



General Assembly

February Session, 2018

***Raised Bill No. 164***

LCO No. 954



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***AN ACT RAISING THE LEGAL AGE TO PURCHASE TOBACCO TO TWENTY-ONE.***

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

1 Section 1. Subsection (a) of section 12-286a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2018*):

4 (a) Each distributor and each dealer, as defined in section 12-285,  
5 shall place and maintain in legible condition at each point of sale of  
6 cigarettes to consumers, including the front of each vending machine,  
7 and each restricted cigarette vending machine a notice which states (1)  
8 that the sale, giving or delivering of tobacco products, including  
9 cigarettes, to any person under [~~eighteen~~] twenty-one years of age,  
10 except a person described in subsection (g) of section 53-344, as  
11 amended by this act, is prohibited by section 53-344, as amended by  
12 this act, (2) the purchase or misrepresentation of age by a person under  
13 [~~eighteen~~] twenty-one years of age, except a person described in  
14 subsection (g) of section 53-344, as amended by this act, to purchase  
15 cigarettes or tobacco products is prohibited by said section 53-344, and

16 (3) the penalties and fines for violating said section 53-344 and section  
17 12-295a.

18 Sec. 2. Subsection (a) of section 12-295 of the general statutes is  
19 repealed and the following is substituted in lieu thereof (*Effective*  
20 *October 1, 2018*):

21 (a) The commissioner may suspend or revoke the license of any  
22 dealer or distributor for failure to comply with any provision of this  
23 chapter or regulations related thereto or for the sale or delivery of  
24 tobacco in any form to a [minor under eighteen] person under twenty-  
25 one years of age, except a person described in subsection (g) of section  
26 53-344, as amended by this act, following a hearing with respect to  
27 which notice in writing, specifying the time and place of such hearing  
28 and requiring such dealer or distributor to show cause why such  
29 license should not be revoked, is mailed or delivered to such dealer or  
30 distributor not less than ten days preceding the date of such hearing.  
31 Such notice may be served personally or by registered or certified mail.

32 Sec. 3. Section 53-344 of the 2018 supplement to the general statutes  
33 is repealed and the following is substituted in lieu thereof (*Effective*  
34 *October 1, 2018*):

35 (a) As used in this section:

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

39 (2) "Identity card" means an identification card issued in accordance  
40 with the provisions of section 1-1h;

41 (3) "Transaction scan" means the process by which a seller or seller's  
42 agent or employee checks, by means of a transaction scan device, the  
43 validity of a driver's license or an identity card; and

44 (4) "Transaction scan device" means any commercial device or  
45 combination of devices used at a point of sale that is capable of

46 deciphering in an electronically readable format the information  
47 encoded on the magnetic strip or bar code of a driver's license or an  
48 identity card.

49 (b) Any person who sells, gives or delivers to any person under  
50 [eighteen] twenty-one years of age tobacco shall be fined not more  
51 than two hundred dollars for the first offense, not more than three  
52 hundred fifty dollars for a second offense within a twenty-four-month  
53 period and not more than five hundred dollars for each subsequent  
54 offense within a twenty-four-month period. The provisions of this  
55 subsection shall not apply to a person under [eighteen] twenty-one  
56 years of age who is delivering or accepting delivery of tobacco (1) in  
57 such person's capacity as an employee, or (2) as part of a scientific  
58 study being conducted by an organization for the purpose of medical  
59 research to further efforts in tobacco use prevention and cessation,  
60 provided such medical research has been approved by the  
61 organization's institutional review board, as defined in section 21a-408.

62 (c) Any person under [eighteen] twenty-one years of age who  
63 purchases or misrepresents such person's age to purchase tobacco in  
64 any form or possesses tobacco in any form in any public place shall be  
65 fined not more than fifty dollars for the first offense and not less than  
66 fifty dollars or more than one hundred dollars for each subsequent  
67 offense. For purposes of this subsection, "public place" means any area  
68 that is used or held out for use by the public whether owned or  
69 operated by public or private interests.

70 (d) (1) A seller or seller's agent or employee may perform a  
71 transaction scan to check the validity of a driver's license or identity  
72 card presented by a cardholder as a condition for selling, giving away  
73 or otherwise distributing tobacco to the cardholder.

74 (2) If the information deciphered by the transaction scan performed  
75 under subdivision (1) of this subsection fails to match the information  
76 printed on the driver's license or identity card presented by the  
77 cardholder, or if the transaction scan indicates that the information so

78 printed is false or fraudulent, neither the seller nor any seller's agent or  
79 employee shall sell, give away or otherwise distribute any tobacco to  
80 the cardholder.

81 (3) Subdivision (1) of this subsection does not preclude a seller or  
82 seller's agent or employee from using a transaction scan device to  
83 check the validity of a document other than a driver's license or an  
84 identity card, if the document includes a bar code or magnetic strip  
85 that may be scanned by the device, as a condition for selling, giving  
86 away or otherwise distributing tobacco to the person presenting the  
87 document.

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

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

98 (3) No seller or seller's agent or employee shall sell or otherwise  
99 disseminate the information derived from a transaction scan to any  
100 third party, including, but not limited to, selling or otherwise  
101 disseminating that information for any marketing, advertising or  
102 promotional activities, but a seller or seller's agent or employee may  
103 release that information pursuant to a court order.

104 (4) Nothing in subsection (d) of this section or this subsection  
105 relieves a seller or seller's agent or employee of any responsibility to  
106 comply with any other applicable state or federal laws or rules  
107 governing the sale, giving away or other distribution of tobacco.

108 (5) Any person who violates this subsection shall be subject to a civil

109 penalty of not more than one thousand dollars.

110 (f) (1) In any prosecution of a seller or seller's agent or employee for  
111 a violation of subsection (b) of this section, it shall be an affirmative  
112 defense that all of the following occurred: (A) A cardholder attempting  
113 to purchase or receive tobacco presented a driver's license or an  
114 identity card; (B) a transaction scan of the driver's license or identity  
115 card that the cardholder presented indicated that the license or card  
116 was valid; and (C) the tobacco was sold, given away or otherwise  
117 distributed to the cardholder in reasonable reliance upon the  
118 identification presented and the completed transaction scan.

119 (2) In determining whether a seller or seller's agent or employee has  
120 proven the affirmative defense provided by subdivision (1) of this  
121 section, the trier of fact in such prosecution shall consider that  
122 reasonable reliance upon the identification presented and the  
123 completed transaction scan may require a seller or seller's agent or  
124 employee to exercise reasonable diligence and that the use of a  
125 transaction scan device does not excuse a seller or seller's agent or  
126 employee from exercising such reasonable diligence to determine the  
127 following: (A) Whether a person to whom the seller or seller's agent or  
128 employee sells, gives away or otherwise distributes tobacco is  
129 [eighteen] twenty-one years of age or older; and (B) whether the  
130 description and picture appearing on the driver's license or identity  
131 card presented by a cardholder is that of the cardholder.

132 (g) Notwithstanding the provisions of subsections (b) to (f),  
133 inclusive, of this section, any person who is eighteen years of age or  
134 older prior to October 1, 2018, may purchase and possess tobacco  
135 products in any form.

136 Sec. 4. Section 53-344b of the 2018 supplement to the general statutes  
137 is repealed and the following is substituted in lieu thereof (*Effective*  
138 *October 1, 2018*):

139 (a) As used in this section and sections 21a-415 and 21a-415a:

140 (1) "Electronic nicotine delivery system" means an electronic device  
141 that may be used to simulate smoking in the delivery of nicotine or  
142 other substance to a person inhaling from the device, and includes, but  
143 is not limited to, an electronic cigarette, electronic cigar, electronic  
144 cigarillo, electronic pipe or electronic hookah and any related device  
145 and any cartridge, electronic cigarette liquid or other component of  
146 such device;

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

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

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

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

161 (6) "Sale" or "sell" means an act done intentionally by any person,  
162 whether done as principal, proprietor, agent, servant or employee, of  
163 transferring, or offering or attempting to transfer, for consideration, an  
164 electronic nicotine delivery system or vapor product, including  
165 bartering or exchanging, or offering to barter or exchange, an  
166 electronic nicotine delivery system or vapor product;

167 (7) "Give" or "giving" means an act done intentionally by any  
168 person, whether done as principal, proprietor, agent, servant or  
169 employee, of transferring, or offering or attempting to transfer,  
170 without consideration, an electronic nicotine delivery system or vapor

171 product;

172 (8) "Deliver" or "delivering" means an act done intentionally by any  
173 person, whether as principal, proprietor, agent, servant or employee,  
174 of transferring, or offering or attempting to transfer, physical  
175 possession or control of an electronic nicotine delivery system or vapor  
176 product;

177 (9) "Vapor product" means any product that employs a heating  
178 element, power source, electronic circuit or other electronic, chemical  
179 or mechanical means, regardless of shape or size, to produce a vapor  
180 that may or may not include nicotine, that is inhaled by the user of  
181 such product; and

182 (10) "Electronic cigarette liquid" means a liquid that, when used in  
183 an electronic nicotine delivery system or vapor product, produces a  
184 vapor that may or may not include nicotine and is inhaled by the user  
185 of such electronic nicotine delivery system or vapor product.

186 (b) Any person who sells, gives or delivers to any person under  
187 [~~eighteen~~] twenty-one years of age an electronic nicotine delivery  
188 system or vapor product in any form shall be fined not more than two  
189 hundred dollars for the first offense, not more than three hundred fifty  
190 dollars for a second offense within a twenty-four-month period and  
191 not more than five hundred dollars for each subsequent offense within  
192 a twenty-four-month period. The provisions of this subsection shall  
193 not apply to a person under [~~eighteen~~] twenty-one years of age who is  
194 delivering or accepting delivery of an electronic nicotine delivery  
195 system or vapor product (1) in such person's capacity as an employee,  
196 or (2) as part of a scientific study being conducted by an organization  
197 for the purpose of medical research to further efforts in tobacco use  
198 prevention and cessation, provided such medical research has been  
199 approved by the organization's institutional review board, as defined  
200 in section 21a-408.

201 (c) Any person under [~~eighteen~~] twenty-one years of age who  
202 purchases or misrepresents such person's age to purchase an electronic

203 nicotine delivery system or vapor product in any form or possesses an  
204 electronic nicotine delivery system or vapor product in any form in  
205 any public place shall be fined not more than fifty dollars for the first  
206 offense and not less than fifty dollars or more than one hundred  
207 dollars for each subsequent offense. For purposes of this subsection  
208 "public place" means any area that is used or held out for use by the  
209 public whether owned or operated by public or private interests.

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

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

222 (3) Subdivision (1) of this subsection does not preclude a seller or  
223 seller's agent or employee from using a transaction scan device to  
224 check the validity of a document other than a driver's license or an  
225 identity card, if the document includes a bar code or magnetic strip  
226 that may be scanned by the device, as a condition for selling, giving or  
227 otherwise delivering an electronic nicotine delivery system or vapor  
228 product to the person presenting the document.

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

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

239 (3) No seller or seller's agent or employee shall sell or otherwise  
240 disseminate the information derived from a transaction scan to any  
241 third party, including, but not limited to, selling or otherwise  
242 disseminating that information for any marketing, advertising or  
243 promotional activities, but a seller or seller's agent or employee may  
244 release that information pursuant to a court order.

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

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

252 (f) (1) In any prosecution of a seller or seller's agent or employee for  
253 a violation of subsection (b) of this section, it shall be an affirmative  
254 defense that all of the following occurred: (A) A cardholder attempting  
255 to purchase or receive an electronic nicotine delivery system or vapor  
256 product presented a driver's license or an identity card; (B) a  
257 transaction scan of the driver's license or identity card that the  
258 cardholder presented indicated that the license or card was valid; and  
259 (C) the electronic nicotine delivery system or vapor product was sold,  
260 given or otherwise delivered to the cardholder in reasonable reliance  
261 upon the identification presented and the completed transaction scan.

262 (2) In determining whether a seller or seller's agent or employee has  
263 proven the affirmative defense provided by subdivision (1) of this  
264 section, the trier of fact in such prosecution shall consider that  
265 reasonable reliance upon the identification presented and the  
266 completed transaction scan may require a seller or seller's agent or

267 employee to exercise reasonable diligence and that the use of a  
268 transaction scan device does not excuse a seller or seller's agent or  
269 employee from exercising such reasonable diligence to determine the  
270 following: (A) Whether a person to whom the seller or seller's agent or  
271 employee sells, gives or otherwise delivers an electronic nicotine  
272 delivery system or vapor product is [eighteen] twenty-one years of age  
273 or older; and (B) whether the description and picture appearing on the  
274 driver's license or identity card presented by a cardholder is that of the  
275 cardholder.

276 (g) Each seller of electronic nicotine delivery systems or vapor  
277 products or such seller's agent or employee shall require a person who  
278 is purchasing or attempting to purchase an electronic nicotine delivery  
279 system or vapor product, whose age is in question, to exhibit proper  
280 proof of age. If a person fails to provide such proof of age, such seller  
281 or seller's agent or employee shall not sell an electronic nicotine  
282 delivery system or vapor product to the person. As used in this  
283 subsection, "proper proof" means a motor vehicle operator's license, a  
284 valid passport or an identity card issued in accordance with the  
285 provisions of section 1-1h.

286 (h) Notwithstanding the provisions of subsections (b) to (f),  
287 inclusive, of this section, any person who is eighteen years of age or  
288 older prior to October 1, 2018, may purchase and possess an electronic  
289 nicotine delivery system or vapor product.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	12-286a(a)
Sec. 2	<i>October 1, 2018</i>	12-295(a)
Sec. 3	<i>October 1, 2018</i>	53-344
Sec. 4	<i>October 1, 2018</i>	53-344b

**Statement of Purpose:**

To raise the legal age to purchase tobacco to twenty-one.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*