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## OLR Bill Analysis

### sSB 367

#### ***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.***

#### **SUMMARY**

From January 1, 2023, to June 30, 2026, this bill prohibits selling, delivering, giving, or possessing with the intent to sell, e-cigarettes and vapor products by businesses other than adult-only tobacco retail stores (i.e., stores that prohibit minors under age 21 from entering) or their principals, proprietors, agents, servants, or employees.

In doing so, the bill prohibits the sale of e-cigarettes and vapor products during this period in other types of retail establishments allowed under current law (e.g., convenience stores, grocery stores, and pharmacies). (It is unclear what happens to these other retail establishments' (1) existing inventory and (2) initial and renewal dealer registration fees paid prior to the ban.)

Additionally, the bill increases the penalties for (1) sales and transfers of cigarettes, tobacco products, e-cigarettes, and vapor products to individuals under age 21 and (2) owners of establishments with cigarette vending machines and restricted cigarette vending machines for sales to individuals under the legal age.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2023

#### **§ 1 — DEFINITIONS**

The bill defines an “adult-only tobacco retail store” as a retail establishment that (1) has an e-cigarette and vapor product dealer registration and (2) prohibits minors under age 21 from entering the

establishment.

The bill also modifies the statutory definition of e-cigarette liquid to specify that the liquid (1) may include a concentrated plant extract or oil containing natural or synthetic ingredients and (2) when used in an e-cigarette or vapor product, produces a vapor that may or may not be inhaled by the user.

### **§§ 3-6 — PENALTIES FOR SALES**

#### ***Maximum Fines (§§ 5 & 6)***

The bill increases the maximum fines that may be imposed on someone who sells, gives, or delivers cigarettes, other tobacco products, e-cigarettes, or vapor products to someone under the legal age as follows:

1. for a first offense, from \$300 to \$600;
2. for a second offense, from \$750 to \$1,500; and
3. for each subsequent offense, from \$1,000 to \$2,000.

As under current law, the fines for second and subsequent offenses apply to those that occur within 24 months after the first offense.

Under existing law and the bill, these penalties do not apply if the person under the legal age is delivering or accepting delivery of the product (1) in his or her capacity as an employee or (2) as part of a scientific study for medical research that meets specified criteria.

#### ***DCP and DRS Penalties (§§ 3 & 4)***

Existing law allows the Department of Revenue Services (DRS) commissioner, after a hearing, to impose civil penalties on e-cigarette dealers, cigarette dealers and distributors, or their employees for sales and transfers (“sales”) to individuals under age 21. The bill increases these penalties as shown in the table below.

**Table 1: Civil Penalties for Underage Sales**

<b><i>Penalties on Cigarette Dealers and Distributors and E-Cigarette Dealers</i></b>		
	<b><i>Current Law</i></b>	<b><i>Under the Bill</i></b>
<b>1<sup>st</sup> violation</b>	\$300, if they fail to complete an online prevention education program within 30 days	\$600, if they fail to complete an online prevention education program within 30 days
<b>2<sup>nd</sup> violation</b>	\$750	\$1,500
<b>3<sup>rd</sup> violation</b>	\$1,000, plus minimum 30-day license suspension	\$2,000, plus minimum 30-day license suspension
<b>4<sup>th</sup> violation</b>	\$1,000, plus license revocation	\$2,000, plus license revocation
<b><i>Penalties on Their Employees</i></b>		
	<b><i>Current Law</i></b>	<b><i>Under the Bill</i></b>
<b>1<sup>st</sup> violation</b>	\$200, if the employee fails to complete an online prevention education program within 30 days	\$400, if the employee fails to complete an online prevention education program within 30 days
<b>2<sup>nd</sup> or subsequent violation</b>	\$250	\$500

As under current law, the above fines for second and subsequent violations may be imposed for violations that occur within 24 months after the first violation.

By law, the DRS commissioner may only impose the above fines on e-cigarette dealers if they are referred to him by the Department of Mental Health and Addiction Services commissioner after completing unannounced follow-up compliance checks required under existing law. For third and fourth violations, the DRS commissioner must direct the Department of Consumer Protection (DCP) commissioner to suspend or revoke the e-cigarette dealer's registration. For a fourth violation, the dealer must also post a notice in a public place stating that e-cigarettes and vapor products cannot be sold during the suspension and revocation period and the reasons for the suspension or revocation. Under the bill, any dealer sales that occur during this period are considered an additional violation.

Before taking such action, existing law requires the DRS commissioner to (1) notify the e-cigarette dealer in writing about the hearing time and location and (2) require the dealer to show cause why the registration should not be suspended or revoked. The notice must be delivered personally, or by registered or certified mail, at least 10 days before the hearing date. When the DRS commissioner directs the DCP commissioner to suspend or revoke the dealer's registration, the DCP commissioner is not required to hold an additional hearing before doing so.

#### **§ 4 — VENDING MACHINE SALES**

Current law allows the DRS commissioner, after a hearing, to impose penalties on owners of establishments with cigarette vending machines and restricted cigarette vending machines (see BACKGROUND) for sales to individuals under the legal age. The bill increases these penalties as follows:

1. for a 1<sup>st</sup> violation, if the owner fails to successfully complete an online tobacco education program within 30 days, from \$500 to \$1,000;
2. for a 2<sup>nd</sup> violation, from \$750 to \$1,500; and
3. for a 3<sup>rd</sup> violation, from \$1,000 to \$2,000.

As under current law, the commissioner may impose fines for 2<sup>nd</sup> and 3<sup>rd</sup> violations that occur within 24 months after the first violation.

Existing law, unchanged by the bill, requires an establishment owner who commits a third violation to immediately remove the vending machine from the establishment and prohibits any vending machine at the establishment for one year after the removal.

#### **BACKGROUND**

##### ***Cigarette Vending Machines***

Existing law distinguishes between two types of machines that it authorizes to dispense cigarettes. One is the traditional coin-operated vending machine. The other is the "restricted cigarette vending

machine,” which (1) automatically deactivates and cannot be operated after each sale and (2) requires a face-to-face interaction or display of identification between the purchaser and employee of the business where the machine is located (CGS § 12-285).

***Legislative History***

The Senate referred the bill (File 316) to the Finance, Revenue and Bonding Committee, which reported a substitute that eliminates the provisions banning the sale of e-cigarettes and vapor products with a nicotine content greater than 35 milligrams per milliliter or flavor other than tobacco.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 20 Nay 11 (03/23/2022)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 33 Nay 15 (04/22/2022)