissioner of Revenue Services finds, after a hearing  
101 pursuant to subsection (c) of this section, that any person employed by  
102 any business entity issued a dealer registration under section 21a-415,  
103 as amended by this act, has sold, given or delivered an electronic  
104 nicotine delivery system or vapor product to a person under twenty-one  
105 years of age, other than a person under twenty-one years of age who is  
106 delivering or accepting delivery in such person's capacity as an  
107 employee, said commissioner shall, for the first violation, require such  
108 employee to successfully complete an online prevention education  
109 program administered by the Department of Mental Health and  
110 Addiction Services not later than thirty days after said commissioner's

111 finding. [Said commissioner] The Commissioner of Revenue Services  
112 shall assess any employee who fails to complete such program a civil  
113 penalty of [two] four hundred dollars. Said commissioner shall assess  
114 any employee a civil penalty of [two hundred fifty] five hundred dollars  
115 for a second or subsequent violation on or before twenty-four months  
116 after the date of the first violation.

117 (e) (1) If the Commissioner of Revenue Services finds, after a hearing  
118 pursuant to subsection (c) of this section, that [(1)] (A) any business  
119 entity issued a dealer registration under section 21a-415, as amended by  
120 this act, has sold, given or delivered an electronic nicotine delivery  
121 system or vapor product to a person under twenty-one years of age,  
122 other than a person under twenty-one years of age who is delivering or  
123 accepting delivery in such person's capacity as an employee, or [(2)] (B)  
124 such person's employee has sold, given or delivered an electronic  
125 nicotine delivery system or vapor product to a person under twenty-one  
126 years of age, the commissioner shall, for the first violation, require the  
127 authorized owner of such business entity to successfully complete an  
128 online prevention education program administered by the Department  
129 of Mental Health and Addiction Services not later than thirty days after  
130 said commissioner's finding. [Said commissioner] The Commissioner of  
131 Revenue Services shall assess any business entity issued a dealer  
132 registration, whose authorized owner fails to complete such program, a  
133 civil penalty of [three] six hundred dollars for the first violation. [Said  
134 commissioner]

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

139 (3) For a third violation by such business entity on or before twenty-  
140 four months after the date of the first violation, [said commissioner] the  
141 Commissioner of Revenue Services shall assess such business entity a  
142 civil penalty of [one] two thousand dollars and notify the Commissioner  
143 of Consumer Protection that the dealer registration held by such

144 business entity under this chapter shall be suspended for not less than  
145 thirty days.

146 (4) For a fourth violation on or before twenty-four months after the  
147 date of the first violation, the Commissioner of Revenue Services shall  
148 assess such business entity a civil penalty of [one] two thousand dollars  
149 and notify the Commissioner of Consumer Protection that the dealer  
150 registration held by such business entity under [said] this chapter shall  
151 be revoked. The Commissioner of Revenue Services shall order such  
152 business entity to conspicuously post a notice in a public place stating  
153 that electronic nicotine delivery systems and vapor products cannot be  
154 sold during the period of suspension or revocation and the reasons for  
155 such suspension or revocation. Any sale of an electronic nicotine  
156 delivery system or vapor product by such business entity during the  
157 period of such suspension or revocation shall be deemed an additional  
158 violation of this section.

159 (f) Upon receipt of notice of determination from the Commissioner of  
160 Revenue Services made under subsection (e) of this section, the  
161 Commissioner of Consumer Protection shall suspend or revoke the  
162 dealer registration of the business entity that is the subject of said  
163 determination. The Commissioner of Consumer Protection shall not be  
164 required to hold a hearing in connection with any notice of  
165 determination received from the Commissioner of Revenue Services  
166 under this section.

167 (g) The Commissioner of Consumer Protection shall not issue a new  
168 dealer registration to a former registrant whose dealer registration was  
169 revoked unless the commissioner is satisfied that such business entity  
170 that holds a dealer registration will comply with the provisions of this  
171 chapter and any regulations related thereto, and section 53-344b, as  
172 amended by this act.

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

175 (a) If the Commissioner of Revenue Services finds, after a hearing,  
176 that any person employed by a dealer or distributor, as defined in  
177 section 12-285, has sold, given or delivered cigarettes or tobacco  
178 products to a person under twenty-one years of age other than a person  
179 under twenty-one years of age who is delivering or accepting delivery  
180 in such person's capacity as an employee, said commissioner shall, for  
181 the first violation, require such person to successfully complete an  
182 online tobacco prevention education program administered by the  
183 Department of Mental Health and Addiction Services not later than  
184 thirty days after said commissioner's finding. [Said commissioner] The  
185 Commissioner of Revenue Services shall assess any person who fails to  
186 complete such program a civil penalty of [two] four hundred dollars.  
187 Said commissioner shall assess any person employed by a dealer or  
188 distributor a civil penalty of [two hundred fifty] five hundred dollars  
189 for a second or subsequent violation on or before twenty-four months  
190 after the date of the first violation.

191 (b) (1) If the Commissioner of Revenue Services finds, after a hearing,  
192 that any dealer or distributor has sold, given or delivered cigarettes or a  
193 tobacco product to a person under twenty-one years of age other than a  
194 person under twenty-one years of age who is delivering or accepting  
195 delivery in such person's capacity as an employee, or such dealer or  
196 distributor's employee has sold, given or delivered cigarettes or a  
197 tobacco product to such person, said commissioner shall require such  
198 dealer or distributor, for the first violation, to successfully complete an  
199 online tobacco prevention education program administered by the  
200 Department of Mental Health and Addiction Services not later than  
201 thirty days after said commissioner's finding. [Said commissioner] The  
202 Commissioner of Revenue Services shall assess any dealer or distributor  
203 who fails to complete such program a civil penalty of [three] six  
204 hundred dollars. [Said commissioner]

205 (2) The Commissioner of Revenue Services shall assess [any] such  
206 dealer or distributor a civil penalty of [seven hundred fifty] one  
207 thousand five hundred dollars for a second violation on or before

208 twenty-four months after the date of the first violation.

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

214 (4) For a fourth violation on or before twenty-four months after the  
215 date of the first violation, [said commissioner] the Commissioner of  
216 Revenue Services shall assess such dealer or distributor a civil penalty  
217 of [one] two thousand dollars and revoke any license issued to such  
218 dealer or distributor under this chapter. Said commissioner shall order  
219 such distributor or dealer to conspicuously post a notice in a public  
220 place within such distributor's or dealer's establishment stating that  
221 cigarettes and tobacco products cannot be sold during the period of such  
222 suspension or revocation and the reasons for such suspension or  
223 revocation. Any sale of cigarettes or a tobacco product by such dealer or  
224 distributor during such suspension or revocation shall be deemed an  
225 additional violation of this subsection.

226 (c) (1) If the Commissioner of Revenue Services finds, after a hearing,  
227 that any owner of an establishment in which a cigarette vending  
228 machine or restricted cigarette vending machine is located has sold,  
229 given or delivered cigarettes or tobacco products from any such  
230 machine to a person under twenty-one years of age other than a person  
231 under twenty-one years of age who is delivering or accepting delivery  
232 in such person's capacity as an employee, or has allowed cigarettes or  
233 tobacco products to be sold, given or delivered to such person from any  
234 such machine, said commissioner shall require such owner, for the first  
235 violation, to successfully complete an online tobacco prevention  
236 education program administered by the Department of Mental Health  
237 and Addiction Services not later than thirty days after said  
238 commissioner's finding. [Said commissioner] The Commissioner of  
239 Revenue Services shall assess any owner who fails to complete such  
240 program a civil penalty of [five hundred] one thousand dollars. [Said



241 commissioner]

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

246 (3) For a third violation on or before twenty-four months after the  
247 date of the first violation, [said commissioner] the Commissioner of  
248 Revenue Services shall assess such owner a civil penalty of [one] two  
249 thousand dollars and immediately remove any such machine from such  
250 establishment and no such machine may be placed in such  
251 establishment for a period of one year following such removal.

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

255 Sec. 5. Subsection (b) of section 53-344 of the general statutes is  
256 repealed and the following is substituted in lieu thereof (*Effective January*  
257 *1, 2023*):

258 (b) Any person who sells, gives or delivers to any person under  
259 twenty-one years of age cigarettes or a tobacco product shall be fined  
260 not more than [three] six hundred dollars for the first offense, not more  
261 than [seven hundred fifty] one thousand five hundred dollars for a  
262 second offense on or before twenty-four months after the date of the first  
263 offense and not more than [one] two thousand dollars for each  
264 subsequent offense on or before twenty-four months after the date of the  
265 first offense. The provisions of this subsection shall not apply to a person  
266 under twenty-one years of age who is delivering or accepting delivery  
267 of cigarettes or a tobacco product (1) in such person's capacity as an  
268 employee, or (2) as part of a scientific study being conducted by an  
269 organization for the purpose of medical research to further efforts in  
270 cigarette and tobacco product use prevention and cessation, provided  
271 such medical research has been approved by the organization's

272 institutional review board, as defined in section 21a-408.

273 Sec. 6. Subsection (b) of section 53-344b of the general statutes is  
274 repealed and the following is substituted in lieu thereof (*Effective January*  
275 *1, 2023*):

276 (b) Any person who sells, gives or delivers to any person under  
277 twenty-one years of age an electronic nicotine delivery system or vapor  
278 product in any form shall be fined not more than [three] six hundred  
279 dollars for the first offense, not more than [seven hundred fifty] one  
280 thousand five hundred dollars for a second offense on or before twenty-  
281 four months after the date of the first offense and not more than [one]  
282 two thousand dollars for each subsequent offense on or before twenty-  
283 four months after the date of the first offense. The provisions of this  
284 subsection shall not apply to a person under twenty-one years of age  
285 who is delivering or accepting delivery of an electronic nicotine delivery  
286 system or vapor product (1) in such person's capacity as an employee,  
287 or (2) as part of a scientific study being conducted by an organization  
288 for the purpose of medical research to further efforts in tobacco use  
289 prevention and cessation, provided such medical research has been  
290 approved by the organization's institutional review board, as defined in  
291 section 21a-408.

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

**FIN** Joint Favorable Subst.