



General Assembly

Substitute Bill No. 985

January Session, 2021



**AN ACT CONCERNING THE SALE OF FLAVORED ELECTRONIC
NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS AND
CHILDREN'S HEALTH.**

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

1 Section 1. Subsection (a) of section 21a-415 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) As used in this chapter, [and] section 53-344 and section 2 of this
5 act:

6 (1) "Authorized owner" means the owner or authorized designee of a
7 business entity that is applying for a registration or is registered with
8 the Department of Consumer Protection pursuant to this chapter;

9 (2) "Business entity" means any corporation, limited liability
10 company, association, partnership, sole proprietorship, government,
11 governmental subdivision or agency, business trust, estate, trust or any
12 other legal entity;

13 (3) "Dealer registration" means an electronic nicotine delivery system
14 certificate of dealer registration issued by the Commissioner of
15 Consumer Protection pursuant to this section;

16 (4) "Manufacturer registration" means an electronic nicotine delivery
17 system certificate of manufacturer registration issued by the
18 Commissioner of Consumer Protection pursuant to section 21a-415a to
19 any person who mixes, compounds, repackages or resizes any nicotine-
20 containing electronic nicotine delivery system or vapor product;

21 (5) "Electronic cigarette liquid" means a liquid that, when used in an
22 electronic nicotine delivery system or vapor product, produces a vapor
23 that may or may not include nicotine and is inhaled by the user of such
24 electronic nicotine delivery system or vapor product;

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

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

46 (8) "Sale" or "sell" means an act done intentionally by any person,
47 whether done as principal, proprietor, agent, servant or employee, of

48 transferring, or offering or attempting to transfer, for consideration,
49 including bartering or exchanging, or offering to barter or exchange; and

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

54 Sec. 2. (NEW) (*Effective from passage*) (a) For purposes of this section,
55 (1) "flavored" means imparting a characterizing flavor, and (2)
56 "characterizing flavor" means a distinguishable taste or aroma imparted
57 either prior to or during the use or consumption of an electronic nicotine
58 delivery system or vapor product, including, but not limited to, tastes
59 or aromas relating to any fruit, chocolate, menthol, mint, wintergreen,
60 vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice,
61 but does not include the taste or aroma of tobacco.

62 (b) Except as provided in subsection (c) of this section, on and after
63 October 1, 2021, no person with an electronic nicotine delivery system
64 certificate of dealer registration under section 21a-415 of the general
65 statutes, as amended by this act, shall sell, offer for sale, display for sale
66 or possess with intent to sell any flavored electronic nicotine delivery
67 system or flavored vapor product. No electronic nicotine delivery
68 system or vapor product shall be determined to be flavored solely
69 because of the use of additives or flavoring or the inclusion of ingredient
70 information. A public statement, claim or indicia made or disseminated
71 by the manufacturer of the electronic nicotine delivery system, vapor
72 product or a component part of such system or product that such
73 system, product or component part thereof has or produces a
74 characterizing flavor shall constitute prima facie evidence that such
75 system, product or component part thereof is a flavored electronic
76 nicotine delivery system or flavored vapor product.

77 (c) The provisions of subsection (b) of this section shall not apply to a
78 person with an electronic nicotine delivery system certificate of dealer
79 registration under section 21a-415 of the general statutes, as amended

80 by this act, if individuals under the age of twenty-one are prohibited
81 from entering the place of business operated by such person and a notice
82 concerning such prohibition is posted clearly on all entrances of the
83 place of business.

84 (d) If the Commissioner of Revenue Services finds, after a hearing,
85 that a person with an electronic nicotine delivery system certificate of
86 dealer registration under section 21a-415 of the general statutes, as
87 amended by this act, knowingly violated any provision of subsection (b)
88 of this section, except as provided in subsection (c) of this section, the
89 commissioner shall assess such person a civil penalty of three hundred
90 dollars for the first violation or a civil penalty of seven hundred fifty
91 dollars for a second violation on or before thirty-six months after the
92 date of the first violation. For a third violation on or before thirty-six
93 months after the date of the first violation, the commissioner shall assess
94 such person a civil penalty of one thousand dollars and any license or
95 certificate held by such person under chapter 214 or 420g of the general
96 statutes shall be revoked.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 21a-415(a) |
| Sec. 2 | <i>from passage</i> | New section |

Statement of Legislative Commissioners:

In Subsec. (d) "except as provided in subsection (c) of this section," was inserted for clarity.

KID *Joint Favorable Subst.*