
OLR Bill Analysis

sHB 5236 (as amended by House "A")*

AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING CONSUMER PROTECTION AND PROFESSIONAL LICENSING, CERTIFICATION, PERMITTING AND REGISTRATION.

TABLE OF CONTENTS:

SUMMARY

§§ 1-3 — HOME IMPROVEMENT CONTRACTORS AND GUARANTY FUND

Allows consumers to recover from the guaranty fund regardless if their HIC's certificate of registration is held by an individual or a business entity through a proprietor and explicitly authorizes DCP to discipline an HIC or salesperson for doing home improvement work without a proper contract

§§ 4-5 & 7-12 — APPRAISAL MANAGEMENT COMPANIES

Changes the current exemptions for certain federally regulated appraisal management companies from state registration and other requirements but generally carries them forward for similar companies; requires these companies to report to DCP information the department is required to submit under federal law; allows the DCP commissioner to adopt regulations on that reporting requirement and for investigating appraisal management company violations

§ 6 — REAL ESTATE APPRAISAL BUSINESS PENALTIES

Builds on existing penalties for those who engage in the real estate appraisal business without a credential by subjecting them to civil penalties and making them ineligible for a credential for one year

§ 13 — MOBILE MANUFACTURER HOME PARK INDEPENDENT INSPECTIONS

Adds procedures and other requirements for when DCP orders independent inspections of mobile manufacturer home parks, including requiring (1) those who do the inspection to have training or be licensed, (2) the inspection report to address specific areas, and (3) timelines for submission of the report

§ 14 — RENEWALS AND INCOMPLETE APPLICATIONS FOR CREDENTIALS

Allows DCP discretion in whether to accept renewal applications after a credential has expired; requires applicants to pay all outstanding fees before renewal; allows DCP to consider certain incomplete applications expired and withdrawn

[§ 15 — BUSINESSES SUBJECT TO THE ELECTRONIC PRICE SCANNING AND GET ONE FREE LAWS](#)

Presumably extends certain electronic price scanning and “get one free” laws so that they apply to additional types of business entities

[§ 16 — EXEMPTION FROM GET ONE FREE LAW FOR COMMODITIES WITHOUT BAR CODES](#)

Expands the number of businesses subject to the state’s other “get one free” law applicable to consumer commodities without bar codes by narrowing the exemption from this law

[§§ 17 & 18 — FOOD, DRUG, AND COSMETIC SEIZURES AND EMBARGOES](#)

Allows the DCP commissioner to extend an embargo period for food, drugs, devices, or cosmetics and to institute a civil action in Superior Court to embargo them; requires him to embargo or destroy certain kinds of these articles; generally prohibits anyone from altering or opening an embargoed article; increases the maximum penalty for anyone who removes the tag or marking on an article

[§§ 19-24 — HEALTH CLUBS](#)

Makes various changes to the health club laws, including updating contract requirements, eliminating a penalty provision, allowing DCP to make guaranty fund payments for uncontested cases without a hearing, and amending certain notice requirements

[§ 25 — HARDSHIP EXEMPTIONS FROM WELL DRILLING WATER REQUIREMENTS](#)

Transfers, from the plumbing and piping work examining board to local health directors, authority to grant hardship exemptions from well drilling requirements related to the purity, potability, and safeguarding of well water

[§ 26 — CONNECTICUT UNFAIR TRADE PRACTICES ACT \(CUTPA\)](#)

Allows DCP to receive electronic copies of documents of anyone being investigated or proceeded against under CUTPA; provides DCP additional options for sending certain investigative and enforcement documents; allows testimony in CUTPA proceedings to be recorded rather than transcribed and eliminates the requirement that it be filed with DCP; allows DCP to impose a civil penalty of up to \$5,000 for CUTPA violations

[§ 27 — RETURN OR EXCHANGE POLICIES](#)

Establishes new requirements for businesses to post and disclose their refund and exchange policies and requires these policies to include specified disclosures; requires businesses that do not disclose their policies to give refunds or allow exchanges under certain conditions; makes various other minor, technical, and conforming changes on returns and exchanges

[§ 28 — NOTICE OF HEARING FOR CERTAIN PAYMENT TYPE VIOLATIONS](#)

Specifies DCP must provide a notice and hold a hearing before issuing a fine for specified violations related to surcharges, minimum transaction amounts, and discounts based on certain payment methods

[§§ 29-52 — PUBLIC WEIGHMASTER](#)

Renames a “licensed public weigher” as a “public weighmaster” and replaces “licensed public weigher” with “public weighmaster” in statutes; increases the maximum penalty for violating the public weigher laws

§ 53 — E-CIGARETTE PENALTIES PAID BY MAIL

Allows certain e-cigarette penalties to be paid by mail to the Centralized Infractions Bureau without appearing in court

§§ 53 & 91 — REPEAL OF VARIOUS PROVISIONS ON MAKING AND SELLING CERTAIN STAPLE FOODS

Repeals duplicative statutes related to food standards for certain staple foods (e.g., flour, bread, rolls); increases the penalties by imposing the Uniform Food, Drug and Cosmetic Act penalties

§§ 54, 56 & 59-61 — BUSINESS ENTITIES

Explicitly subjects specified types of business entities to the Liquor Control Act by defining them as “business entities” under the act; makes conforming changes

§ 55 — FRANCHISOR OR LANDLORD PROFITS

Generally allows a franchisor or landlord to receive profits from alcoholic liquor sales from a franchisee or tenant

§ 57 — PACKAGE STORE APPLICATIONS AND OPENING DEADLINE

Allows DCP to refuse to accept an incomplete package store application and to establish a deadline for when a package store must open to the public for continuous operation

§ 58 — WHOLESALER TERMINATION OR ADDITIONAL APPOINTMENT NOTICE

Allows DCP to prescribe how a manufacturer or out-of-state shipper permittee must send notice to the department when it wants to terminate or diminish a wholesaler’s territory or appoint an additional one

§ 61 — DONATIONS

Expands the permittees that may donate to a noncommercial entity permittee and allows all of them to offer tastings

§ 62 — APPLICATION-RELATED INVESTIGATIONS

Allows DCP to investigate an applicant’s backer and the suitability of a proposed permit premises

§§ 63 & 67-69 — PENALTIES AND DCP AUTHORITY

Allows DCP to impose additional fines; extends certain existing penalties to applicants and certain backers (e.g., disciplinary actions on the permit, fines, compromise instead of suspension); allows applicants whose permit application is denied to appeal

§ 64 — HOLDING TWO PERMITS

Allows (1) certain out-of-state shipper permittees to also hold an out-of-state retailer shipper’s permit for wine and (2) a restaurant permittee to hold a Connecticut Craft Cafe permit

§ 66 — PORTION OF BUILDING USED AS PERMIT PREMISES

Allows permittees where a portion of the building is not used as a permit premises to separate the portion rather than have it effectively closed

§ 70 — CONSUMER BARS AND CONSUMER SERVICE BARS

Allows, rather than requires, DCP to adopt regulations on consumer bars; allows DCP to adopt regulations to allow more than one consumer service bar (i.e., place where food is primarily ordered)

§ 71 — NUISANCE AND EMBARGOING OR CONFISCATING CERTAIN ITEMS

Allows DCP to (1) confiscate alcoholic liquor that has been deemed a nuisance and (2) embargo and confiscate certain items during an investigation or inspection (e.g., unauthorized gambling device, unauthorized pharmaceuticals)

§ 72 — IMMUNITY FOR MINORS PARTICIPATING IN ENFORCEMENT ACTIONS

Indemnifies and grants immunity to minors who participate in DCP alcohol-related investigations and enforcement actions

§ 73 — STATEMENT OF PURCHASER'S AS AGE

Updates a required statement by alcohol purchasers whose age is in question and provides an electronic alternative to permittees

§ 74 — LOITERING

Generally prohibits permittees from allowing intoxicated people to loiter on permit premises

§§ 75 & 76 — LOTTERY TESTING AND CERTIFICATION

Requires the lottery system and games to be tested and certified by an independent third party

§§ 75 & 78-82 — LOTTERY SALES AGENTS

Specifies that lottery sales agents do not sell lottery tickets or offer keno over the Internet; extends existing provisions for other lottery related licensees to them; requires the "person in charge" of the agent to provide certain information to DCP and submit to a criminal history records check

§§ 75, 78 & 79 — LOTTERY AFFILIATE AND VENDOR LICENSES

Specifies that certain CLC contractors must get an affiliate license as affiliates and requires vendor licensees to report lottery system incidents directly to DCP

§§ 77, 79 & 84 — CASINO GAMING AND SPORTS WAGERING ADVERTISING

Imposes additional advertising restrictions and requirements on gaming entity licensees, including prohibiting certain licensees from entering into agreements with a third party to conduct advertising or marketing where compensation is based on certain outcomes (e.g., how many people become patrons or amount wagered)

§§ 78, 83 & 86 — PROVISIONAL LICENSE AUTHORIZATION

Authorizes the DCP commissioner to give provisional authorizations to occupational, key employee, live game employee, and pari-mutuel occupational license applicants.

§ 79 — KEY EMPLOYEES

Makes changes to who is considered a key employee for gaming licensure purposes

§ 85 — WAGERING RESTRICTIONS

Broadens certain prohibitions on sports wagering to apply to any type of wagering and applies one of them to live game employees

§ 87 — PARI-MUTUEL LICENSES

Separates existing pari-mutuel licenses into occupational and business entity licenses for individuals and business entity licenses for businesses.

§ 88 — DCP SPECIAL POLICE OFFICERS AND INTERNET GAMING

Expands the jurisdiction of certain DCP special police officers to include investigating and making arrests for any offense arising from Internet gaming

§§ 89 & 90 — ANIMAL PRIZES PROHIBITED

Specifies that (1) for prize prohibition purposes, an animal includes a fish or reptile and (2) bazaars and raffles may not use animals as prizes

BACKGROUND

SUMMARY

This bill makes various changes in the Department of Consumer Protection’s (DCP) laws on credentialing and enforcement, alcoholic liquor, and gaming.

*House Amendment “A” modifies the home improvement guaranty fund provisions with minor and technical changes and adds the alcoholic liquor (§§ 54-74) and gaming provisions (§§ 75-90).

EFFECTIVE DATE: Upon passage, unless otherwise specified.

§§ 1-3 — HOME IMPROVEMENT CONTRACTORS AND GUARANTY FUND

Allows consumers to recover from the guaranty fund regardless if their HIC’s certificate of registration is held by an individual or a business entity through a proprietor and explicitly authorizes DCP to discipline an HIC or salesperson for doing home improvement work without a proper contract

Home Improvement Guaranty Fund (§§ 1 & 3)

The bill allows consumers who suffer losses or damages because of a home improvement contractor (HIC) to recover from the Home Improvement Guaranty Fund regardless if their HIC’s certificate of registration is held by an individual or a business entity through a proprietor. Under the bill, a “proprietor” is any person who (1) has an ownership interest in a business entity that holds or has held a HIC certificate, and (2) a competent court has found to have violated any

provision related to the conduct of a business entity holding or that has held a HIC certificate within two years of the effective date of entering into a contract with an owner harmed by the individual or business entity's actions.

By law, the Home Improvement Guaranty Fund reimburses up to \$25,000 per claim to consumers who are unable to recover losses caused by registered HICs for contracts valued over \$200.

Current law requires the consumer to obtain a binding arbitration decision; court judgment, order, or decree; or specific type of restitution order against his or her registered HIC within two years of contracting with the HIC. For the purposes of being eligible to recover from the guaranty fund, the bill expands who the requisite decision, judgment, order, or decree may be against to include a proprietor.

Under the bill, whenever the commissioner orders payment to an owner from the guaranty fund against a proprietor, the proprietor and the business entity that holds or held a HIC certificate is liable for the resulting debt to the guaranty fund.

The bill also makes various technical and conforming changes to effectuate these changes.

DCP Enforcement (§ 2)

By law, the DCP commissioner may revoke, suspend, refuse to issue, or refuse to renew a registration of; put on probation; or reprimand an HIC or salesperson for, among other things, violating any provision of the state's home improvement laws. The bill explicitly authorizes the commissioner to take these disciplinary actions against them for engaging in or practicing home improvement work without a contract containing provisions required by a specific home improvement statute.

Under this statute, HICs must provide a completed copy of a home improvement contract at the time it is executed. It also requires contracts to include certain provisions for them to be enforceable. Among other things, they must meet the following requirements:

1. be written, dated, and signed by both parties;
2. include the entire agreement;
3. identify the contractor and state his or her address and registration number;
4. include a notice of cancellation rights in accordance with the Home Solicitation Sales Act;
5. include starting and completion dates;
6. be entered into by a registered contractor or salesperson; and
7. include a provision disclosing each legal entity that is or has been a home improvement or new home construction contractor in which the owner or owners of the HIC are or were shareholders, members, partners, or owners within the past five years (CGS § 20-429).

§§ 4-5 & 7-12 — APPRAISAL MANAGEMENT COMPANIES

Changes the current exemptions for certain federally regulated appraisal management companies from state registration and other requirements but generally carries them forward for similar companies; requires these companies to report to DCP information the department is required to submit under federal law; allows the DCP commissioner to adopt regulations on that reporting requirement and for investigating appraisal management company violations

Federally Regulated Appraisal Management Companies (§§ 4-5 & 7-11)

Existing law imposes several requirements on appraisal management companies, including that they must register with DCP before providing services. However, these requirements do not currently apply to appraisal management companies that are a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency. This is because these companies (and certain others) are excluded from the statutory definition of “appraisal management company.”

The bill eliminates this exclusion for these companies but effectively carries forward existing exemptions for companies that are like them. It

does so by creating a statutory definition for federally regulated appraisal management companies and specifically exempting them from the state's requirements for other appraisal management companies. Under the bill, a "federally regulated appraisal management company" is an appraisal management company that is owned and controlled by an "insured depository institution" (i.e., any bank or savings association that is Federal Deposit Insurance Corporation (FDIC) insured (12 U.S.C. § 1813)) and regulated by the Office of the Comptroller of the Currency, the Federal Reserve System governors, or the FDIC.

But, under the bill, these companies must report to DCP, in a manner the department prescribes, the information the DCP commissioner is required to submit to the appraisal subcommittee of the Federal Financial Institutions Examination Council under Title XI of the Financial Institutions, Reform, Recovery and Enforcement Act of 1989, P.L. 101-73, 103 Stat. 183 (FIRREA) and its regulations, or any policy or rule the subcommittee establishes.

The bill also requires federally regulated appraisal management companies to pay DCP an annual registry fee in an amount the appraisal subcommittee determines, in accordance with federal law. The DCP commissioner must transmit the annual registry fee to the appropriate federal regulatory entity in accordance with Title XI of FIRREA and its regulations, or any subcommittee-established policy or rule.

Regulations (§ 12)

The bill expands the DCP commissioner's authority to adopt regulations on appraisal management companies. It does so by allowing him to adopt regulations for investigating appraisal management company violations and on the bill's requirements for federally regulated appraisal management companies.

§ 6 — REAL ESTATE APPRAISAL BUSINESS PENALTIES

Builds on existing penalties for those who engage in the real estate appraisal business without a credential by subjecting them to civil penalties and making them ineligible for a credential for one year

Under existing law, anyone who engages in the real estate appraisal

business without obtaining a certification or provisional license is (1) subject to a fine up to \$1,000, up to six months imprisonment, or both and (2) ineligible to obtain a certification or provisional license for one year after being convicted.

The bill further subjects these violators to civil penalties after a DCP administrative hearing and makes them ineligible to obtain a certification or provisional license for one year from the date of a final decision rendered after the DCP administrative hearing.

However, by law and under the bill, the Connecticut Real Estate Appraisal Commission may grant a certification or provisional license to a violator during his or her one-year ineligibility period upon application and after a hearing.

§ 13 — MOBILE MANUFACTURER HOME PARK INDEPENDENT INSPECTIONS

Adds procedures and other requirements for when DCP orders independent inspections of mobile manufacturer home parks, including requiring (1) those who do the inspection to have training or be licensed, (2) the inspection report to address specific areas, and (3) timelines for submission of the report

By law, as part of an inspection or investigation, DCP may order a mobile manufactured home park owner to have an independent inspection report done, at the owner's cost, that assesses the condition and potential public health impact of a condition at the park (e.g., the condition of trees and electrical, plumbing, or sanitary systems). The bill adds several procedures and requirements related to this authority.

Reporter Qualifications and Other Changes

Under the bill, for these independent inspection reports, DCP may require the (1) person completing the report to have training or be licensed in a particular area related to the ordered inspection and (2) report to specifically address particular areas of, or issues affecting, the park that DCP is concerned with.

If DCP requires the person completing the report to have training or have a license in a particular area, the department must include the requirement in the first order it issues to the owner requiring the report.

The owner must submit proof of compliance with the above requirements at the time he or she submits the independent inspection report to the department.

Notification Procedure

Under the bill, if DCP orders an owner to get an independent inspection report as part of his or her license application or renewal, the department must issue the order to the owner’s email address from his or her most recent DCP application. The order must provide a description of the condition or conditions that require the owner to further assess.

Additional Report Procedures and Requirements

The bill requires the owner to obtain and submit to DCP an independent inspection report within 30 days of the department’s order for it, unless the commissioner or his designee approves a later date in writing.

The independent inspection report must include an assessment of all conditions outlined in the DCP order requiring the report to assess the risk that the conditions pose to public health and safety. The report must also assess the severity of the conditions and have a detailed plan of action to remedy each condition.

The bill requires owners, within 10 days of receiving the independent inspection report, to provide DCP with a written, detailed plan to remedy the assessed condition. The plan must at least include a specific timeline, proposed contractors, and a budget.

§ 14 — RENEWALS AND INCOMPLETE APPLICATIONS FOR CREDENTIALS

Allows DCP discretion in whether to accept renewal applications after a credential has expired; requires applicants to pay all outstanding fees before renewal; allows DCP to consider certain incomplete applications expired and withdrawn

The bill makes several changes affecting applications for DCP licenses, permits, certificates, and registrations (collectively, “credentials”). Existing law allows the DCP commissioner to impose a late fee on any applicant who fails to renew a credential before it expires.

The late fee amount must be 10% of the renewal fee but be between \$10 and \$100. Under the bill, before the commissioner renews the credential, the applicant must pay all outstanding fees owed to DCP, including the late fee.

Under current law, if a renewal application is submitted within 90 days after the credential's expiration, the applicant must pay the late fee, but does not need to apply for reinstatement. The bill instead provides DCP discretion in whether to accept the renewal application if it is submitted in the same timeframe. It also expressly prohibits any lapsed-credential holder from engaging in any activity for which an active credential is required, without DCP approving the renewal application for the credential.

Unless waived by DCP in writing, the bill allows the department to deem any incomplete application to have expired and been withdrawn six months after it was submitted. By law, application fees are generally non-refundable.

§ 15 — BUSINESSES SUBJECT TO THE ELECTRONIC PRICE SCANNING AND GET ONE FREE LAWS

Presumably extends certain electronic price scanning and "get one free" laws so that they apply to additional types of business entities

Current law generally imposes requirements on any person who, or association, corporation, firm, or partnership that, uses universal product coding or an electronic pricing system. The bill eliminates references to those specific types of business entities and, in doing so, appears to extend the requirements to all legal persons without limitation (i.e., so that they apply to additional types of business entities) (see CGS § 1-1(k)).

For businesses added under the bill, if they use universal product coding, then, by law, they must mark each consumer commodity that has a universal product code (UPC) with its retail price. However, there are several exceptions to this requirement, including if someone has been approved for an exemption by DCP, which, among other conditions, requires reinspection of price scanners if they are less than 98% accurate during a price accuracy inspection. Current law allows a

reinspection without penalty but charges a \$250 reinspection fee. The bill specifies that this fee must be paid before reinspection.

By law, a “consumer commodity” is any food, drug, device, cosmetic, product, or commodity of any other class, except prescription drugs, that is customarily produced for retail sale; for individual consumption, personal care, or household purposes and is usually consumed or expended during consumption or use. It does not include alcoholic liquor or carbonated soft drink containers (CGS § 21a-79(a)).

Additionally, for businesses added under the bill, if they have a retail sales area of at least 10,000 square feet and use an electronic pricing system to total a consumer’s purchases, then, by law, they must generally provide an item-by-item digital display that a consumer can see as each UPC is scanned.

Get One Free Law

The bill also appears to extend one of the state’s “get one free” laws to the businesses added under the bill. Under this law, consumers are generally entitled to receive a consumer commodity for free, up to a \$20 value, if the electronically scanned price for it is higher than its posted price.

§ 16 — EXEMPTION FROM GET ONE FREE LAW FOR COMMODITIES WITHOUT BAR CODES

Expands the number of businesses subject to the state’s other “get one free” law applicable to consumer commodities without bar codes by narrowing the exemption from this law

The bill expands the number of businesses subject to the state’s other “get one free” law that is generally applicable to “consumer commodities” (see above) without bar codes, including retail foods that must be weighed at purchase. Under this law, certain businesses are generally required to give the commodity to a consumer for free, up to a \$20 value, if its price at the point of sale is higher than its advertised or posted price.

However, there are several exceptions to this requirement under current law, including a broad exemption that applies to any person, association, corporation, firm, or partnership operating in a retail sales

area that is 10,000 square feet or less. The bill narrows this exemption by decreasing the maximum qualifying retail sales area to 1,500 square feet.

§§ 17 & 18 — FOOD, DRUG, AND COSMETIC SEIZURES AND EMBARGOES

Allows the DCP commissioner to extend an embargo period for food, drugs, devices, or cosmetics and to institute a civil action in Superior Court to embargo them; requires him to embargo or destroy certain kinds of these articles; generally prohibits anyone from altering or opening an embargoed article; increases the maximum penalty for anyone who removes the tag or marking on an article

The bill makes several changes regarding DCP's authority to enforce the Connecticut Food, Drug and Cosmetic Act. Existing law generally allows the DCP commissioner or his authorized agent to attach a tag or other appropriate marking to any food, drug, device, or cosmetic that is for sale or distribution that he or she has probable cause to believe violates the act and embargo the article.

Embargo Notice

Under current law, DCP attaching a tag or other appropriate marking functions as giving notice to the common carrier or other person in custody of the article that it is, or is suspected of being, in violation of the act and has been embargoed. The bill specifies that this is a form of written notice and limits the department's ability to make these attachments or markings to before or at the time the article is embargoed.

Embargo Extension and Civil Action to Continue

The bill allows the commissioner to extend an article's embargo period if a reinspection of it indicates the violation has continued. He must do this within 21 days of the embargo, which is the deadline under existing law by which he must either remove the embargo or bring a summary proceeding.

The bill requires the proceeding to be done under Uniform Administrative Procedure Act (UAPA) procedures and for the purpose of embargoing the article, rather than confiscating it as under current law. Besides removing the embargo or bringing a summary proceeding, the bill adds a third option by allowing the commissioner to institute a

civil action in Superior Court to embargo the article. It also makes related technical and conforming changes to incorporate the new civil action in Superior Court and differentiate it from the administrative proceedings.

Alteration and Opening of Embargoed Article

The bill prohibits anyone from altering or opening an embargoed article without DCP's permission or, after a summary proceeding or civil action has begun, the hearing officer's or court's permission. Existing law already prohibits removing or disposing of embargoed articles.

Complaint

The bill eliminates the requirement that summary proceeding complaints be verified by affidavit. It also specifies that the complaint must be against the person who has custody of the article to be embargoed.

Seizure

The bill eliminates the requirement that courts issue a seizure warrant for embargoed articles once a verified complaint is filed. It also removes related process requirements about how a person is to be summoned, the hearing procedures, claim filings, and what happens if the seized article is not injurious to health.

Confiscation and Destruction

After a hearing, the bill allows, rather than requires, certain articles that violate the act to be confiscated and destroyed. Specifically, DCP may confiscate them or the hearing officer or court can order the respondent or defendant to destroy them at their direction.

Under the bill, if there is an adverse ruling against the respondent or defendant, then he or she is liable for all costs and expenses DCP incurred in investigating, containing, removing, monitoring, mitigating, and disposing of the embargoed product, as well as any associated legal expenses.

Embargo or Destroy

Current law requires the commissioner or his authorized agent, whenever he or she finds any meat, seafood, poultry, vegetable, fruit, or other perishable article under certain conditions, to condemn or destroy it without delay to make the item impossible to sell as human food. The bill replaces the option of condemning the food with embargoing it. As under existing law, the conditions for the food to be embargoed or destroyed are when it is (1) found in a room, building, other structure, or vehicle and (2) unsound; contains any filthy, decomposed, or putrid substance; may be poisonous or harmful to health; or is otherwise unsafe.

Similarly, the bill requires the commissioner or his authorized agent, whenever he or she finds any adulterated or insanitary pharmaceutical drug, medical device, or drug paraphernalia under certain conditions, to embargo or destroy it without delay to make the item impossible to sell. DCP must do so for these items it finds in a room, building, other structure, or vehicle that are produced, packed, or held under insanitary conditions; unsafe or not shown to be safe; or may be contaminated by filth or be harmful or injurious to health.

Penalty

The bill increases the maximum civil penalty that the DCP commissioner may impose on anyone who removes the tag or marking on an article from \$500 to \$5,000, and allows him to also penalize those who offer or expose the article for sale. By law, the commissioner may only impose this civil penalty after notice and hearing, but may do so for each separate offense.

§§ 19-24 — HEALTH CLUBS

Makes various changes to the health club laws, including updating contract requirements, eliminating a penalty provision, allowing DCP to make guaranty fund payments for uncontested cases without a hearing, and amending certain notice requirements

Right to Cancel (§ 19)

Existing law requires every health club services contract to be cancelable within three business days after the buyer receives a copy of the contract in writing. The bill requires health clubs to deliver this copy

with delivery tracking, rather than by certified or registered U.S. mail.

The bill also modifies the items a health club may ask a buyer to return if they cancel within this three-day period. Under current law, a club may ask for the return of contract forms, membership cards, and all documents and evidence of membership previously delivered. The bill instead only allows clubs to ask for any delivered cards or equipment that were part of the membership.

Medical Disability (§§ 19 & 20)

By law, each contract must allow a buyer who becomes disabled to (1) be relieved of paying for the part of the contract term for which he or she is disabled or (2) extend the contract for the disability's duration, but the club has the right to require and verify reasonable evidence of the disability.

Current law (1) allows the club to require a signed certificate by a licensed physician, physician assistant, or advanced practice registered nurse and (2) requires the club to include in the contract certain disclosures about a buyer's rights after being disabled. The bill (1) eliminates the signed certificate requirement option and instead allows the club to require documentation from one of these professionals or other credentialed medical providers (which the bill does not define) and (2) requires the disclosure to state that a buyer may send written notice of the disability electronically.

The bill also eliminates provisions (1) allowing the contract to require the buyer to submit to a physical examination by one of these professionals at the health club's expense, and (2) requiring the health club to notify the buyer whether it will require the examination.

Cancellation at a Closer Location (§ 20)

Current law allows a buyer to cancel his or her contract under certain conditions at the health club location where he or she entered the contract. The bill additionally allows a buyer to do so at the location closest to his or her primary residence. As under existing law, buyers may cancel under the three-day cancellation provision or because they

moved more than 25 miles away from the club or the club closed.

Statement of Buyer’s Right to Cancel (§ 20)

The bill makes conforming changes to the contract’s required statement of the consumer’s rights to reflect the bill’s changes on (1) items a club may request to be returned, (2) medical disability requirements, and (3) allowing a buyer to cancel at the location closest to his or her primary residence. It also increases the required font size from 10-point bold type to at least 12-point font at the top of the contract. As under current law, the statement must include a conspicuous caption (“BUYER’S RIGHT TO CANCEL”). The bill also requires that it be prominent.

The bill also makes minor and grammatical changes to the required statement.

Electronic Contracts (§ 21)

Under the bill, if the health club gives a consumer a contract in an electronic format only, it must (1) provide the three-day cancellation and disability provisions in a separate document in electronic or paper form and (2) include the consumer’s acknowledgement that he or she has received these provisions.

The bill requires that the contract, document with the cancellation and disability provisions, and acknowledgement be executed as part of a single transaction.

Information Required for License to Sell Contracts (§ 22)

The bill requires health clubs seeking a DCP license to sell health club contracts to provide an electronic copy, rather than two copies, of each health club contract the applicant currently uses or intends to use.

Elimination of Civil Penalty (§ 22)

The bill eliminates the commissioner’s authority to impose a civil penalty of up to \$300 for any health club that sells or offers to sell contracts without submitting a license renewal or renewal fee within 30 days of the license expiring. By law and among other powers, the

commissioner may still suspend or revoke a health club license for specified violations.

Guaranty Fund (§ 23)

By law, the Connecticut Health Club Guaranty Fund is designed to protect health club members when a club closes or moves. If a health club is no longer operating at the location where the consumer entered the contract, the consumer may have a claim against the health club and may apply to the guaranty fund.

Disbursements. The bill sets up a new process for guaranty fund disbursements. Instead of holding an administrative hearing on each application, it allows the commissioner to make a payment on uncontested cases without a hearing.

More specifically, before the commissioner may direct payment from the fund to a buyer, he must first notify the health club of the buyer's application to the fund. The notice must also inform the club of its right to an administrative hearing to contest the disbursement if it (1) has already paid the buyer or (2) is complying with a payment schedule based on a written agreement with the buyer or a court judgment, order, or decree.

If the club requests a hearing in writing and within 15 days after receiving the DCP notice, the commissioner must grant the request and hold the hearing. If DCP does not receive a request within this 15-day period, the commissioner must (1) determine that the buyer has not been paid and (2) direct payment from the guaranty fund for the amount due. As under existing law, if multiple buyers submit claims against the same club, DCP can hear their applications in one proceeding.

Notice to Health Clubs Potentially Barred From Paying Into the Fund. Existing law requires DCP to notify a health club that it is contemplating prohibiting it from paying into the fund because it violated the health club law or engaged in unfair or deceptive trade practices, among other things. The bill eliminates the requirement that DCP send this notice by certified mail to the club's principal place of

business.

Closings or Transferred Locations (§ 24)

The bill amends the notice requirements for when a health club closes or transfers locations. Current law requires it to notify DCP and all current and prospective members at least 60 days before the closing or transfer. The bill requires that these be written notices disclosing the closing or transfer. It requires health clubs to (1) notify their current members at least 60 days, and again between 20 and 40 days, before the closing or transfer and (2) give DCP an electronic copy of this written notice within one business day after notifying current members.

The bill also eliminates a requirement that a health club publish a notice of the closing or transfer in a newspaper with general circulation in the state. It instead requires the club to conspicuously post, on its website and premises, notices about the closing or transfer.

§ 25 — HARDSHIP EXEMPTIONS FROM WELL DRILLING WATER REQUIREMENTS

Transfers, from the plumbing and piping work examining board to local health directors, authority to grant hardship exemptions from well drilling requirements related to the purity, potability, and safeguarding of well water

Current law allows the plumbing and piping work examining board to grant exemptions from well drilling requirements when they would cause undue hardship, subject to the DCP commissioner's approval. The bill transfers the authority to grant hardship exemptions related to the purity, potability, and safeguarding of well water from the examining board to the local health director. Specifically, it authorizes local health directors to grant these hardship exemptions if they find that the exemption will not adversely affect the well water's purity and adequacy.

§ 26 — CONNECTICUT UNFAIR TRADE PRACTICES ACT (CUTPA)

Allows DCP to receive electronic copies of documents of anyone being investigated or proceeded against under CUTPA; provides DCP additional options for sending certain investigative and enforcement documents; allows testimony in CUTPA proceedings to be recorded rather than transcribed and eliminates the requirement that it be filed with DCP; allows DCP to impose a civil penalty of up to \$5,000 for CUTPA violations

The bill makes various changes to CUTPA, including allowing DCP

to impose civil penalties after an administrative hearing; updating provisions on investigations and notices to include electronic methods; and making various minor, technical, and conforming changes.

Electronic Copies

By law, the DCP commissioner or his authorized representatives have the right to, among other things, access, examine, and copy the documents of anyone being investigated or proceeded against under CUTPA. The bill also allows DCP to receive electronic copies of these documents.

Sending Notice

The bill gives DCP additional options for sending certain CUTPA investigative demands or complaints other than delivering them by certified mail. It allows the department to send these actions using the same methods it uses for sending administrative enforcement action notices. By law, these notices must be delivered personally, by U.S. mail with delivery tracking or by certified mail, or by email with tracking and delivery confirmation.

Under the bill, DCP may use these additional methods for (1) serving an investigative demand on a person who is suspected of violating CUTPA or a person from whom the commissioner wants assurances that he or she has not violated the act and (2) delivering a complaint to a person who has been engaging in or is engaged in an alleged CUTPA violation.

Testimony

Current law requires testimony in a CUTPA proceeding to be put in writing by the hearing's recording officer and filed with the commissioner. The bill allows the testimony to be recorded (in an audio or audiovisual format) instead and eliminates the filing requirement.

Civil Penalty

The bill allows the DCP commissioner to impose a civil penalty of up to \$5,000 for CUTPA violations, after an administrative hearing. Correspondingly, the bill allows the DCP commissioner to ask the

attorney general to apply for an order to enforce the civil penalty in the Hartford Superior Court.

§ 27 — RETURN OR EXCHANGE POLICIES

Establishes new requirements for businesses to post and disclose their refund and exchange policies and requires these policies to include specified disclosures; requires businesses that do not disclose their policies to give refunds or allow exchanges under certain conditions; makes various other minor, technical, and conforming changes on returns and exchanges

Required Disclosures

Under current law, businesses engaged in trade or commerce in Connecticut (businesses) must accept returned consumer goods (other than motor vehicles) if customers return them as the business's conspicuously posted refund or exchange policy allows. The bill eliminates this prohibition on businesses refusing to accept returns and replaces it with a new set of requirements for disclosing refund or exchange policies. Under the bill, businesses must clearly and conspicuously:

1. post their refund or exchange policy on their premises if they conduct in-person sales;
2. display the policy on their website if they conduct Internet sales; and
3. verbally disclose the policy for verbal sales, including sales by telephone.

If the business provides refunds or allows exchanges, its policy must disclose:

1. whether it will provide a (a) cash or credit refund or store credit or allow an exchange, and (b) refund or allow an exchange at any time or before a specified time;
2. whether any refund or exchange is subject to any fee and the fee amount, with the amount expressed in either a dollar amount or percentage; and
3. any other conditions the business requires.

Under the bill, unless a business discloses its policy to not provide refunds or exchanges according to the bill's requirements, it must provide a cash or credit refund or store credit to any consumer who returns any purchased good within seven days after receiving it.

As under existing law, the refund and exchange policy law does not apply to perishable goods or ones clearly marked as unreturnable. Violations of the disclosure provision are a CUTPA violation.

Use of Electronic System for Certain Returns

Under existing law and the bill, businesses that use an electronic system to record, monitor, and limit the number or dollar amount of returns made by a consumer must state clearly in their posted refund or exchange policy that the system is being used. The bill removes the CUTPA penalty for violating this provision.

Existing law requires these businesses to provide written notice before terminating a consumer's right to return a good. The bill allows these businesses an additional termination notification method by allowing them to provide it to an email that the consumer provides. As under existing law, notice may still be given by mail to the consumer's last-known address or to the consumer's address that is obtained through reasonably available public records.

§ 28 — NOTICE OF HEARING FOR CERTAIN PAYMENT TYPE VIOLATIONS

Specifies DCP must provide a notice and hold a hearing before issuing a fine for specified violations related to surcharges, minimum transaction amounts, and discounts based on certain payment methods

Existing law prohibits anyone from imposing an additional charge or fee on any transaction for the privilege of using a particular payment type; conditioning the acceptance of a credit or charge card payment on a minimum transaction amount, without disclosure; or reducing a commission paid to an agent because the transaction was paid by card. The bill specifies that the DCP commissioner must provide a notice and hold an administrative hearing under the UAPA before imposing an additional civil penalty for these violations. It also makes minor and technical changes, including specifying that the "transactions" covered

by this law are those that occur in the state to mirror the definitions of “trade” and “commerce” in CUTPA.

§§ 29-52 — PUBLIC WEIGHMASTER

Renames a “licensed public weigher” as a “public weighmaster” and replaces “licensed public weigher” with “public weighmaster” in statutes; increases the maximum penalty for violating the public weigher laws

To align with national naming conventions, the bill replaces “licensed public weigher” with “public weighmaster” throughout the public weighers and weight and measurement of specific articles laws (Chapters 751 & 752). It also makes various minor, technical, and conforming changes.

It also increases two penalties for public weigher violations. It does so by increasing the maximum fine, from \$100 to \$1,000, for violations of the public weigher laws for which there is no specific penalty. As under existing law, the minimum penalty is \$25. It also increases the maximum civil penalties the DCP commissioner may impose after an administrative hearing, from \$100 for the first offense and \$500 for subsequent offenses to \$1,000 per violation (§ 44). By law, each violation for a unit, certificate, device, or scale is considered a separate offense.

§ 53 — E-CIGARETTE PENALTIES PAID BY MAIL

Allows certain e-cigarette penalties to be paid by mail to the Centralized Infractions Bureau without appearing in court

The bill allows certain e-cigarette (i.e., electronic nicotine delivery system and vapor product) penalties to be paid by mail to the Centralized Infractions Bureau without appearing in court. These penalties include the (1) \$50 fine for each day anyone knowingly manufactures e-cigarettes for a business without a registration and (2) \$90 fine for each day e-cigarette manufacturers or dealers knowingly manufacture or sell, offer for sale, or possess with the intent to sell an e-cigarette with a registration that has been expired for 90 days or less.

§§ 53 & 91 — REPEAL OF VARIOUS PROVISIONS ON MAKING AND SELLING CERTAIN STAPLE FOODS

Repeals duplicative statutes related to food standards for certain staple foods (e.g., flour, bread, rolls); increases the penalties by imposing the Uniform Food, Drug and Cosmetic Act penalties

The bill repeals statutes on food standards, examinations, and investigations related to certain staple foods (i.e., flour, bread, rolls, corn meal, grits, rice, and macaroni) (CGS §§ 21a-27 to -30). By law, the state Uniform Food, Drug and Cosmetic Act has similar requirements and provides DCP with comparable powers (CGS § 21a-91 et seq.).

By subjecting these staple foods to the standards established under the Food, Drug and Cosmetic Act, the bill also increases the penalties for violating the standards. Under current law, a first offense of a staple food law violation is punishable by up to a \$100 fine, up to three months imprisonment, or both, and subsequent offenses are punishable by up to a \$500 fine, up to one year imprisonment, or both (CGS § 21a-30). Under the Food, Drug and Cosmetic Act, first violations are generally punishable by up to six months in prison, a fine of up to \$500, or both. A subsequent violation is punishable by up to one year in prison, a fine of up to \$1,000, or both (CGS § 21a-95).

The bill also eliminates the ability to pay the offense by mail to the Centralized Infractions Bureau without appearing in court. Under current law, violators can do so for staple food violations, but not for Food, Drug and Cosmetic Act violations.

§§ 54, 56 & 59-61 — BUSINESS ENTITIES

Explicitly subjects specified types of business entities to the Liquor Control Act by defining them as “business entities” under the act; makes conforming changes

Definitions (§ 54)

The bill explicitly subjects specified types of business entities to the Liquor Control Act’s provisions by defining them as “business entities” under the act. Under the bill, a “business entity” is any incorporated or unincorporated association, corporation, firm, joint stock company, limited liability company (LLC), limited liability partnership (LLP), partnership, trust, or other legal entity.

Generally, the new definition clarifies that the Liquor Control Act applies to certain types of entities (e.g., limited liability companies) that are not specifically included in the act’s definitions under current law. The bill makes conforming changes to other (1) definitions in the Liquor

Control Act (e.g., adding business entities to the definition of “proprietor”) and (2) prohibitions and requirements in the act, as described below.

Prohibition of DCP Commissioner and Certain Employees in Alcoholic Liquor Market (§ 56)

Current law prohibits the DCP commissioner and its employees who have certain enforcement duties and responsibilities related to the Liquor Control Act from directly or indirectly having an interest in a partnership that deals or manufactures alcoholic liquor. The bill expands the prohibition to include being a member or owner of a business entity that deals or manufactures alcoholic liquor. As under existing law, being a corporation shareholder is allowed.

In-State Transporter Permits (§ 59)

The bill specifically prohibits all business entities from transporting alcoholic beverages into the state without an in-state transporter permit, among other tax requirements. Current law already specifically prohibits corporations, incorporated or unincorporated associations, partnerships, trusts, or other legal entities from doing so.

Catering Establishment (§ 60)

The bill expands the business types that may own or operate a catering establishment by specifically allowing joint stock companies, LLCs, LLPs, trusts, and other legal entities to do so. By law, a catering establishment may serve alcoholic liquor at a function, occasion, or event on its premises under certain conditions.

Temporary Permit for Noncommercial Entity (§ 61)

Under current law, the backer or permittee conducting a fundraising event, outing, picnic, social gathering, or auction must keep all profits from an auction or sale of beer, spirits, or wine, and no profits may be paid to any individual or corporation. The bill expands this prohibition to include all business entities.

§ 55 — FRANCHISOR OR LANDLORD PROFITS

Generally allows a franchisor or landlord to receive profits from alcoholic liquor sales from a franchisee or tenant

The bill generally allows a franchisor or landlord to receive profits from alcoholic liquor (e.g., beer, wine, and spirits) sales from a franchisee or tenant that may sell alcoholic liquor. The franchisor or landlord may do so if he or she does not:

1. control the permit premises' operations,
2. direct sales of alcoholic liquor from the permit premises, or
3. otherwise engage in activities indicating ownership or proprietorship of the franchisee or tenant.

Under the bill, DCP may require a franchisor or tenant to get approval as a backer to receive these profits. In determining whether to give approval as a backer, DCP must consider the percentage of the profits the franchisor or landlord receives and evaluate whether the franchisor or landlord may:

1. supervise, hire, retain, or discharge those employed on the permit premises;
2. set menu selections or prices or establish hours or days of operations for the permit premises;
3. decide whether or when a patio may be used on the permit premises;
4. order or accept alcoholic liquor deliveries for the permit premises;
5. arrange advertising for the permit premises, including advertising on the Internet or through social media;
6. dictate decorations for the permit premises;
7. access banking accounts related to the permit premises;
8. incur debt on behalf of a permit backer; and
9. enter into agreements with other entities on a backer's behalf.

§ 57 — PACKAGE STORE APPLICATIONS AND OPENING DEADLINE

Allows DCP to refuse to accept an incomplete package store application and to establish a deadline for when a package store must open to the public for continuous operation

The bill allows DCP to (1) refuse to accept any incomplete package store permit application or (2) establish a deadline for when a package store permit applicant must open to the public for continuous operation.

Under the bill, if a package store applicant does not meet the DCP-established deadline, the department may deem the application withdrawn and expired to prevent placeholdering (i.e., applying for the last available package store permit in a town and failing to open before the deadline). By law, DCP may issue one package store permit for every 2,500 residents as determined by the most recent census.

§ 58 — WHOLESALER TERMINATION OR ADDITIONAL APPOINTMENT NOTICE

Allows DCP to prescribe how a manufacturer or out-of-state shipper permittee must send notice to the department when it wants to terminate or diminish a wholesaler's territory or appoint an additional one

Under current law, if a manufacturer or out-of-state shipper permittee wants to terminate or diminish a wholesaler's territory or appoint an additional one, it must send written notice by certified or registered mail, return receipt requested, to the wholesaler, and a copy must be simultaneously sent to DCP. The bill instead allows DCP to prescribe how the notice is sent.

Under the bill, this applies when a manufacturer or out-of-state shipper permittee seeks to:

1. terminate or diminish a wholesaler permittee's territory after six months or more or
2. appoint one or more additional wholesalers to distribute within the territory (a) alcohol, spirits, or wine or (b) beer.

The bill requires that the additional beer wholesaler notice include the name of each additional wholesaler and give a detailed description of the just and sufficient cause necessitating the appointment.

§ 61 — DONATIONS

Expands the permittees that may donate to a noncommercial entity permittee and allows all of them to offer tastings

Existing law allows a manufacturer permittee, a wholesaler permittee, or package store permittee to donate to a temporary liquor permittee for a noncommercial entity, any beer, spirits, or wine they manufacture, distribute, or sell, respectively.

The bill expands the permittees that may donate and allows all of them to offer tastings for the noncommercial entity permittee. The expanded permits include those for restaurants, cafes, out-of-state retail shippers, and out-of-state shipper's for alcoholic liquor, for wine, and for beer.

§ 62 — APPLICATION-RELATED INVESTIGATIONS

Allows DCP to investigate an applicant's backer and the suitability of a proposed permit premises

The bill allows DCP to investigate (1) whether a permit should be issued to an applicant's backer (i.e., proprietor) or (2) the suitability of the proposed permit premises. Existing law allows DCP to investigate whether a permit should be issued to an applicant.

§§ 63 & 67-69 — PENALTIES AND DCP AUTHORITY

Allows DCP to impose additional fines; extends certain existing penalties to applicants and certain backers (e.g., disciplinary actions on the permit, fines, compromise instead of suspension); allows applicants whose permit application is denied to appeal

DCP Reasonable Belief of Certain Actions (§ 63)

The bill allows DCP to impose a fine of up to \$1,000 when the department reasonably believes an applicant or permittee has committed certain actions (e.g., used alcohol in excess, willfully made false statements in a material matter, or was convicted of violating liquor laws). Existing law also allows DCP to suspend, revoke, or refuse to grant or renew a permit for these actions.

Under current law, a backer is subject to the same disqualifications as a permit applicant or permittee for these actions. The bill expands the actions to any disqualifications under the Liquor Control Act and its regulations and applies it to an applicant's backer.

Various DCP Disciplinary Actions (§ 67)

Existing law allows DCP to revoke, suspend, or place conditions on any permit or provisional permit or impose a fine of up to \$1,000 per violation for cause as determined by a hearing. The bill extends these disciplinary actions to an applicant, backer, or proposed backer.

Current law requires the department to give 10 days' written notice of the hearing, setting the particulars required in the civil pleadings and the charges for the proposed disciplinary action. The bill instead requires that the notice be provided under the UAPA. Among other things, the UAPA requires that the parties be given reasonable notice that includes a short and plain statement of the matters asserted.

Under the bill, withdrawing an application does not prevent DCP from suspending or revoking the permit. (It is unclear how DCP could suspend or revoke the permit if an application is withdrawn and no permit is issued.)

Compromise in Lieu of Suspension (§ 68)

The bill allows DCP to accept an offer to compromise, in a certain amount considering the circumstances, instead of suspending the permit from an applicant and his or her backer. Existing law allows the department to make this offer to a permittee or backer.

Appeals for Denied Permits (§ 69)

Under existing law, applicants for a permit whose application is refused may appeal the decision under the UAPA procedures. The bill also allows an applicant whose permit is denied to do so.

§ 64 — HOLDING TWO PERMITS

Allows (1) certain out-of-state shipper permittees to also hold an out-of-state retailer shipper's permit for wine and (2) a restaurant permittee to hold a Connecticut Craft Cafe permit

By law, with certain exceptions, permittees of one class (i.e., tier) are not allowed to be a permittee of another class (CGS § 30-48(a)).

The bill creates additional exceptions by allowing the following:

1. an out-of-state shipper's permittee for alcoholic liquor other than beer, an out-of-state winery shipper's permittee for wine, or an out-of-state shipper's permittee for beer to also hold of an out-of-state retailer shipper's permit for wine and
2. a restaurant permittee to also hold a Connecticut craft cafe permit if the permit premises are located at two different addresses.

§ 66 — PORTION OF BUILDING USED AS PERMIT PREMISES

Allows permittees where a portion of the building is not used as a permit premises to separate the portion rather than have it effectively closed

Current law allows an alcoholic liquor permittee to use a building where a portion is not used as the permit premises only if the applicant signs an affidavit affirming that access from the other part of the building to the permit premises is effectually closed, unless DCP allows otherwise. The bill instead requires that the respective portions be separate. It correspondingly allows DCP to (1) examine the premises to see that the portion is effectively separate and (2) designate the manner of the separation. (Under current law, the department may do these things with respect to closings.)

Under current law, if a new way of accessing the permit premises is opened after the permit is issued and without DCP's consent endorsed on the permit, the permit is forfeited and is null and void, with or without notice. The bill eliminates the permit forfeiture penalty. As under existing law, permittees and backers that open a new unauthorized means of access are subject to the general permit penalty provision that allows DCP to revoke, suspend, or place conditions on a permit or impose a fine of up to \$1,000 per violation after a hearing for which written notice must be given (CGS §§ 30-55 & -113).

§ 70 — CONSUMER BARS AND CONSUMER SERVICE BARS

Allows, rather than requires, DCP to adopt regulations on consumer bars; allows DCP to adopt regulations to allow more than one consumer service bar (i.e., place where food is primarily ordered)

Current law requires DCP to adopt regulations to allow more than one consumer bar in any premises where on-premises alcohol consumption is allowed. The bill instead makes adopting regulations

permissive. By law, a consumer bar is a counter, with or without seats, where a patron may consume or purchase alcoholic liquor.

The bill also allows DCP to adopt regulations to allow more than one consumer service bar in any premises where on-premises alcohol consumption is allowed. A consumer service bar is a counter without seats where a patron can buy alcoholic liquor, but its main function is for buying food.

The bill allows alcoholic liquor to be served to a patron across the consumer service bar but prohibits a patron from sitting or consuming the alcohol or food at the bar. It allows minors (i.e., those under age 21) to stand at the consumer service bar to order and receive food.

The bill prohibits a premises from having both a self-pour endorsement and a consumer service bar endorsement.

§ 71 — NUISANCE AND EMBARGOING OR CONFISCATING CERTAIN ITEMS

Allows DCP to (1) confiscate alcoholic liquor that has been deemed a nuisance and (2) embargo and confiscate certain items during an investigation or inspection (e.g., unauthorized gambling device, unauthorized pharmaceuticals)

Nuisance

The bill allows the DCP commissioner or his authorized agent to confiscate alcoholic liquor that has been deemed a nuisance (i.e., alcoholic liquor, along with its container, that the owner or keeper intends to be illegally manufactured or sold).

Embargo

The bill allows the DCP commissioner or his authorized agent, during an inspection or investigation of a permittee, to embargo (i.e., affix a tag or other appropriate markings) certain items that violate or are suspected to violate the Liquor Control Act. The commissioner or agent must give the permittee prior written notice disclosing the violation, or suspected violation, and embargo. They may do so if they have probable cause to believe that the permittee possesses the embargoed item, or it is on the permit premises.

The bill allows DCP to embargo the following:

1. unauthorized gambling devices, illegitimate lottery tickets, or illegal gambling or bookmaking equipment;
2. driver's licenses or identification cards or imitations that a person uses, other than the person's own driver's license or identification card, to unlawfully (a) enter, or try to enter, the premises, or (b) purchase, or attempt to purchase, alcoholic liquor;
3. pharmaceutical drugs offered or made available for sale by any unauthorized individual;
4. high-THC hemp products or synthetic cannabinoids (presumably, if the permittee had an intent to sell); and
5. tobacco products sold without a stamp or by any person other than an authorized dealer.

The bill prohibits anyone from removing or disposing of any embargoed item, by sale or otherwise, unless the commissioner or his authorized agent first give written consent to do so.

Confiscation

In addition to any embargo, the bill allows the DCP commissioner or his authorized agent to confiscate any driver's license or identification card or their imitations for the same reasons as for being embargoed. They must give the permittee a written inventory of the confiscated items and a narrative description for the confiscation.

Within two days after any confiscation, the commissioner or agent must submit a written notice disclosing the confiscation to the law enforcement agency with jurisdiction over the permit premises.

Hearing

Under the bill, within 15 days after a permittee receives written notice about the violation, embargo, or confiscation, the permittee may submit a written request to DCP for a hearing to remove the embargo or revoke

the confiscation. The commissioner must hold a hearing within 45 days after the department receives the request, and the hearing must be held in accordance with the UAPA.

Liability

Under the bill, if the embargo is removed or confiscation is revoked, neither the commissioner or the state may be held liable for any damages incurred for any injury sustained because of the embargo, as long as a court with proper jurisdiction finds there was probable cause to impose the embargo or make the confiscation.

§ 72 — IMMUNITY FOR MINORS PARTICIPATING IN ENFORCEMENT ACTIONS

Indemnifies and grants immunity to minors who participate in DCP alcohol-related investigations and enforcement actions

The bill grants immunity from personal liability to minors who participate in alcohol-related investigations or enforcement actions initiated by, or operated in conjunction with, DCP. It does so by deeming them to be state officers under statutes relating to immunity and indemnification for state officers and employees.

Under the bill, the minors are not liable for damage or injury that is caused by actions they take at DCP's direction related to the investigation or enforcement action as long as they are not wanton, reckless, or malicious (CGS § 4-165).

The bill also requires the state save harmless and indemnify these minors from financial loss and expense from a claim, demand, suit, or judgment from alleged negligence or deprivation of a person's civil rights, or other acts or omissions causing damage or injury. This provision applies as long as the minor did not act wantonly, recklessly, or maliciously (CGS § 5-141d).

§ 73 — STATEMENT OF PURCHASER'S AS AGE

Updates a required statement by alcohol purchasers whose age is in question and provides an electronic alternative to permittees

The bill updates a required statement from alcohol purchasers whose age is in question. It does so by (1) revising the statutory form to include

those born in the 2000s and (2) providing an electronic alternative to permittees.

Existing law requires permittees to print these statements and furnish them to DCP for approval. The bill also allows the permittee to electronically display these forms on electronic devices capable of allowing the person whose age is in question to electronically complete and sign the statement. Under the bill, a statement that is completed and signed electronically must be stored in an electronic medium immediately accessible from the permit premises, alphabetically indexed, and in an electronic format that is accessible to DCP or any of its agents or inspectors at any reasonable time.

By law, paper statements must be kept on file on the permit premises, alphabetically indexed, in a suitable file box and available for inspection at any reasonable time.

§ 74 — LOITERING

Generally prohibits permittees from allowing intoxicated people to loiter on permit premises

Existing law prohibits alcoholic liquor permittees or their employees from allowing certain groups of people (e.g., minors) to loiter on the permit premises or be in the room where alcoholic liquor is kept or served. The bill extends this prohibition to an intoxicated person.

It also extends to an intoxicated person existing law's exemption that allows unaccompanied minors to stay on the permit premises while waiting for and consuming food prepared on the permit premises. This exemption applies to barrooms with only one room and premises with no effective separation between a barroom and dining room.

§§ 75 & 76 — LOTTERY TESTING AND CERTIFICATION

Requires the lottery system and games to be tested and certified by an independent third party

This bill requires each lottery gaming system to be tested and certified by a gaming laboratory, in a way and as frequently as DCP deems necessary to preserve gaming integrity. Under the bill, a "gaming laboratory" is a business entity that (1) specializes in testing technology

systems for U.S. licensed gaming operators, (2) is licensed by DCP as an affiliate, and (3) is not owned or controlled by the Connecticut Lottery Corporation (CLC).

Similarly, the bill requires lottery draw games and keno to be tested and certified by a gaming laboratory generally before CLC offers either of them, in a way and as frequently as DCP deems necessary to preserve gaming integrity. However, this testing and certification is not required for lottery draw games that (1) are sold in at least 20 U.S. states and (2) have been tested by a nationally recognized gaming testing laboratory that is licensed in at least 20 states to perform system and game analysis. The bill relatedly allows DCP to develop technical standards against which gaming laboratories must test lottery draw games and keno for compliance. It also imposes reporting requirements on gaming laboratories.

If DCP suspects that the integrity of the lottery gaming system may be vulnerable or compromised, the bill allows the department to require the lottery gaming system to be recertified by a gaming laboratory and the new certification submitted to DCP. The bill similarly allows the department to suspend or revoke approval of a lottery draw game or keno without notice if it has good cause to believe that the continued operation of the game or keno poses a threat to the security and integrity of gaming in the state

Lastly, the bill makes other minor, technical, and conforming changes.

Application

Under the bill, a “lottery gaming system” is the complete integrated set of hardware and software elements that communicates, records, reports, captures, and accounts for gaming data, including issuing, canceling, and validating wagers, determining winners, and other functions necessary for the technological operation of the lottery.

By law and under the bill, “keno” is a lottery game where a subset of numbers is drawn from a larger field of numbers by a central computer

system using an approved number generator, wheel system device, or other drawing device.

A “lottery draw game” is any game where one or more numbers, letters, or symbols are randomly drawn at predetermined times, but not more frequently than once every four minutes, from a range of numbers, letters, or symbols; and prizes are paid to players possessing winning plays as set forth in each game’s official game rules. It does not include (1) keno, (2) any game involving lottery draw tickets that are not available through a lottery sales agent, or (3) any game that simulates online casino gaming.

DCP Technical Standards

If DCP develops technical standards for gaming laboratories to test lottery draw games and keno, then the bill requires the department to post them on DCP’s website and review them at least annually to ensure they preserve the integrity of gaming.

DCP may modify or update the standards to respond to a legal interpretation, include additional standards, or amend existing standards as the DCP commissioner deems necessary in order to protect consumers from financial harm, to adjust to changes in technology, relevant standards, or platform design, or for any other reason in order to preserve the integrity of gaming. The bill requires the department to post its standards updates on DCP’s website and makes them effective 30 days after this posting unless the commissioner establishes a later effective date. The bill also requires DCP to notify CLC in writing about any update to the standards before it is implemented.

Gaming Laboratory Reporting

The bill requires gaming laboratories engaged in testing and certifying a lottery draw game or keno to file a report with DCP that must include (1) the extent to which the lottery draw game or keno meets any technical standards adopted by the DCP commissioner, (2) whether the lottery draw game or keno complies with the requirements of the state’s lottery laws, and (3) any additional information needed by DCP to certify the lottery game or keno.

DCP Review of Test Results

Under the bill, DCP must review the lottery draw game or keno that is being tested for proper functioning and consider the gaming laboratory's test results and certification. After completing this review, the department may approve the lottery draw game or keno for use in the state.

§§ 75 & 78-82 — LOTTERY SALES AGENTS

Specifies that lottery sales agents do not sell lottery tickets or offer keno over the Internet; extends existing provisions for other lottery related licensees to them; requires the "person in charge" of the agent to provide certain information to DCP and submit to a criminal history records check

This bill makes several statutory changes on lottery sales agents that supersede DCP regulations on them. Under existing law, unchanged by the bill, DCP must adopt regulations on, among other things, regulating lottery sales agents, including qualifications for licensure and license suspension and revocation (CGS § 12-568a). In practice, the department has adopted these regulations (see Conn. Agencies Regs., § 12-56a-1 et seq.).

The bill statutorily prohibits any person or business organization from being a lottery sales agent without a DCP license. It formally defines "lottery sales agent" as a person licensed under the state's lottery and gaming laws that contracts with CLC to sell lottery tickets or offer keno at a retail facility in Connecticut and not over the Internet.

The bill extends existing provisions for other lottery related licensees to lottery sales agents. Under this law currently, the DCP commissioner must issue vendor, affiliate, and occupational licenses according to the other provisions of this law. The bill also requires him to issue lottery sales agent licenses in this way. Relatedly, just as the commissioner may suspend or revoke for good cause a vendor, affiliate, or occupational license after a hearing, or order a summary suspension of either, the bill allows him to do so for lottery sales agent licenses.

The bill also extends (1) an existing alternative criminal history records check process for key employee and live game employee license applicants to lottery sales agent license applicants and (2) existing

statutory provisions for other lottery related licensees so that they apply to lottery sales agents.

The bill also makes technical and conforming changes.

Lottery Sales Agent License Applications

Under existing law, the DCP commissioner may require applicants for other lottery related licenses to provide specific information about themselves. The bill extends this authorization to apply to lottery sales agent license applicants and the “person in charge” of them (i.e., the person designated by a lottery sales agent licensee, or the applicant for the license, who is responsible for managing the agent’s compliance with the state lottery and game laws).

Effectively, the DCP commissioner may require a lottery sales agent license applicant and the related person in charge to provide information on their:

1. financial standing and credit;
2. moral character;
3. criminal record, if any;
4. previous employment;
5. corporate, partnership, or association affiliations; and
6. ownership of personal assets, as well as other information the commissioner deems pertinent to issuing the license if doing so will assure the integrity of the state lottery.

By law, the DCP commissioner must require other license applicants to submit to state and national criminal history records checks and may require them to submit to an international criminal history records check before the license is issued. The bill applies these provisions to lottery sales agent applicants and to the applicant’s person in charge when the applicant is a business organization.

As is the case under existing law for other license applicants, the bill requires the DCP commissioner to issue a lottery sales agent license to each applicant who satisfies the above application requirements and who he deems as qualified, and authorizes the commissioner to reject lottery sales agent license applications for good cause.

§§ 75, 78 & 79 — LOTTERY AFFILIATE AND VENDOR LICENSES

Specifies that certain CLC contractors must get an affiliate license as affiliates and requires vendor licensees to report lottery system incidents directly to DCP

The bill specifies that any person or business organization, other than a shareholder in a publicly traded corporation, that acts as a contractor for providing facilities, components, goods, or services that are necessary for and directly related to the secure operation of CLC's activities, or who exercises control in or over a vendor licensee, must be licensed as an affiliate licensee by the DCP commissioner. Current law only expressly applies this requirement to those acting as subcontractors.

The bill requires vendors licensed to provide a lottery gaming system to report to DCP incidents that occur, or are reasonably suspected to have occurred, that cause a disruption in the operation, security, accuracy, integrity, or availability of the lottery gaming system.

The vendor must generally give a written incident report to DCP immediately upon discovering the incident, but they may do so up to 24 hours after the discovery. The report must include the incident details and the vendor's proposed corrections. Within five business days after notifying the department, the vendor must give, presumably, a second written incident report that (1) details the incident, including the root cause of it, and (2) outlines the vendor's plan to make corrections, mitigate the effects of the incident, and prevent incidents of a similar nature from happening in the future. If the vendor is unable to determine the root cause and correct the incident within the initial five business days, the vendor must continue to update the department every five business days with written incident reports until the root cause is determined and the incident is corrected. DCP may require the vendor to submit the lottery gaming system to a gaming laboratory for

recertification.

Additionally, the bill makes technical and conforming changes.

§§ 77, 79 & 84 — CASINO GAMING AND SPORTS WAGERING ADVERTISING

Imposes additional advertising restrictions and requirements on gaming entity licensees, including prohibiting certain licensees from entering into agreements with a third party to conduct advertising or marketing where compensation is based on certain outcomes (e.g., how many people become patrons or amount wagered)

The bill imposes additional restrictions on online and retail sports wagering and online casino gaming advertisements; specifically, the advertising, marketing, and other promotional materials published, aired, displayed, or disseminated by or on behalf of any gaming entity licensee. Under the bill, a “gaming entity licensee” is a master wagering licensee, a licensed online gaming operator, a licensed online gaming service provider, or a licensed sports wagering retailer (see *Background – Gaming Definitions*).

The bill also prohibits master wagering licensees, online gaming operator licensees, and sports wagering retailer licensees from entering into agreements with a third party to conduct advertising or marketing for or to benefit the licensee where compensation depends on the number of people who become patrons, the volume or amount of wagers placed, or the wager outcomes. However, master wagering licensees and online gaming operator licensees may compensate a third party for advertising services based on the click through of an individual to an online gaming operator licensee’s website so long as the compensation is not based on an individual creating an account or placing a wager.

Additionally, the bill makes technical and conforming changes.

Changes to Current Advertising Restrictions

Current law prohibits advertisements of online and retail sports wagering and online casino gaming from (1) depicting someone younger than age 21 unless he or she is a professional or collegiate athlete who, if permitted by law, can profit from the use of his or her name or (2) being aimed exclusively or primarily at people younger than

age 21. The bill specifies that advertising must not depict someone who is, or appears to be, under age 21 and further prohibits aiming it exclusively or primarily at people younger than age 18 if the advertising exclusively pertains to keno, online lottery ticket sales, or fantasy contests, or any combination of the three.

New Advertising Restrictions

The bill requires gaming entity licensees to state that individuals must be at least age 18 or 21, as applicable, to participate in the type of gaming advertised, marketed, or promoted. It also prohibits the advertising, marketing, and other promotional materials by these licensees from:

1. directly advertising, targeting, or promoting Internet games or retail sports wagering to specific individuals, rather than a general audience, who have excluded themselves through the state's self-exclusion process through methods including email, telephone calls, text messages, direct messaging applications, mail, and social media;
2. having images, symbols, celebrity or entertainer endorsements, or language designed to appeal specifically to those under age 21, or, if pertaining exclusively to keno, online lottery ticket sales, or fantasy contests, or any combination of the three, to those under 18 years old;
3. having inaccurate or misleading information that would reasonably be expected to confuse and mislead patrons to induce them to engage in gaming;
4. appealing primarily to individuals under age 21 or, if pertaining exclusively to keno, online lottery ticket sales, or fantasy contests, or any combination of the three, to those under age 18 on a media outlet or social media;
5. being placed before any audience where the majority of the viewers or participants is presumed to be under age 21, or, if pertaining exclusively to keno, online lottery ticket sales, or

- fantasy contests, or any combination of the three, to those under age 18;
6. implying greater chances of winning compared to other licensees;
 7. implying greater chances of winning based on wagering in greater quantity or amount, except for a lottery draw game that was approved before January 1, 2024, that is available for patron wagering when the bill passes and includes features approved by DCP that increase the chances of winning and is not exclusively sold by lottery sales agents;
 8. having claims or representations that gaming will guarantee an individual's social, financial, or personal success; and
 9. using any type, size, location, lighting, illustration, graphic, depiction, or color resulting in the obscuring of any material fact.

The bill also requires that direct or targeted advertisements or promotions sent to individuals (e.g., emails or text messages) include a clear and conspicuous Internet link that allows the recipient to unsubscribe by clicking on one link.

Background — Gaming Definitions

By law and under the bill, a “master wagering licensee” is generally the Mashantucket Pequot or Mohegan tribes or the CLC.

An “online gaming operator” is a person or business entity that operates an electronic wagering platform and contracts directly with a master wagering licensee to provide (1) one or more Internet games or (2) retail sports wagering.

An “online gaming service provider” is a person or business entity, other than an online gaming operator, that provides goods or services to, or otherwise transacts business related to, Internet games or retail sports wagering with a master wagering licensee or a licensed online gaming operator, online gaming service provider, or sports wagering

retailer.

“Online casino gaming” means the following games conducted over the Internet: (1) slots, blackjack, craps, roulette, baccarat, poker and video poker, bingo, live dealer, other peer-to-peer games, and any variations of these games and (2) any games authorized by DCP.

An “occupational employee” is an employee of a master wagering licensee, licensed online gaming service provider, online gaming operator, or sports wagering retailer.

A “sports wagering retailer” is a person or business entity that contracts with CLC to facilitate retail sports wagering operated by CLC through an electronic wagering platform at up to 15 facilities in the state.

“Fantasy contest” is any fantasy or simulated game or contest (excluding lottery games) conducted over the Internet, including through a website or mobile device, in which:

1. players pay an entry fee;
2. the value of all prizes and awards is established and made known to players before the game or contest;
3. all winning outcomes reflect player knowledge and skill and are determined mostly by accumulated statistical results of participants’ performance in events; and
4. the winning outcome is not based on the score, point spread, or any performance of any single team or combination of teams or solely on any single performance of a contestant or player in a single event.

Lastly, “Internet games” means (1) online casino gaming; (2) online sports wagering; (3) fantasy contests; (4) keno through the Internet, an online service, or a mobile application; and (5) the sale of lottery draw game tickets through the Internet, an online service, or a mobile application.

§§ 78, 83 & 86 — PROVISIONAL LICENSE AUTHORIZATION

Authorizes the DCP commissioner to give provisional authorizations to occupational, key employee, live game employee, and pari-mutuel occupational license applicants.

The bill allows DCP to authorize applicants for an occupational, key employee, live game employee, or pari-mutuel occupational license to provisionally perform the work permitted under a respective license if:

1. petitioned by (a) CLC or a CLC vendor or affiliate for occupational license applicants, (b) a master wagering, online gaming operator, online gaming service provider, or sports wagering retailer licensee for key employee and live game employee license applicants, or (c) a pari-mutuel business licensee (i.e., association, vendor, totalizator (i.e., provides equipment for pari-mutuel wagering) or affiliate licensee) for pari-mutuel occupational license applicants;
2. the applicant has filed a completed license application in the form and manner required by DCP; and
3. the petitioner attests that the provisional authorization is necessary to continue the efficient operations of specified gaming (i.e., the lottery for occupational license applicants, Internet games or retail sports wagering for key employee and live game employee license applicants, and pari-mutuel wagering for pari-mutuel occupational license applicants) and is based on circumstances that are extraordinary and not designed to circumvent the otherwise applicable licensing procedures.

Under the bill, a provisional authorization may be issued for up to six months before a license is issued or denied. The authorization must permit the applicant to perform the functions, and require the applicant to comply with the requirements, of the respective license as set forth in the state's gaming laws. It must also not constitute approval for a license.

While the provisional authorization is in effect, the applicant must be subject to and comply with all applicable statutes and regulations. Any provisional authorization issued by DCP must generally expire

immediately upon the earlier of (1) the date DCP issues a written notice that the license has been approved or denied or (2) six months after the date the provisional authorization was issued. However, the bill allows individuals whose provisional authorizations expire at six months without a license approval or denial to apply for an additional provisional authorization, which DCP may issue if the conditions for granting an initial authorization exist.

The bill prohibits individuals who receive provisional authorizations and whose license applications are denied from reapplying for a license for one year from the date of the denial.

§ 79 — KEY EMPLOYEES

Makes changes to who is considered a key employee for gaming licensure purposes

The bill changes the statutory definition “key employee” that is used for gaming licensure purposes. Under current law, a key employee is, among other things, someone who has an ownership interest in a master wagering licensee or a licensed online gaming service provider, online gaming operator, or sports wagering retailer; specifically, holding 5% or more of the total ownership or interest rights in the licensee individually and in the aggregate with the individual’s spouse, parent, and child. The bill eliminates the language about aggregate interest.

§ 85 — WAGERING RESTRICTIONS

Broadens certain prohibitions on sports wagering to apply to any type of wagering and applies one of them to live game employees

The bill broadens two prohibitions on sports wagering to apply to any type of wagering. By law, master wagering licensees and licensed online gaming operators, sports wagering retailers, and online gaming service providers are prohibited from accepting wagers from a person on the account of, or for, another person. Current law relatedly prohibits anyone from placing a sports wager on another’s behalf, including wagering on the account of another person. The bill deletes “sports” from this second prohibition, effectively broadening its application to any type of wager.

Current law also prohibits certain people associated with master

wagering licensees and licensed online gaming operators, online gaming service providers, and sports wagering retailers from placing any wager on a sporting event with the respective licensee. The bill removes the sporting event limitation from this prohibition so that it applies to any wager. By law, this prohibition applies to licensee officers, directors, owners, and key and occupational employees, and their family members who reside in the same household. Under existing law, tribal membership, in and of itself, is not ownership for these purposes. The bill extends this prohibition so that it also applies to live game employees.

EFFECTIVE DATE: October 1, 2024

§ 87 — PARI-MUTUEL LICENSES

Separates existing pari-mutuel licenses into occupational and business entity licenses for individuals and business entity licenses for businesses.

The bill separates existing pari-mutuel licenses into two categories: occupational licenses for individuals and business entity licenses for businesses. The bill maintains the existing fee amounts and background check requirements for both categories.

§ 88 — DCP SPECIAL POLICE OFFICERS AND INTERNET GAMING

Expands the jurisdiction of certain DCP special police officers to include investigating and making arrests for any offense arising from Internet gaming

The bill expands the jurisdiction of certain DCP investigators appointed by the emergency services and public protection commissioner to act as special police officers. It specifically allows them to investigate and make arrests for any offense arising from Internet gaming operations, in addition to their existing authority over retail sports wagering, off-track betting systems, and lottery games.

§§ 89 & 90 — ANIMAL PRIZES PROHIBITED

Specifies that (1) for prize prohibition purposes, an animal includes a fish or reptile and (2) bazaars and raffles may not use animals as prizes

Existing law prohibits anyone from using any animal as a prize or award for a game, among other things. The bill specifies that (1) for prize purposes, an animal includes a fish or reptile and (2) bazaars and raffles may not use animals as prizes. As under existing law, using an animal

as a prize is a class D misdemeanor (punishable by up to 30 days imprisonment, up to a \$250 fine, or both).

EFFECTIVE DATE: October 1, 2024

BACKGROUND

CUTPA

By law, CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner to issue regulations defining an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and up to \$25,000 for a restraining order violation.

Related Bills

sSB 201, §§ 7-9, as amended by Senate Amendment "A" and "B", among other things, provides the DCP commissioner and attorney general additional authority to enforce assurances of voluntary compliances under CUTPA.

sHB 5234 (File 101), favorably reported by the General Law Committee, has identical alcoholic liquor provisions.

sHB 5284 (File 271), favorably reported by the Public Safety and Security Committee, has substantially similar gaming provisions, but includes a provision generally allowing sports wagering on Connecticut college sports.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 21 Nay 1 (03/07/2024)

Banking Committee

Joint Favorable

Yea 12 Nay 0 (04/05/2024)