



General Assembly

Substitute Bill No. 7200

January Session, 2019



AN ACT PROHIBITING THE SALE OF CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS TO PERSONS UNDER AGE TWENTY-ONE.

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

1 Section 1. Section 12-285 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) [When] As used in this chapter and section 21 of this act, unless
4 the context otherwise requires:

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

8 (2) "Distributor" means (A) any person in this state engaged in the
9 business of manufacturing cigarettes; (B) any person, other than a
10 buying pool, [as defined herein,] who purchases cigarettes at
11 wholesale from manufacturers or other distributors for sale to licensed
12 dealers, and who maintains an established place of business, including
13 a location used exclusively for such business, which has facilities in
14 which a substantial stock of cigarettes and related merchandise for
15 resale can be kept at all times, and who sells at least seventy-five per
16 cent of such cigarettes to retailers who, at no time, shall own any
17 interest in the business of the distributor as a partner, stockholder or

18 trustee; (C) any person operating five or more retail stores in this state
19 for the sale of cigarettes, or franchising five or more retail stores in this
20 state for the sale of cigarettes who shares in the gross profits generated
21 by such stores and who purchases cigarettes at wholesale for sale to
22 dealers but sells such cigarettes exclusively to retail stores such person
23 is operating or franchising; (D) any person operating and servicing
24 twenty-five or more cigarette vending machines in this state who buys
25 such cigarettes at wholesale and sells them exclusively in such vending
26 machines. If a person qualified as a distributor in accordance with this
27 subparagraph, in addition sells cigarettes other than in vending
28 machines, such person shall be required to be qualified as a distributor
29 in accordance with subparagraph (B) of this subdivision and have an
30 additional distributor's license for purposes of such other sales; (E) any
31 person who imports into this state unstamped cigarettes, at least
32 seventy-five per cent of which are to be sold to others for resale; and
33 (F) any person operating storage facilities for unstamped cigarettes in
34 this state;

35 (3) "Cigarette vending machine" means a machine used for the
36 purpose of automatically merchandising packaged cigarettes through
37 the insertion of the proper amount of coins therein by the purchaser,
38 but does not mean a restricted cigarette vending machine;

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

46 (5) "Dealer" means any person other than a distributor who is
47 engaged in this state in the business of selling cigarettes, including any
48 person operating and servicing fewer than twenty-five cigarette
49 vending machines, and any person who is engaged in the business of
50 selling taxed tobacco products [, as defined in section 12-330a,] at

51 retail;

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

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

57 (8) "Sale" or "sell" [includes or applies to gifts, exchanges and barter;
58 and] means an act done intentionally by any person, whether done as
59 principal, proprietor, agent, servant or employee, of transferring,
60 offering or attempting to transfer, for consideration, including
61 bartering or exchanging, or offering to barter and exchange;

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

68 (10) "Tobacco product" (A) means any product, other than a
69 cigarette, electronic nicotine delivery system or vapor product, that is
70 made or derived from tobacco and intended for human consumption,
71 or likely to be consumed, whether smoked, heated, chewed, absorbed,
72 dissolved, inhaled or ingested by any other means, including, but not
73 limited to, a cigar, pipe tobacco, chewing tobacco, snuff and snus, and
74 any component or accessory thereof, including, but not limited to, a
75 filter, rolling paper or pipe, and (B) shall not include any drug or
76 device, as defined in the federal Food, Drug and Cosmetic Act, 21 USC
77 321, as amended from time to time, or any combination product, as
78 described in said act, 21 USC 353(g), as amended from time to time,
79 authorized for sale by the United States Food and Drug
80 Administration; and

81 (11) "Taxed tobacco product" means any tobacco product upon

82 which a tax has been paid in accordance with the provisions of chapter
83 214a.

84 (b) [For the purposes of] As used in part I and part II only of this
85 chapter:

86 (1) "Cigarette" means and includes any roll for smoking made
87 wholly or in part of tobacco, irrespective of size or shape, and
88 irrespective of whether the tobacco is flavored, adulterated or mixed
89 with any other ingredient, where such roll has a wrapper or cover
90 made of paper or any other material, except where such wrapper is
91 wholly or in the greater part made of tobacco and such roll weighs
92 over three pounds per thousand, provided, if any roll for smoking has
93 a wrapper made of homogenized tobacco or natural leaf tobacco, and
94 the roll is a cigarette size so that it weighs three pounds or less per
95 thousand, such roll is a cigarette and subject to the tax imposed by part
96 I and part II of this chapter; and

97 (2) "Unstamped cigarette" means any package of cigarettes to which
98 the proper amount of Connecticut cigarette tax stamps have not been
99 affixed.

100 Sec. 2. Subsection (a) of section 12-286a of the general statutes is
101 repealed and the following is substituted in lieu thereof (*Effective*
102 *October 1, 2019*):

103 (a) Each distributor and each dealer [, as defined in section 12-285,]
104 shall place and maintain in legible condition at each point of sale of
105 cigarettes to consumers, including the front of each cigarette vending
106 machine, and each restricted cigarette vending machine a notice which
107 states (1) that the sale, giving or delivering of tobacco products,
108 including cigarettes, to any person under [~~eighteen~~] twenty-one years
109 of age is prohibited by section 53-344, as amended by this act, (2) the
110 [~~purchase or~~] misrepresentation of age through the use of false
111 identification by a person under [~~eighteen~~] twenty-one years of age to
112 purchase cigarettes or tobacco products is prohibited by said section,

113 [53-344,] and (3) the penalties and fines for violating said section [53-
114 344] and section 12-295a, as amended by this act.

115 Sec. 3. Section 12-287 of the general statutes is repealed and the
116 following is substituted in lieu thereof (*Effective October 1, 2019*):

117 (a) Each person engaging in, or intending to engage in, the business
118 of selling cigarettes in this state as a dealer, and each person engaging
119 in or intending to engage in, the business of selling taxed tobacco
120 products at retail, shall secure a dealer's license from the
121 Commissioner of Revenue Services before engaging in such business
122 or continuing to engage therein. Subject to the provisions of section 12-
123 286, as amended by this act, such license shall be renewable annually.
124 The annual fee for a dealer's license shall be two hundred fifty dollars.
125 Such license shall be valid for a period beginning with the date of
126 license to the thirtieth day of September next succeeding the date of
127 license unless sooner revoked as provided in section 12-295, as
128 amended by this act, or unless the person to whom it was issued
129 discontinues business, in either of which cases the holder of the license
130 shall immediately return it to the commissioner. In the event of
131 mutilation or destruction of such license, a duplicate copy, marked as
132 such, shall be issued by said commissioner upon application
133 accompanied by a fee of fifteen dollars.

134 (b) There is established an account to be known as the "tobacco
135 control enforcement account" which shall be a separate, nonlapsing
136 account within the General Fund. One hundred sixty dollars of each
137 dealer's license fee collected under subsection (a) of this section shall
138 be deposited into the account. The Commissioner of Revenue Services
139 may expend moneys from the account as is necessary to administer the
140 licensing of dealers under subsection (a) of this section, for the
141 education and training of such dealers and for inspections of such
142 dealers' retail establishments and unannounced compliance checks of
143 such retail establishments to enforce the provisions of this chapter and
144 chapter 214a and sections 53-344, as amended by this act, and 53-344a,
145 as amended by this act.

146 Sec. 4. Section 12-289a of the general statutes are repealed and the
147 following is substituted in lieu thereof (*Effective October 1, 2019*):

148 (a) No cigarette vending machine or restricted cigarette vending
149 machine may be placed in an area, facility or business which [is
150 frequented primarily by minors] may be accessed by persons under
151 the age of twenty-one unless it is placed in an area, facility or business
152 permitted under chapter 545 that has a separate area accessible only to
153 persons twenty-one years of age or older and the machine is placed in
154 such separate area. No cigarettes may be dispensed from any machine
155 other than a cigarette vending machine or a restricted cigarette
156 vending machine. No tobacco products, electronic nicotine delivery
157 systems or vapor products may be dispensed from a cigarette vending
158 machine or a restricted cigarette vending machine.

159 [(b) A cigarette vending machine may be placed only in (1) an area,
160 facility or business which is accessible only to adults or (2) an area,
161 facility or business permitted under chapter 545 if the area, facility or
162 business has a separate area accessible only to adults and the machine
163 is placed in such area.

164 (c) A cigarette vending machine, until July 1, 1998, may be placed in
165 an area, facility or business permitted under chapter 545 which does
166 not have a separate area accessible only to adults provided the
167 machine is not placed in a vestibule, lobby, entryway, exit or restroom
168 and the machine is under the direct supervision, and in the direct line
169 of sight of, an adult employee of the permittee.

170 (d) A cigarette vending machine, until May 1, 1997, may be placed
171 in an area, facility or business not provided for under subsections (b)
172 and (c) of this section provided the machine is not placed in a
173 vestibule, lobby, entryway, exit or restroom and the machine is under
174 the direct supervision, and in the direct line of sight of, an adult
175 employee.

176 (e) After May 1, 1997, no cigarette vending machine may be placed

177 in any area, facility or business other than as provided in subsections
178 (b) and (c) of this section.

179 (f) After July 1, 1998, no cigarette vending machine may be placed in
180 any area, facility or business other than as provided in subsection (b) of
181 this section.]

182 [(g)] (b) The Commissioner of Revenue Services shall assess any
183 person, dealer or distributor who violates the provisions of this section
184 a civil penalty of two hundred fifty dollars for a first violation and five
185 hundred dollars for a second violation within eighteen months. For a
186 third violation within eighteen months, such penalty shall be five
187 hundred dollars and any such machine shall be immediately removed
188 from such area, facility or business and no such machine may be
189 placed in such area, facility or business for a period of one year
190 following such removal.

191 [(h)] (c) Nothing in this section shall be construed as limiting a town
192 or municipality from imposing more restrictive conditions on the use
193 of vending machines for the sale of cigarettes. A municipality shall be
194 responsible for the enforcement of such conditions.

195 Sec. 5. Section 12-291a of the general statutes is repealed and the
196 following is substituted in lieu thereof (*Effective October 1, 2019*):

197 Any person who fails to secure or renew a license as provided in
198 section 12-287, as amended by this act, or 12-288 shall forfeit as a
199 penalty for each day of operation without such license the sum of [five]
200 fifty dollars. The commissioner is authorized to waive all or any part of
201 the penalties provided in this section when it is proven to his
202 satisfaction that the failure to secure or renew such license was due to
203 reasonable cause.

204 Sec. 6. Section 12-295 of the general statutes is repealed and the
205 following is substituted in lieu thereof (*Effective October 1, 2019*):

206 (a) The commissioner may suspend or revoke the license of any

207 dealer or distributor for (1) failure to comply with any provision of this
208 chapter or regulations related thereto, or (2) for the sale or delivery of
209 [tobacco in any form] cigarettes or tobacco products to a [minor under
210 eighteen] person under twenty-one years of age, following a hearing
211 with respect to which notice in writing, specifying the time and place
212 of such hearing and requiring such dealer or distributor to show cause
213 why such license should not be revoked, is mailed or delivered to such
214 dealer or distributor not less than ten days preceding the date of such
215 hearing. Such notice may be served personally or by registered or
216 certified mail.

217 (b) If the commissioner finds, after a hearing as provided in
218 subsection (a) of this section, that a dealer has violated any provision
219 of sections 12-326a to 12-326h, inclusive, the commissioner shall, for a
220 first violation, suspend such dealer's license for not less than seven
221 days and assess a civil penalty of not less than one thousand dollars
222 and, for a second or subsequent violation [within a five-year period]
223 on or before five years after the date of the first violation, suspend such
224 dealer's license for not less than thirty days and assess a civil penalty of
225 not less than five thousand dollars. The commissioner shall order such
226 dealer to conspicuously post a notice in a public place stating that
227 cigarettes and tobacco products cannot be sold during the period of
228 such suspension and the reason therefor. Any sale of cigarettes or
229 tobacco products by such dealer during the period of such suspension
230 shall be deemed an additional violation of said sections.

231 (c) If the commissioner finds, after a hearing as provided in
232 subsection (a) of this section, that a distributor has violated any
233 provision of sections 12-326a to 12-326h, inclusive, the commissioner
234 shall (1) for a first violation, suspend such distributor's license or
235 certificate for not less than seven days and assess a civil penalty of not
236 more than ten thousand dollars, (2) for a second violation [within a
237 five-year period] on or before five years after the date of the first
238 violation, suspend such distributor's license or certificate for not less
239 than thirty days and assess a civil penalty of not more than twenty-five

240 thousand dollars, and (3) for a subsequent violation [within a five-year
241 period] on or before five years after the date of the first violation,
242 revoke such distributor's license and assess a civil penalty of not more
243 than fifty thousand dollars, except that if the violation is of subsection
244 (b) of section 12-326b, the commissioner shall assess an additional civil
245 penalty of one thousand dollars for each carton of cigarettes sold or
246 bought in violation of said subsection. The commissioner shall order
247 such distributor to conspicuously post a notice in a public place stating
248 that cigarettes or tobacco products cannot be sold during the period of
249 such suspension and the reason therefor. Any sale of cigarettes or
250 tobacco products by such distributor during the period of such
251 suspension shall be deemed an additional violation of said sections.

252 (d) The commissioner shall not issue a new license to a former
253 licensee whose license was revoked unless the commissioner is
254 satisfied that such former licensee will comply with the provisions of
255 this chapter or regulations related thereto.

256 Sec. 7. Section 12-295a of the general statutes is repealed and the
257 following is substituted in lieu thereof (*Effective October 1, 2019*):

258 [(a) If the Commissioner of Revenue Services finds, after a hearing,
259 that a minor has purchased cigarettes or tobacco products, said
260 commissioner shall assess such minor a civil penalty of not more than
261 one hundred dollars for the first violation and not more than one
262 hundred fifty dollars for any second or subsequent offense within
263 twenty-four months after the first violation.]

264 [(b)] (a) If [said commissioner] the Commissioner of Revenue
265 Services finds, after a hearing, that any person employed by a dealer or
266 distributor, as defined in section 12-285, as amended by this act, has
267 sold, given or delivered cigarettes or tobacco products to a [minor]
268 person under twenty-one years of age other than a [minor] person
269 under twenty-one years of age who is delivering or accepting delivery
270 in [his] such person's capacity as an employee, said commissioner
271 shall, for the first violation, require such person to successfully

272 complete an online tobacco prevention education program
273 administered by the Department of Mental Health and Addiction
274 Services not later than thirty days after said commissioner's finding.
275 Said commissioner shall assess any person who fails to complete such
276 program a civil penalty of two hundred dollars. Said commissioner
277 shall assess any person employed by a dealer or distributor a civil
278 penalty of two hundred fifty dollars for a second or subsequent
279 violation [within twenty-four months] on or before thirty-six months
280 after the date of the first violation.

281 [(c)] (b) If [said commissioner] the Commissioner of Revenue
282 Services finds, after a hearing, that any dealer or distributor has sold,
283 given or delivered cigarettes or a tobacco [products] product to a
284 [minor] person under twenty-one years of age other than a [minor]
285 person under twenty-one years of age who is delivering or accepting
286 delivery in [his] such person's capacity as an employee, or such dealer
287 or distributor's employee has sold, given or delivered cigarettes or a
288 tobacco [products] product to such [minor] person, said commissioner
289 shall require such dealer or distributor, for the first violation, to
290 successfully complete an online tobacco prevention education program
291 administered by the Department of Mental Health and Addiction
292 Services not later than thirty days after said commissioner's finding.
293 Said commissioner shall assess any dealer or distributor who fails to
294 complete such program a civil penalty of three hundred dollars. Said
295 commissioner shall assess any dealer or distributor a civil penalty of
296 seven hundred fifty dollars for a second violation [within twenty-four
297 months of] on or before thirty-six months after the date of the first
298 violation. For a third violation [within twenty-four months of] on or
299 before thirty-six months after the date of the first violation, said
300 commissioner shall assess such dealer or distributor [shall be assessed]
301 a civil penalty of [seven hundred fifty] one thousand dollars and
302 suspend any license or certificate held by such dealer or distributor
303 under this chapter [shall be suspended] for not less than thirty days.
304 For a fourth violation on or before thirty-six months after the date of
305 the first violation, said commissioner shall assess such dealer or

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

316 [(d)] (c) If [said commissioner] the Commissioner of Revenue
317 Services finds, after a hearing, that any owner of an establishment in
318 which a cigarette vending machine or restricted cigarette vending
319 machine is located has sold, given or delivered cigarettes or tobacco
320 products from any such machine to a [minor] person under twenty-
321 one years of age other than a [minor] person under twenty-one years
322 of age who is delivering or accepting delivery in [his] such person's
323 capacity as an employee, or has allowed cigarettes or tobacco products
324 to be sold, given or delivered to such [minor] person from any such
325 machine, said commissioner shall require such owner, for the first
326 violation, to successfully complete an online tobacco prevention
327 education program administered by the Department of Mental Health
328 and Addiction Services not later than thirty days after said
329 commissioner's finding. Said commissioner shall assess any owner
330 who fails to complete such program a civil penalty of five hundred
331 dollars. Said commissioner shall assess any owner a civil penalty of
332 seven hundred fifty dollars for a second violation [within twenty-four
333 months] on or before thirty-six months after the date of the first
334 violation. For a third violation [within twenty-four months] on or
335 before thirty-six months after the date of the first violation, said
336 commissioner shall assess such owner [shall be assessed] a civil
337 penalty of [seven hundred fifty] one thousand dollars and immediately
338 remove any such machine [shall be immediately removed] from such
339 establishment and no such machine may be placed in such

340 establishment for a period of one year following such removal.

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

344 (e) Not less than annually, the Commissioner of Revenue Services,
345 or the commissioner's designee, shall conduct unannounced
346 compliance checks on each dealer and distributor by engaging persons
347 between the ages of eighteen and twenty to enter the establishment of
348 each dealer and distributor to attempt to purchase cigarettes or a
349 tobacco product. The commissioner shall conduct an unannounced
350 follow-up compliance check of all noncompliant dealers and
351 distributors not later than three months after the date of
352 noncompliance. The commissioner shall annually publish the names of
353 all noncompliant dealers and distributors on the Department of
354 Revenue Services' Internet web site.

355 Sec. 8. Section 12-314a of the general statutes is repealed and the
356 following is substituted in lieu thereof (*Effective October 1, 2019*):

357 The Commissioner of Revenue Services may authorize a dealer or
358 distributor to give or deliver [any] a cigarette, as defined in section 12-
359 285, as amended by this act, or tobacco product, as defined in section
360 12-330a, as amended by this act, in connection with the promotion or
361 advertisement of such cigarette or tobacco product without receiving
362 monetary consideration from the person receiving the cigarette or
363 tobacco product, provided (1) such [distribution] giving or delivery is
364 on the premises of a licensed dealer, as defined in said section, [12-285]
365 or at any event or establishment with an area the access to which is
366 limited to [adult] patrons twenty-one years of age or older, provided
367 such [distribution] giving or delivery is restricted to such area, (2) the
368 sample of cigarettes, if applicable, contains no less than two cigarettes,
369 [and] (3) the taxes on such cigarettes have been previously paid, and
370 (4) the giving or delivery of the sample is done in accordance with
371 federal laws and regulations governing the giving or delivery of

372 samples of cigarettes and tobacco products. The licensed dealer or
373 distributor shall be liable for any gift or delivery of cigarettes or
374 tobacco products to [minors] a person under twenty-one years of age
375 on [his] the premises by any person conducting a promotion or
376 advertisement of such cigarette or tobacco product in accordance with
377 this section. This section shall not apply to the gift or delivery of a
378 cigarette package in connection with a sale of similar package of
379 cigarettes.

380 Sec. 9. Section 21a-415 of the general statutes is repealed and the
381 following is substituted in lieu thereof (*Effective October 1, 2019*):

382 (a) As used in this chapter, sections 11 to 14, inclusive, and section
383 22 of this act:

384 (1) "Electronic nicotine delivery system" means an electronic device
385 used in the delivery of nicotine or other substances to a person
386 inhaling from the device, and includes, but is not limited to, an
387 electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe
388 or electronic hookah and any related device and any cartridge or other
389 component of such device;

390 (2) "Vapor product" means any product that employs a heating
391 element, power source, electronic circuit or other electronic, chemical
392 or mechanical means, regardless of shape or size, to produce a vapor
393 that may include nicotine, that is inhaled by the user of such product,
394 but shall not include a medicinal or therapeutic product that is (A)
395 used by a licensed health care provider to treat a patient in a health
396 care setting, (B) used by a patient, as prescribed or directed by a
397 licensed health care provider in any setting, or (C) any drug or device,
398 as defined in the federal Food, Drug and Cosmetic Act, 21 USC 321, as
399 amended from time to time, or any combination product, as described
400 in said act, 21 USC 353(g), as amended from time to time, authorized
401 for sale by the United States Food and Drug Administration.

402 (3) "Sale" or "sell" means an act done intentionally by any person,

403 whether done as principal, proprietor, agent, servant or employee, of
404 transferring, or offering or attempting to transfer, for consideration,
405 including bartering or exchanging, or offering to barter or exchange;
406 and

407 (4) "Deliver" or "delivering" means an act done intentionally by any
408 person, whether as principal, proprietor, agent, servant or employee,
409 of transferring, or offering or attempting to transfer, physical
410 possession or control of an electronic nicotine delivery system or vapor
411 product.

412 [(a) On and after March 1, 2016, no] (b) No person in this state may
413 sell, offer for sale or possess with intent to sell an electronic nicotine
414 delivery system or a vapor product unless such person has obtained an
415 electronic nicotine delivery system certificate of dealer registration
416 from the Commissioner of Consumer Protection pursuant to this
417 section for the place of business where such system or product is sold,
418 offered for sale or possessed with the intent to sell. An electronic
419 nicotine delivery system certificate of dealer registration shall allow
420 the sale of electronic nicotine delivery systems or vapor products at
421 such place of business. A holder of an electronic nicotine delivery
422 system certificate of dealer registration shall post such registration in a
423 prominent location adjacent to electronic nicotine delivery system
424 products or vapor products offered for sale. For the purposes of this
425 section, "person" means each owner of a business organization, or such
426 owner's authorized designee, provided each affiliate of a business
427 organization that is under common control or ownership shall
428 constitute a separate person and "person" includes, but is not limited
429 to, retailers, wholesalers and dealers.

430 [(b)] (c) (1) [On or after January 1, 2016, any] Any person desiring an
431 electronic nicotine delivery system certificate of dealer registration or a
432 renewal of such a certificate of dealer registration shall make a sworn
433 application therefor to the Department of Consumer Protection upon
434 forms to be furnished by the department, showing the name, address
435 and electronic mail address of the applicant and the location of the

436 place of business which is to be operated under such certificate of
437 dealer registration. The department may require that an applicant
438 submit documents sufficient to establish that state and local building,
439 fire and zoning requirements will be met at the location of any sale.
440 The department may, in its discretion, conduct an investigation to
441 determine whether a certificate of dealer registration shall be issued to
442 an applicant.

443 (2) The commissioner shall issue an electronic nicotine delivery
444 system certificate of dealer registration to any such applicant not later
445 than thirty days after the date of application unless the commissioner
446 finds: (A) The applicant has wilfully made a materially false statement
447 in such application or in any other application made to the
448 commissioner; or (B) the applicant has neglected to pay any taxes due
449 to this state.

450 (3) A certificate of dealer registration issued under this section shall
451 be renewed annually and may be suspended or revoked at the
452 discretion of the Department of Consumer Protection. Any person
453 aggrieved by a denial of an application, refusal to renew a dealer
454 registration or suspension or revocation of a dealer registration may
455 appeal in the manner prescribed for permits under section 30-55. An
456 electronic nicotine delivery system certificate of dealer registration
457 shall not constitute property, nor shall it be subject to attachment and
458 execution, nor shall it be alienable.

459 (4) The applicant shall pay to the department a nonrefundable
460 application fee of seventy-five dollars, which fee shall be in addition to
461 the annual fee prescribed in subsection [(c)] (d) of this section. An
462 application fee shall not be charged for an application to renew a
463 certificate of dealer registration.

464 [(c)] (d) The annual fee for an electronic nicotine delivery system
465 certificate of dealer registration shall be [four hundred] one thousand
466 dollars.

467 ~~[(d)]~~ (e) The department may renew a certificate of dealer
468 registration issued under this section that has expired if the applicant
469 pays to the department any fine imposed by the commissioner
470 pursuant to subsection (c) of section 21a-4, which fine shall be in
471 addition to the fees prescribed in this section for the certificate of
472 dealer registration applied for. The provisions of this subsection shall
473 not apply to any certificate of dealer registration which is the subject of
474 administrative or court proceedings.

475 ~~[(e)]~~ (f) (1) Any person in this state who knowingly sells, offers for
476 sale or possesses with intent to sell an electronic nicotine delivery
477 system or vapor product from a place of business that does not have a
478 certificate of dealer registration as required under this section shall be
479 fined not more than fifty dollars for each day of such violation, except
480 that the commissioner may waive all or any part of such fine if it is
481 proven to the commissioner's satisfaction that the failure to obtain or
482 renew such certificate of dealer registration was due to reasonable
483 cause.

484 (2) Notwithstanding the provisions of subdivision (1) of this
485 subsection, any person whose electronic nicotine delivery system
486 certificate of dealer registration for the place of business where
487 electronic nicotine delivery systems or vapor products are sold, offered
488 for sale or possessed with the intent to sell has expired and who
489 knowingly sells, offers for sale or possesses with intent to sell an
490 electronic nicotine delivery system or vapor product, where such
491 person's period of operation without such certificate of dealer
492 registration is not more than ninety days from the date of expiration of
493 such certificate of dealer registration, shall have committed an
494 infraction and shall be fined ninety dollars for each day such person is
495 in violation of this subdivision.

496 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
497 this subsection, no penalty shall be imposed under this subsection
498 unless the commissioner sends written notice of any violation to the
499 person who is subject to a penalty under subdivision (1) or (2) of this

500 subsection and allows such person sixty days from the date such notice
501 was sent to cease such violation and comply with the requirements of
502 this section. Such written notice shall be sent by mail evidenced by a
503 certificate of mailing or other similar United States Postal Service form
504 from which the date of deposit can be verified or by electronic mail to
505 the electronic mail address designated by such person on its
506 application or renewal application for nicotine delivery system
507 certificate of dealer registration.

508 Sec. 10. Section 21a-416 of the general statutes is repealed and the
509 following is substituted in lieu thereof (*Effective October 1, 2019*):

510 [(a) For the purposes of this section:

511 (1) "Electronic nicotine delivery system" has the same meaning as
512 provided in section 19a-342.

513 (2) "Vapor product" has the same meaning as provided in section
514 19a-342.

515 (3) "Retail establishment" has the same meaning as provided in
516 section 19a-106a.]

517 [(b) (1)] (a) Except as provided in [subdivision (3) of this] subsection
518 (b) of this section, no [retail establishment] person with an electronic
519 nicotine delivery system certificate of dealer registration may sell or
520 offer for sale at a retail establishment, as defined in section 19a-106a, an
521 electronic nicotine delivery system or a vapor product by any means
522 other than an employee-assisted sale where the customer has no direct
523 access to the electronic nicotine delivery system or vapor product
524 except through the assistance of such person or the employee of such
525 [retail establishment] person.

526 [(2) No retail establishment may sell or offer for sale an electronic
527 nicotine delivery system or a vapor product from a self-service
528 display.]

529 [(3)] (b) The provisions of [subdivisions (1) and (2)] of this
530 subsection shall not apply to a [retail establishment] person with an
531 electronic nicotine delivery system certificate of dealer registration if
532 [minors] persons under the age of twenty-one are prohibited from
533 entering the retail establishment operated by such person and the
534 prohibition on [minors] persons under the age of twenty-one entering
535 the retail establishment is posted clearly on all entrances of the retail
536 establishment.

537 Sec. 11. (NEW) (*Effective October 1, 2019*) There is established an
538 account to be known as the "electronic nicotine delivery system and
539 vapor product enforcement account" which shall be a separate,
540 nonlapsing account within the General Fund. Four hundred eighty
541 dollars of each dealer registration fee collected under section 21a-415 of
542 the general statutes, as amended by this act, shall be deposited into the
543 account. The Commissioner of Consumer Protection may expend
544 moneys from the account as is necessary to administer the registration
545 of dealers under said section, for the education and training of such
546 dealers and for inspections of such dealers' retail establishments and
547 unannounced compliance checks of such retail establishments to
548 enforce the provisions of chapter 420g of the general statutes and
549 section 53-344b of the general statutes, as amended by this act.

550 Sec. 12. (NEW) (*Effective October 1, 2019*) (a) The Commissioner of
551 Consumer Protection may suspend or revoke the electronic nicotine
552 delivery system certificate of registration of any dealer for (1) failure to
553 comply with any provision of chapter 420g of the general statutes or
554 regulations related thereto, or the provisions of section 13 of this act, or
555 (2) the sale or delivery of an electronic nicotine delivery system or a
556 vapor products to a person under twenty-one years of age, following a
557 hearing with respect to which notice in writing, specifying the time
558 and place of such hearing and requiring such dealer to show cause
559 why such dealer registration should not be revoked, is mailed or
560 delivered to such dealer not less than ten days preceding the date of
561 such hearing. Such notice may be served personally or by registered or

562 certified mail.

563 (b) The commissioner shall not issue a new dealer registration to a
564 former dealer whose dealer registration was revoked unless the
565 commissioner is satisfied that such dealer will comply with the
566 provisions of chapter 420g of the general statutes and any regulations
567 related thereto, and section 53-344b of the general statutes, as amended
568 by this act.

569 Sec. 13. (NEW) (*Effective October 1, 2019*) (a) If the Commissioner of
570 Consumer Protection finds, after a hearing, that (1) any person issued
571 an electronic nicotine delivery system certificate of dealer registration
572 under section 21a-415 of the general statutes, as amended by this act,
573 has sold, given or delivered an electronic nicotine delivery system or
574 vapor product to a person under twenty-one years of age, other than a
575 person under twenty-one years of age who is delivering or accepting
576 delivery in such person's capacity as an employee, or (2) such dealer's
577 employee has sold, given or delivered an electronic nicotine delivery
578 system or vapor product to a person under twenty-one years of age,
579 the commissioner shall assess such dealer a civil penalty of three
580 hundred dollars for the first violation. The commissioner shall assess
581 such dealer a civil penalty of seven hundred fifty dollars for a second
582 violation on or before thirty-six months after the date of the first
583 violation. For a third violation by a dealer on or before thirty-six
584 months after the date of the first violation, the commissioner shall
585 assess the dealer a civil penalty of one thousand dollars and suspend
586 any registration held by such dealer under chapter 420g of the general
587 statutes. For a fourth violation on or before thirty-six months after the
588 date of the first violation, the commissioner shall assess the dealer a
589 civil penalty of one thousand dollars and revoke any registration held
590 by such dealer under said chapter. The commissioner shall order such
591 dealer to conspicuously post a notice in a public place stating that
592 electronic nicotine delivery systems and vapor products cannot be sold
593 during the period of suspension or revocation and the reasons for such
594 suspension or revocation. Any sale of an electronic nicotine delivery

595 system or vapor product by such dealer during the period of such
596 suspension or revocation shall be deemed an additional violation of
597 this section.

598 (b) Each person with an electronic nicotine delivery system
599 certificate of dealer registration shall place and maintain in legible
600 condition at each point of sale of electronic nicotine delivery systems
601 or vapor products a notice to consumers that states (1) the sale, giving
602 or delivering of electronic nicotine delivery systems and vapor
603 products to any person under twenty-one years of age is prohibited by
604 section 53-344b of the general statutes, as amended by this act, (2) the
605 use of false identification by a person under twenty-one years of age to
606 purchase an electronic nicotine delivery system or a vapor product is
607 prohibited, and (3) the penalties and fines for violating the provisions
608 of this section and section 53-344b of the general statutes, as amended
609 by this act.

610 (c) Not less than annually, the Commissioner of Consumer
611 Protection, or the commissioner's designee, shall conduct an
612 unannounced compliance check on each person holding an electronic
613 nicotine delivery system certificate of dealer registration by engaging
614 persons between the ages of eighteen and twenty to enter the
615 establishment of each such dealer to attempt to purchase an electronic
616 nicotine delivery system or a vapor product. The commissioner shall
617 conduct an unannounced follow-up compliance check of all
618 noncompliant dealers not later than three months after the date of
619 noncompliance. The commissioner shall annually publish the names of
620 all noncompliant dealers on the Department of Consumer Protection's
621 Internet web site.

622 Sec. 14. (NEW) (*Effective October 1, 2019*) The Commissioner of
623 Consumer Protection may authorize any person holding an electronic
624 nicotine delivery system certificate of dealer registration under section
625 21a-415 of the general statutes, as amended by this act, to give or
626 deliver an electronic nicotine delivery system or vapor product in
627 connection with the promotion or advertisement of such electronic

628 nicotine delivery system or vapor product without receiving monetary
629 consideration from the person receiving the electronic nicotine
630 delivery system or vapor product, provided (1) such giving or delivery
631 is at the retail establishment, as defined in section 19a-106a of the
632 general statutes, of a registered dealer or at any event or establishment
633 with an area the access to which is limited to persons twenty-one years
634 of age or older, provided such giving or delivery is restricted to such
635 area, (2) the sample of electronic nicotine delivery systems or vapor
636 products, if applicable, contains no less than two such systems or
637 products, (3) the taxes on such electronic nicotine delivery system or
638 vapor product have been previously paid, and (4) the giving or
639 delivery of the sample is done in accordance with federal laws and
640 regulations governing the giving or delivery of electronic nicotine
641 delivery systems and vapor products. The registered dealer shall be
642 liable for any gift or delivery of an electronic nicotine delivery system
643 or vapor product to a person under twenty-one years of age on the
644 premises by any person conducting a promotion or advertisement of
645 such electronic nicotine delivery system or vapor product in
646 accordance with this section. This section shall not apply to the gift or
647 delivery of an electronic nicotine delivery system or vapor product in
648 connection with a sale of a similar electronic nicotine delivery system
649 or vapor product.

650 Sec. 15. Section 53-344 of the general statutes is repealed and the
651 following is substituted in lieu thereof (*Effective October 1, 2019*):

652 (a) As used in this section:

653 (1) "Cardholder" means any person who presents a driver's license
654 or an identity card to a seller or seller's agent or employee, to purchase
655 or receive tobacco from such seller or seller's agent or employee;

656 (2) "Cigarette" has the same meaning as provided in subsection (b)
657 of section 12-285, as amended by this act;

658 [(2)] (3) "Identity card" means an identification card issued in

659 accordance with the provisions of section 1-1h;

660 (4) "Sale" has the same meaning as provided in section 53-344b, as
661 amended by this act;

662 (5) "Give" or "giving" has the same meaning as provided in section
663 53-344b, as amended by this act;

664 (6) "Deliver" or "delivering" has the same meaning as provided in
665 section 53-344b, as amended by this act;

666 (7) "Seller" means any person engaged in the sale, giving or
667 delivering of cigarettes or tobacco products;

668 (8) "Tobacco product" has the same meaning as provided in section
669 12-285, as amended by this act;

670 [(3)] (9) "Transaction scan" means the process by which a seller or
671 seller's agent or employee checks, by means of a transaction scan
672 device, the validity of a driver's license or an identity card; and

673 [(4)] (10) "Transaction scan device" means any commercial device or
674 combination of devices used at a point of sale that is capable of
675 deciphering in an electronically readable format the information
676 encoded on the magnetic strip or bar code of a driver's license or an
677 identity card.

678 (b) Any person who sells, gives or delivers to any person under
679 [eighteen] twenty-one years of age [tobacco] cigarettes or a tobacco
680 product shall be fined not more than [two] three hundred dollars for
681 the first offense, not more than [three] seven hundred fifty dollars for a
682 second offense [within a twenty-four-month period] on or before
683 thirty-six months after the date of the first offense and not more than
684 [five hundred] one thousand dollars for each subsequent offense
685 [within a twenty-four-month period] on or before thirty-six months
686 after the date of the first offense. The provisions of this subsection shall
687 not apply to a person under [eighteen] twenty-one years of age who is

688 delivering or accepting delivery of cigarettes or a tobacco product (1)
689 in such person's capacity as an employee, or (2) as part of a scientific
690 study being conducted by an organization for the purpose of medical
691 research to further efforts in cigarette and tobacco product use
692 prevention and cessation, provided such medical research has been
693 approved by the organization's institutional review board, as defined
694 in section 21a-408.

695 (c) Any person under [eighteen] twenty-one years of age who
696 [purchases or] misrepresents such person's age to purchase cigarettes
697 or a tobacco [in any form or possesses tobacco in any form in any
698 public place] product shall be fined not more than fifty dollars for the
699 first offense and not less than fifty dollars or more than one hundred
700 dollars for each subsequent offense. [For purposes of this subsection,
701 "public place" means any area that is used or held out for use by the
702 public whether owned or operated by public or private interests.]

703 (d) (1) A seller or seller's agent or employee may perform a
704 transaction scan to check the validity of a driver's license or identity
705 card presented by a cardholder as a condition for selling, giving away
706 or otherwise distributing cigarettes or a tobacco product to the
707 cardholder.

708 (2) If the information deciphered by the transaction scan performed
709 under subdivision (1) of this subsection fails to match the information
710 printed on the driver's license or identity card presented by the
711 cardholder, or if the transaction scan indicates that the information so
712 printed is false or fraudulent, neither the seller nor any seller's agent or
713 employee shall sell, give away or otherwise distribute any cigarettes or
714 a tobacco product to the cardholder.

715 (3) Subdivision (1) of this subsection does not preclude a seller or
716 seller's agent or employee from using a transaction scan device to
717 check the validity of a document other than a driver's license or an
718 identity card, if the document includes a bar code or magnetic strip
719 that may be scanned by the device, as a condition for selling, giving

720 away or otherwise distributing cigarettes or a tobacco product to the
721 person presenting the document.

722 (e) (1) No seller or seller's agent or employee shall electronically or
723 mechanically record or maintain any information derived from a
724 transaction scan, except the following: (A) The name and date of birth
725 of the person listed on the driver's license or identity card presented by
726 a cardholder; (B) the expiration date and identification number of the
727 driver's license or identity card presented by a cardholder.

728 (2) No seller or seller's agent or employee shall use a transaction
729 scan device for a purpose other than the purposes specified in
730 subsection (e) of section 53-344b, as amended by this act, subsection (d)
731 of this section or subsection (c) of section 30-86.

732 (3) No seller or seller's agent or employee shall sell or otherwise
733 disseminate the information derived from a transaction scan to any
734 third party, including, but not limited to, selling or otherwise
735 disseminating that information for any marketing, advertising or
736 promotional activities, but a seller or seller's agent or employee may
737 release that information pursuant to a court order.

738 (4) Nothing in subsection (d) of this section or this subsection
739 relieves a seller or seller's agent or employee of any responsibility to
740 comply with any other applicable state or federal laws or rules
741 governing the sale, giving away or other distribution of cigarettes or
742 tobacco products.

743 (5) Any person who violates this subsection shall be subject to a civil
744 penalty of not more than one thousand dollars.

745 (f) (1) In any prosecution of a seller or seller's agent or employee for
746 a violation of subsection (b) of this section, it shall be an affirmative
747 defense that all of the following occurred: (A) A cardholder attempting
748 to purchase or receive cigarettes or a tobacco product presented a
749 driver's license or an identity card; (B) a transaction scan of the driver's
750 license or identity card that the cardholder presented indicated that the

751 license or card was valid and indicated that the cardholder was at least
752 twenty-one years of age; and (C) the cigarettes or a tobacco product
753 was sold, given away or otherwise distributed to the cardholder in
754 reasonable reliance upon the identification presented and the
755 completed transaction scan.

756 (2) In determining whether a seller or seller's agent or employee has
757 proven the affirmative defense provided by subdivision (1) of this
758 section, the trier of fact in such prosecution shall consider that
759 reasonable reliance upon the identification presented and the
760 completed transaction scan may require a seller or seller's agent or
761 employee to exercise reasonable diligence and that the use of a
762 transaction scan device does not excuse a seller or seller's agent or
763 employee from exercising such reasonable diligence to determine the
764 following: (A) Whether a person to whom the seller or seller's agent or
765 employee sells, gives away or otherwise distributes cigarettes or a
766 tobacco product is [eighteen] twenty-one years of age or older; and (B)
767 whether the description and picture appearing on the driver's license
768 or identity card presented by a cardholder is that of the cardholder.

769 Sec. 16. Section 53-344a of the general statutes is repealed and the
770 following is substituted in lieu thereof (*Effective October 1, 2019*):

771 Each retailer of cigarettes or tobacco products or agent, employee or
772 representative of such retailer shall require a person who is purchasing
773 or attempting to purchase cigarettes or tobacco products, [whose age is
774 in question] who appears to be under the age of thirty, to exhibit
775 proper proof of age. If a person fails to provide such proof of age, such
776 retailer or agent, employee or representative shall not sell cigarettes or
777 tobacco products to the person. As used in this section, "proper proof"
778 means a motor vehicle operator's license, a valid passport or an
779 identity card issued in accordance with the provisions of section 1-1h.

780 Sec. 17. Section 53-344b of the general statutes is repealed and the
781 following is substituted in lieu thereof (*Effective October 1, 2019*):

782 (a) As used in this section: [and sections 21a-415 and 21a-415a:]

783 (1) "Electronic nicotine delivery system" means an electronic device
784 [that may be used to simulate smoking] used in the delivery of nicotine
785 or other [substance] substances to a person inhaling from the device,
786 and includes, but is not limited to, an electronic cigarette, electronic
787 cigar, electronic cigarillo, electronic pipe or electronic hookah and any
788 related device and any cartridge [, electronic cigarette liquid] or other
789 component of such device;

790 (2) "Cardholder" means any person who presents a driver's license
791 or an identity card to a seller or seller's agent or employee, to purchase
792 or receive an electronic nicotine delivery system or vapor product from
793 such seller or seller's agent or employee;

794 (3) "Identity card" means an identification card issued in accordance
795 with the provisions of section 1-1h;

796 (4) "Transaction scan" means the process by which a seller or seller's
797 agent or employee checks, by means of a transaction scan device, the
798 validity of a driver's license or an identity card;

799 (5) "Transaction scan device" means any commercial device or
800 combination of devices used at a point of sale that is capable of
801 deciphering in an electronically readable format the information
802 encoded on the magnetic strip or bar code of a driver's license or an
803 identity card;

804 (6) "Sale" or "sell" means an act done intentionally by any person,
805 whether done as principal, proprietor, agent, servant or employee, of
806 transferring, or offering or attempting to transfer, for consideration, an
807 electronic nicotine delivery system or vapor product, including
808 bartering or exchanging, or offering to barter or exchange, an
809 electronic nicotine delivery system or vapor product;

810 (7) "Give" or "giving" means an act done intentionally by any
811 person, whether done as principal, proprietor, agent, servant or

812 employee, of transferring, or offering or attempting to transfer,
813 without consideration, an electronic nicotine delivery system or vapor
814 product;

815 (8) "Deliver" or "delivering" means an act done intentionally by any
816 person, whether as principal, proprietor, agent, servant or employee,
817 of transferring, or offering or attempting to transfer, physical
818 possession or control of an electronic nicotine delivery system or vapor
819 product;

820 (9) "Vapor product" means any product that employs a heating
821 element, power source, electronic circuit or other electronic, chemical
822 or mechanical means, regardless of shape or size, to produce a vapor
823 that may [or may not] include nicotine, that is inhaled by the user of
824 such product; [and]

825 (10) "Electronic cigarette liquid" means a [liquid] substance that,
826 when used in an electronic nicotine delivery system or vapor product,
827 produces [a vapor] an aerosol that may [or may not] include nicotine
828 and is inhaled by the user of such electronic nicotine delivery system
829 or vapor product; [.] and

830 (11) "Seller" means any person who sells, gives or delivers an
831 electronic nicotine delivery system or vapor product.

832 (b) Any person who sells, gives or delivers to any person under
833 [eighteen] twenty-one years of age an electronic nicotine delivery
834 system or vapor product in any form shall be fined not more than
835 [two] three hundred dollars for the first offense, not more than [three]
836 seven hundred fifty dollars for a second offense [within a twenty-four-
837 month period] on or before thirty-six months after the date of the first
838 offense and not more than [five hundred] one thousand dollars for
839 each subsequent offense [within a twenty-four-month period] on or
840 before thirty-six months after the date of the first offense. The
841 provisions of this subsection shall not apply to a person under
842 [eighteen] twenty-one years of age who is delivering or accepting

843 delivery of an electronic nicotine delivery system or vapor product (1)
844 in such person's capacity as an employee, or (2) as part of a scientific
845 study being conducted by an organization for the purpose of medical
846 research to further efforts in tobacco use prevention and cessation,
847 provided such medical research has been approved by the
848 organization's institutional review board, as defined in section 21a-408.

849 (c) Any person under [eighteen] twenty-one years of age who
850 [purchases or] misrepresents such person's age to purchase an
851 electronic nicotine delivery system or vapor product in any form [or
852 possesses an electronic nicotine delivery system or vapor product in
853 any form in any public place] shall be fined not more than fifty dollars
854 for the first offense and not less than fifty dollars or more than one
855 hundred dollars for each subsequent offense. [For purposes of this
856 subsection "public place" means any area that is used or held out for
857 use by the public whether owned or operated by public or private
858 interests.]

859 (d) (1) A seller or seller's agent or employee may perform a
860 transaction scan to check the validity of a driver's license or identity
861 card presented by a cardholder as a condition for selling, giving or
862 otherwise delivering an electronic nicotine delivery system or vapor
863 product to the cardholder.

864 (2) If the information deciphered by the transaction scan performed
865 under subdivision (1) of this subsection fails to match the information
866 printed on the driver's license or identity card presented by the
867 cardholder, or if the transaction scan indicates that the information so
868 printed is false or fraudulent, neither the seller nor any seller's agent or
869 employee shall sell, give or otherwise deliver any electronic nicotine
870 delivery system or vapor product to the cardholder.

871 (3) Subdivision (1) of this subsection does not preclude a seller or
872 seller's agent or employee from using a transaction scan device to
873 check the validity of a document other than a driver's license or an
874 identity card, if the document includes a bar code or magnetic strip

875 that may be scanned by the device, as a condition for selling, giving or
876 otherwise delivering an electronic nicotine delivery system or vapor
877 product to the person presenting the document.

878 (e) (1) No seller or seller's agent or employee shall electronically or
879 mechanically record or maintain any information derived from a
880 transaction scan, except the following: (A) The name and date of birth
881 of the person listed on the driver's license or identity card presented by
882 a cardholder; and (B) the expiration date and identification number of
883 the driver's license or identity card presented by a cardholder.

884 (2) No seller or seller's agent or employee shall use a transaction
885 scan device for a purpose other than the purposes specified in
886 subsection (d) of this section, subsection (d) of section 53-344, as
887 amended by this act, or subsection (c) of section 30-86.

888 (3) No seller or seller's agent or employee shall sell or otherwise
889 disseminate the information derived from a transaction scan to any
890 third party, including, but not limited to, selling or otherwise
891 disseminating that information for any marketing, advertising or
892 promotional activities, but a seller or seller's agent or employee may
893 release that information pursuant to a court order.

894 (4) Nothing in subsection (d) of this section or this subsection
895 relieves a seller or seller's agent or employee of any responsibility to
896 comply with any other applicable state or federal laws or rules
897 governing selling, giving or otherwise delivering electronic nicotine
898 delivery systems or vapor products.

899 (5) Any person who violates this subsection shall be subject to a civil
900 penalty of not more than one thousand dollars.

901 (f) (1) In any prosecution of a seller or seller's agent or employee for
902 a violation of subsection (b) of this section, it shall be an affirmative
903 defense that all of the following occurred: (A) A cardholder attempting
904 to purchase or receive an electronic nicotine delivery system or vapor
905 product presented a driver's license or an identity card; (B) a

906 transaction scan of the driver's license or identity card that the
907 cardholder presented indicated that the license or card was valid and
908 indicated that the cardholder was at least twenty-one years of age; and
909 (C) the electronic nicotine delivery system or vapor product was sold,
910 given or otherwise delivered to the cardholder in reasonable reliance
911 upon the identification presented and the completed transaction scan.

912 (2) In determining whether a seller or seller's agent or employee has
913 proven the affirmative defense provided by subdivision (1) of this
914 section, the trier of fact in such prosecution shall consider that
915 reasonable reliance upon the identification presented and the
916 completed transaction scan may require a seller or seller's agent or
917 employee to exercise reasonable diligence and that the use of a
918 transaction scan device does not excuse a seller or seller's agent or
919 employee from exercising such reasonable diligence to determine the
920 following: (A) Whether a person to whom the seller or seller's agent or
921 employee sells, gives or otherwise delivers an electronic nicotine
922 delivery system or vapor product is [~~eighteen~~] twenty-one years of age
923 or older; and (B) whether the description and picture appearing on the
924 driver's license or identity card presented by a cardholder is that of the
925 cardholder.

926 (g) Each seller of electronic nicotine delivery systems or vapor
927 products or such seller's agent or employee shall require a person who
928 is purchasing or attempting to purchase an electronic nicotine delivery
929 system or vapor product [~~, whose age is in question,~~] and appears to be
930 under the age of thirty to exhibit proper proof of age. If a person fails
931 to provide such proof of age, such seller or seller's agent or employee
932 shall not sell an electronic nicotine delivery system or vapor product to
933 the person. As used in this subsection, "proper proof" means a motor
934 vehicle operator's license, a valid passport or an identity card issued in
935 accordance with the provisions of section 1-1h.

936 Sec. 18. Subdivision (1) of subsection (b) of section 19a-342 of the
937 general statutes is repealed and the following is substituted in lieu
938 thereof (*Effective October 1, 2019*):

939 (b) (1) Notwithstanding the provisions of section 31-40q, no person
940 shall smoke: (A) In any building or portion of a building, partially
941 enclosed shelter on a rail platform or bus shelter owned and operated
942 or leased and operated by the state or any political subdivision thereof;
943 (B) in any area of a health care institution; (C) in any area of a retail
944 food store; (D) in any restaurant; (E) in any area of an establishment
945 with a permit issued for the sale of alcoholic liquor pursuant to section
946 30-20a, 30-21, 30-21b, 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-
947 35a, 30-37a, 30-37e or 30-37f, in any area of an establishment with a
948 permit for the sale of alcoholic liquor pursuant to section 30-23 issued
949 after May 1, 2003, and, on and after April 1, 2004, in any area of an
950 establishment with a permit issued for the sale of alcoholic liquor
951 pursuant to section 30-22a or 30-26 or the bar area of a bowling
952 establishment holding a permit pursuant to subsection (a) of section
953 30-37c; (F) within a school building [while school is in session or
954 student activities are being conducted] or on the grounds of such
955 school; (G) within a child care facility or on the grounds of such child
956 care facility, except, if the child care facility is a family child care home,
957 as defined in section 19a-77, such smoking is prohibited only when a
958 child enrolled in such home is present; (H) in any passenger elevator,
959 provided no person shall be arrested for violating this subsection
960 unless there is posted in such elevator a sign which indicates that
961 smoking is prohibited by state law; [(H)] (I) in any dormitory in any
962 public or private institution of higher education; or [(I)] (J) on and after
963 April 1, 2004, in any area of a dog race track or a facility equipped with
964 screens for the simulcasting of off-track betting race programs or jai
965 alai games. For purposes of this subsection, "restaurant" means space,
966 in a suitable and permanent building, kept, used, maintained,
967 advertised and held out to the public to be a place where meals are
968 regularly served to the public, "school" has the same meaning as
969 provided in section 10-154a and "child care facility" has the same
970 meaning as provided in section 19a-342a, as amended by this act.

971 Sec. 19. Subdivision (1) of subsection (b) of section 19a-342a of the
972 general statutes is repealed and the following is substituted in lieu

973 thereof (*Effective October 1, 2019*):

974 (b) (1) No person shall use an electronic nicotine delivery system or
975 vapor product: (A) In any building or portion of a building owned and
976 operated or leased and operated by the state or any political
977 subdivision thereof; (B) in any area of a health care institution; (C) in
978 any area of a retail food store; (D) in any restaurant; (E) in any area of
979 an establishment with a permit issued for the sale of alcoholic liquor
980 pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22a, 30-22c, 30-26,
981 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any
982 area of establishment with a permit issued for the sale of alcoholic
983 liquor pursuant to section 30-23 issued after May 1, 2003, or the bar
984 area of a bowling establishment holding a permit pursuant to
985 subsection (a) of section 30-37c; (F) within a school building [while
986 school is in session or student activities are being conducted] or on the
987 grounds of such school; (G) within a child care facility or on the
988 grounds of such child care facility, except, if the child care facility is a
989 family child care home as defined in section 19a-77, such use is
990 prohibited only when a child enrolled in such home is present; (H) in
991 any passenger elevator, provided no person shall be arrested for
992 violating this subsection unless there is posted in such elevator a sign
993 which indicates that such use is prohibited by state law; (I) in any
994 dormitory in any public or private institution of higher education; or
995 (J) in any area of a dog race track or a facility equipped with screens for
996 the simulcasting of off-track betting race programs or jai alai games.
997 For purposes of this subsection, "restaurant" means space, in a suitable
998 and permanent building, kept, used, maintained, advertised and held
999 out to the public to be a place where meals are regularly served to the
1000 public, and "school" has the same meaning as provided in section 10-
1001 154a.

1002 Sec. 20. (NEW) (*Effective October 1, 2019*) (a) As used in this section:

1003 (1) "Person" means any individual, firm, fiduciary, partnership,
1004 corporation, limited liability company, trust or association, however
1005 formed;

1006 (2) "Electronic nicotine delivery system" means an electronic device
1007 used in the delivery of nicotine or other substances to a person
1008 inhaling from the device, and includes, but is not limited to, an
1009 electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe
1010 or electronic hookah and any related device and any cartridge or other
1011 component of such device; and

1012 (3) "Vapor product" means any product that employs a heating
1013 element, power source, electronic circuit or other electronic, chemical
1014 or mechanical means, regardless of shape or size, to produce a vapor
1015 that may include nicotine, that is inhaled by the user of such product,
1016 but shall not include a medicinal or therapeutic product that is (A)
1017 used by a licensed health care provider to treat a patient in a health
1018 care setting, (B) a patient, as prescribed or directed by a licensed health
1019 care provider in any setting, or (C) any drug or device, as defined in
1020 the federal Food, Drug and Cosmetic Act, 21 USC 32, as amended from
1021 time to time, or any combination product, as described in said act, 21
1022 USC 353(g), as amended from time to time, authorized for sale by the
1023 United States Food and Drug Administration.

1024 (b) A person with an electronic nicotine delivery system certificate
1025 of dealer registration, when selling and shipping an electronic nicotine
1026 delivery system or a vapor product directly to a consumer in the state,
1027 shall: (1) Ensure that the shipping labels on all containers of a cigarette
1028 or tobacco product shipped directly to a consumer in the state
1029 conspicuously states the following: "CONTAINS AN ELECTRONIC
1030 NICOTINE DELIVERY SYSTEM OR VAPOR PRODUCT –
1031 SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR
1032 DELIVERY"; and (2) obtain the signature of a person age twenty-one or
1033 older at the shipping address prior to delivery, after requiring the
1034 signer to demonstrate that he or she is age twenty-one or older by
1035 providing a valid motor vehicle operator's license or a valid identity
1036 card described in section 1-1h of the general statutes.

1037 Sec. 21. (NEW) (*Effective October 1, 2019*) (a) For purposes of this
1038 section, (1) "flavored" means imparting a characterizing flavor, and (2)

1039 "characterizing flavor" means a distinguishable taste or aroma, other
1040 than the taste or aroma of tobacco, including, but not limited to, tastes
1041 or aromas relating to any fruit, chocolate, menthol, mint, wintergreen,
1042 vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice.

1043 (b) No distributor or dealer shall sell, offer for sale, display for sale
1044 or possess with intent to sell any flavored cigarette or flavored tobacco
1045 product. No cigarette or tobacco product shall be determined to be
1046 flavored solely because of the use of additives or flavoring or the
1047 inclusion of ingredient information. A public statement, claim or
1048 indicia made or disseminated by the manufacturer of the cigarette or
1049 tobacco product, or any person authorized by the manufacturer to
1050 make or disseminate public statements concerning such cigarette or
1051 tobacco product, that such cigarette or tobacco product has or
1052 produces a characterizing flavor shall constitute prima facie evidence
1053 that such cigarette or tobacco product is a flavored cigarette or tobacco
1054 product.

1055 (c) If the Commissioner of Revenue Services finds, after a hearing,
1056 that a distributor or dealer knowingly violated any provision of
1057 subsection (a) of this section, the commissioner shall find that such
1058 dealer or distributor committed an infraction and shall assess such
1059 dealer or distributor a civil penalty of three hundred dollars for the
1060 first infraction or seven hundred fifty dollars for a second infraction on
1061 or before thirty-six months after the date of the first infraction. For a
1062 third infraction on or before thirty-six months after the date of the first
1063 infraction, the commissioner shall assess such dealer or distributor a
1064 civil penalty of one thousand dollars and suspend for not less than
1065 thirty days or revoke any license held by such distributor or dealer. For
1066 a fourth infraction on or before thirty-six months after the date of the
1067 first infraction, the commissioner shall revoke any license held by such
1068 distributor or dealer.

1069 Sec. 22. (NEW) (*Effective October 1, 2019*) (a) For purposes of this
1070 section, (1) "flavored" means imparting a characterizing flavor, and (2)
1071 "characterizing flavor" means a distinguishable taste or aroma, other

1072 than the taste or aroma of tobacco, imparted either prior to or during
1073 the use or consumption of an electronic nicotine delivery system or
1074 vapor product, including, but not limited to, tastes or aromas relating
1075 to any fruit, chocolate, menthol, mint, wintergreen, vanilla, honey,
1076 candy, cocoa, dessert, alcoholic beverage, herb or spice.

1077 (b) No person with an electronic nicotine delivery system certificate
1078 of dealer registration under section 21a-415 of the general statutes, as
1079 amended by this act, shall sell, offer for sale, display for sale or possess
1080 with intent to sell any flavored electronic nicotine delivery system or
1081 flavored vapor product. No electronic nicotine delivery system or
1082 vapor product shall be determined to be flavored solely because of the
1083 use of additives or flavoring or the inclusion of ingredient information.
1084 A public statement, claim or indicia made or disseminated by the
1085 manufacturer of the electronic nicotine delivery system, vapor product
1086 or a component part of such system or product that such system,
1087 product or component part thereof has or produces a characterizing
1088 flavor shall constitute prima facie evidence that such system, product
1089 or component part thereof is a flavored electronic nicotine delivery
1090 system or flavored vapor product.

1091 (c) If the Commissioner of Consumer Protection finds, after a
1092 hearing, that any such certificate holder knowingly violated any
1093 provision of subsection (b) of this section, the commissioner shall find
1094 that such certificate holder committed an infraction and assess such
1095 certificate holder a civil penalty of three hundred dollars for the first
1096 infraction or a civil penalty of seven hundred fifty dollars for any
1097 second infraction on or before thirty-six months after the date of the
1098 first infraction. For a third violation on or before thirty-six months after
1099 the date of the first violation, the commissioner shall assess such
1100 certificate holder a civil penalty of one thousand dollars and any
1101 license or certificate held by such certificate holder under chapter 214
1102 or 420g of the general statutes shall be revoked.

1103 Sec. 23. Section 12-285a of the general statutes is repealed and the
1104 following is substituted in lieu thereof (*Effective October 1, 2019*):

1105 For purposes of sections 12-286a, as amended by this act, 12-295a, as
1106 amended by this act, and 12-314a, as amended by this act: [and
1107 subsection (a) of section 53-344:] (1) "Distributor" includes a
1108 manufacturer of tobacco products; (2) "sale" or "sell" means an act done
1109 intentionally by any person, whether done as principal, proprietor,
1110 agent, servant or employee, of transferring, or offering or attempting to
1111 transfer, for consideration, cigarettes or tobacco products, including
1112 bartering or exchanging, or offering to barter or exchange, cigarettes or
1113 tobacco products; (3) "give" or "giving" means an act done intentionally
1114 by any person, whether done as principal, proprietor, agent, servant or
1115 employee, of transferring, or offering or attempting to transfer,
1116 without consideration, cigarettes or tobacco products; (4) "deliver" or
1117 "delivering" means an act done intentionally by any person, whether as
1118 principal, proprietor, agent, servant or employee, of transferring, or
1119 offering or attempting to transfer, physical possession or control of
1120 cigarettes or tobacco products.

1121 Sec. 24. Subdivision (2) of subsection (e) of section 12-286 of the
1122 general statutes is repealed and the following is substituted in lieu
1123 thereof (*Effective October 1, 2019*):

1124 (2) Any person who knowingly sells at retail, offers for sale at retail
1125 or possesses with intent to sell at retail any taxed tobacco products [, as
1126 defined in section 12-330a,] without a dealer's license as provided in
1127 this chapter, shall be fined not more than one thousand dollars or
1128 imprisoned for not more than six months, or both, for each offense.
1129 Each day of such unauthorized operation may be deemed a separate
1130 offense. The provisions of this subdivision shall not apply to any
1131 person whose dealer's license has expired, provided the period of
1132 operation without such license is not more than ninety days from the
1133 date of expiration.

1134 Sec. 25. Subdivision (2) of section 12-330a of the general statutes is
1135 repealed and the following is substituted in lieu thereof (*Effective*
1136 *October 1, 2019*):

1137 (2) ["Tobacco products" means cigars, cheroots, stogies, periques,
 1138 granulated, plug cut, crimp cut, ready rubbed and other smoking
 1139 tobacco, snuff tobacco products, cavendish, plug and twist tobacco,
 1140 fine cut and other chewing tobaccos, shorts, refuse scraps, clippings,
 1141 cuttings and sweepings of tobacco and all other kinds and forms of
 1142 tobacco, prepared in such manner as to be suitable for chewing or
 1143 smoking in a pipe or otherwise or for both chewing and smoking, but
 1144 shall not include any cigarette, as defined in section 12-285] "Tobacco
 1145 product" means (A) any product, other than a cigarette, that is made or
 1146 derived from tobacco and intended for human consumption, or likely
 1147 to be consumed, whether smoked, heated, chewed, absorbed,
 1148 dissolved, inhaled or ingested by any other means, including, but not
 1149 limited to, a cigar, pipe tobacco, chewing tobacco, snuff and snus, and
 1150 any component or accessory thereof, including, but not limited to, a
 1151 filter, rolling paper or pipe, and (B) shall not include any drug or
 1152 device, as defined in the federal Food, Drug and Cosmetic Act, 21 USC
 1153 321, as amended from time to time, or any combination product, as
 1154 described in said act, 21 USC 353(g), as amended from time to time,
 1155 authorized for sale by the United States Food and Drug
 1156 Administration;

1157 Sec. 26. Subdivision (2) of subsection (a) of section 19a-342a of the
 1158 general statutes is repealed and the following is substituted in lieu
 1159 thereof (*Effective October 1, 2019*):

1160 (2) "Electronic nicotine delivery system" means an electronic device
 1161 [that may be used to simulate smoking] used in the delivery of nicotine
 1162 or other substances to a person inhaling from the device, and includes,
 1163 but is not limited to, an electronic cigarette, electronic cigar, electronic
 1164 cigarillo, electronic pipe or electronic hookah and any related device
 1165 and any cartridge or other component of such device;

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	12-285

Sec. 2	October 1, 2019	12-286a(a)
Sec. 3	October 1, 2019	12-287
Sec. 4	October 1, 2019	12-289a
Sec. 5	October 1, 2019	12-291a
Sec. 6	October 1, 2019	12-295
Sec. 7	October 1, 2019	12-295a
Sec. 8	October 1, 2019	12-314a
Sec. 9	October 1, 2019	21a-415
Sec. 10	October 1, 2019	21a-416
Sec. 11	October 1, 2019	New section
Sec. 12	October 1, 2019	New section
Sec. 13	October 1, 2019	New section
Sec. 14	October 1, 2019	New section
Sec. 15	October 1, 2019	53-344
Sec. 16	October 1, 2019	53-344a
Sec. 17	October 1, 2019	53-344b
Sec. 18	October 1, 2019	19a-342(b)(1)
Sec. 19	October 1, 2019	19a-342a(b)(1)
Sec. 20	October 1, 2019	New section
Sec. 21	October 1, 2019	New section
Sec. 22	October 1, 2019	New section
Sec. 23	October 1, 2019	12-285a
Sec. 24	October 1, 2019	12-286(e)(2)
Sec. 25	October 1, 2019	12-330a(2)
Sec. 26	October 1, 2019	19a-342a(a)(2)

Statement of Legislative Commissioners:

In Section 4, Subparagraphs (c) to (h), inclusive, were added, Subsecs. (c) to (f), inclusive, were bracketed, and Subsecs. (g) and (h) were redesignated as Subsecs. (b) and (c) for consistency with standard drafting conventions; in Section 18(b)(1)(F), "or a child care center" and "or child care center" were deleted, a new Subpara. (F) was added and Subparas. (H) and (I) were redesignated as Subparas. (I) and (J) for consistency; and in Section 19, in Subsec. (b)(1)(F), "or a child care center" and "or child care center" were deleted and in Subsec. (b)(1)(G) "or on the grounds of such child care facility" was added for consistency.

PH *Joint Favorable Subst.*