



General Assembly

Amendment

January Session, 2023

LCO No. 8072



Offered by:

REP. MCCARTHY VAHEY, 133rd Dist.

SEN. ANWAR, 3rd Dist.

REP. KLARIDES-DITRIA, 105th Dist.

SEN. SOMERS, 18th Dist.

To: Subst. House Bill No. 6914

File No. 546

Cal. No. 341

"AN ACT CONCERNING THE USE OF FUNDS IN THE OPIOID AND TOBACCO SETTLEMENT FUNDS AND FUNDS RECEIVED BY THE STATE AS PART OF ANY SETTLEMENT AGREEMENT WITH A MANUFACTURER OF ELECTRONIC NICOTINE DELIVERY SYSTEM AND VAPOR PRODUCTS."

1 Strike section 1 in its entirety and substitute the following in lieu
2 thereof:

3 "Section 1. (NEW) (*Effective July 1, 2023*) (a) Commencing with the
4 fiscal year ending June 30, 2024, any moneys received in the preceding
5 fiscal year pursuant to the stipulated judgment in State of Connecticut
6 v. JUUL Labs, Inc., shall be disbursed to the Commissioner of Mental
7 Health and Addiction Services for distribution to the regional
8 behavioral health action organizations, as described in section 17a-484f
9 of the general statutes, for the funding of programs to support the
10 abatement, mitigation, cessation, reduction or prevention of the use of
11 nicotine or nicotine-synthetic products by residents under twenty-one

12 years of age in accordance with such judgment.

13 (b) Not later than September 1, 2024, and annually thereafter, the
14 Commissioner of Mental Health and Addiction Services shall submit a
15 report to the board of trustees of the Tobacco and Health Trust Fund
16 established pursuant to section 4-28f of the general statutes, as amended
17 by this act, detailing how the moneys disbursed in the preceding fiscal
18 year were distributed by the commissioner and summarizing how the
19 regional behavioral health action organizations expended such moneys
20 for the purposes described in subsection (a) of this section in the
21 preceding fiscal year."

22 After the last section, add the following and renumber sections and
23 internal references accordingly:

24 "Sec. 501. (NEW) (*Effective October 1, 2023*) (a) Any tobacco product
25 manufacturer that places funds into escrow pursuant to subsection (a)
26 of section 4-28i of the general statutes, or a third party to which a tobacco
27 product manufacturer has transferred such manufacturer's interests in
28 such funds, may make an assignment to the state of all or part of its
29 interest in any funds in the qualified escrow fund. Such assignment shall
30 (1) be permanent and irrevocable, (2) apply to all assigned funds in the
31 qualified escrow fund, including all assigned funds deposited in such
32 fund prior to and on or after the assignment is executed and all interest
33 or other appreciation on the assigned funds, (3) be in writing and signed
34 by a duly authorized representative of the assignor, and (4) become
35 effective upon delivery of the assignment to the Attorney General and
36 the financial institution where the qualified escrow fund is maintained.
37 The tobacco product manufacturer, its transferee, the Attorney General
38 or the financial institution where the qualified escrow fund is
39 maintained may make such amendments to the qualified escrow fund
40 agreement as may be necessary to effectuate an assignment of funds
41 executed pursuant to this subdivision or a withdrawal of funds from
42 such qualified escrow fund pursuant to subsection (b) of section 4-28i of
43 the general statutes.

44 (b) Any funds assigned to the state pursuant to subsection (a) of this
45 section shall be deposited in the Tobacco and Health Trust Fund created
46 in section 4-28f of the general statutes, as amended by this act.

47 (c) Any financial institution in which a qualified escrow fund is
48 maintained for which an assignment of funds has been executed
49 pursuant to subsection (a) of this section may file a petition in the
50 Superior Court for an order authorizing a transfer of funds in such
51 qualified escrow fund to the Tobacco and Health Trust Fund. The
52 petition shall state the factual and legal basis for the relief sought. The
53 financial institution shall serve the petition on the Attorney General at
54 the time the petition is filed in the Superior Court.

55 (d) Nothing in this section shall be construed to (1) waive the right of
56 the state to bring a claim against a tobacco product manufacturer under
57 section 4-28j of the general statutes, or (2) relieve a tobacco product
58 manufacturer from any past, current or future obligations such
59 manufacturer may have pursuant to chapter 47 of the general statutes.
60 Any funds assigned to the state pursuant to subsection (a) of this section
61 shall be credited on a dollar-for-dollar basis against any judgment or
62 settlement applicable to the escrow obligation the assigned funds were
63 initially deposited to satisfy.

64 Sec. 502. Section 4-28n of the general statutes is repealed and the
65 following is substituted in lieu thereof (*Effective October 1, 2023*):

66 (a) (1) Any nonparticipating manufacturer that has not registered to
67 do business in this state, pursuant to title 33 or 34, as a foreign
68 corporation or business entity shall, as a condition precedent to having
69 its brand families listed or retained in the directory maintained pursuant
70 to section 4-28m, appoint and continually engage without interruption
71 the services of an agent in this state to act as agent for the service of
72 process on whom all process and any action or proceeding against it
73 concerning or arising out of the enforcement of the provisions of
74 sections 4-28h to 4-28r, inclusive, may be served in any manner
75 authorized by law.

76 (2) Any nonparticipating manufacturer that maintains funds in
77 escrow pursuant to subsection (a) of section 4-28i shall appoint and
78 continually engage without interruption the services of an agent in this
79 state to act as agent for the service of process on whom all process and
80 any action or proceeding against it concerning or arising out of the
81 enforcement of the provisions of sections 4-28h to 4-28r, inclusive, may
82 be served in any manner authorized by law.

83 (3) Such service on such agent shall constitute legal and valid service
84 of process on the nonparticipating manufacturer. The nonparticipating
85 manufacturer shall provide the name, address, telephone number and
86 proof of the appointment and availability of such agent to, and to the
87 satisfaction of, the commissioner and the Attorney General.

88 (b) A nonparticipating manufacturer shall provide notice to the
89 commissioner and the Attorney General at least thirty calendar days
90 prior to termination of the authority of an agent and shall further
91 provide proof, to the satisfaction of the commissioner and the Attorney
92 General, of the appointment of a new agent no less than five calendar
93 days prior to the termination of an existing agent appointment. In the
94 event an agent terminates an agency, the nonparticipating manufacturer
95 shall notify the commissioner and the Attorney General of such
96 termination not later than five calendar days after such termination and
97 shall include proof, to the satisfaction of the commissioner and the
98 Attorney General, of the appointment of a new agent.

99 (c) Any nonparticipating manufacturer whose products are or
100 previously have been sold in this state [without appointing or
101 designating] and that has not appointed or designated an agent as
102 required in this section shall be deemed to have appointed the Secretary
103 of the State as such agent and may be proceeded against in courts of this
104 state by service of process upon the Secretary of the State, except that
105 the appointment of the Secretary of the State as such agent shall not
106 satisfy the condition precedent to having the brand families of the
107 nonparticipating manufacturer listed or retained in the directory.

108 (d) As a condition precedent to having its brand families listed or
109 retained in the directory, a nonparticipating manufacturer located
110 outside of the United States shall cause each of its importers into the
111 United States of each of its brand families to be sold in the state to
112 appoint and maintain the services of an agent in the state, and shall
113 provide notification to the commissioner and the Attorney General
114 regarding the agents of its importers in the manner prescribed in
115 subsections (a) and (b) of this section. Each importer of a
116 nonparticipating manufacturer's cigarettes that are sold in the state who
117 does not appoint or designate an agent as required in this section shall
118 be deemed to have appointed the Secretary of the State as such agent
119 and may be proceeded against in courts of this state by service of process
120 upon the Secretary of the State, except that the appointment of the
121 Secretary of the State as such agent shall not satisfy the condition
122 precedent to having the brand families of the nonparticipating
123 manufacturer listed or retained in the directory.

124 (e) (1) In conjunction with the certification required under section 4-
125 28l and as a condition precedent to having its brand families listed or
126 retained in the directory, each nonparticipating manufacturer shall post
127 annually with the commissioner either a good and valid bond that is
128 issued by a surety company authorized to do business in this state or
129 other security acceptable to the commissioner. Any bond or other
130 security shall be in favor of the state of Connecticut and shall be equal
131 in amount to the greater of (A) twenty-five thousand dollars, or (B) the
132 greatest amount of the total escrow owed for a calendar year in any of
133 the five calendar years preceding the posting of such bond or other
134 security. The commissioner may, in consultation with the Attorney
135 General, authorize the release of such bond or other security once it has
136 been established that the nonparticipating manufacturer has met the
137 requirements of section 4-28i.

138 (2) If the nonparticipating manufacturer that posted a bond has failed
139 to make, or have made on its behalf, escrow deposits equal to the full
140 amount owed for a quarter not later than fifteen days following the due
141 date for the quarter under section 4-28i, the commissioner may execute

142 on the bond, to (A) recover the delinquent escrow, which amount shall
143 be deposited into a qualified escrow account as defined in section 4-28h,
144 or a reasonable alternative account as determined by the commissioner,
145 and (B) recover civil penalties and costs authorized under section 4-28j.
146 Escrow amounts above the amount collected on the bond shall remain
147 due from the nonparticipating manufacturer and, as provided in
148 subsection (d) of section 4-28j, from the importers that sold such
149 nonparticipating manufacturer's cigarettes in this state during such
150 calendar quarter."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	New section
Sec. 501	<i>October 1, 2023</i>	New section
Sec. 502	<i>October 1, 2023</i>	4-28n