



General Assembly

February Session, 2020

Governor's Bill No. 5020

LCO No. 677



Referred to Committee on PUBLIC HEALTH

Introduced by:

REP. ARESIMOWICZ, 30th Dist.

REP. RITTER M., 1st Dist.

SEN. LOONEY, 11th Dist.

SEN. DUFF, 25th Dist.

***AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET
RECOMMENDATIONS REGARDING PUBLIC 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 2020 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective January 1, 2021*):

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;
50 [and]

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

55 (10) "Flavoring agent" means an additive used in food or drugs when
56 such additive: (A) Is used in accordance with good manufacturing
57 practice principles and in the minimum quantity required to produce its
58 intended effect, (B) (i) consists of one or more ingredients generally
59 recognized as safe in food and drugs, (ii) has been previously sanctioned
60 for use in food and drugs by the state or the federal government, (iii)
61 meets United States Pharmacopeia standards, or (iv) is an additive
62 permitted for direct addition to food for human consumption pursuant
63 to 21 CFR 172, as amended from time to time, (C) is inert and produces
64 no effect other than the instillation or modification of flavor, and (D) is
65 not greater than five per cent of the total weight of the product; and

66 (11) "Person" means any individual, authorized owner of a business
67 entity, retail establishment, as defined in section 19a-106a, partnership,
68 company, limited liability company, public or private corporation,
69 society, association, trustee, executor, administrator or other fiduciary
70 or custodian.

71 Sec. 2. (NEW) (*Effective January 1, 2021*) (a) No person shall sell, give,
72 deliver or possess with intent to sell in this state an electronic nicotine
73 delivery system or a vapor product with a flavoring agent, other than
74 tobacco flavor, that has been added for the purpose of flavoring the
75 contents of the electronic nicotine delivery system or vapor product.

76 (b) (1) No person shall sell, give, deliver or possess with intent to sell
77 an electronic nicotine delivery system or a vapor product with a nicotine
78 content that is greater than 35 milligrams per milliliter. Each person with
79 a manufacturer registration shall provide to a person with a dealer
80 registration documentation indicating the nicotine content, expressed as
81 milligrams per milliliter, for each electronic nicotine delivery system
82 and vapor product sold by such person with a manufacturer registration
83 to such person with a dealer registration.

84 (2) Each business entity with a dealer registration shall (A) maintain
85 within the place of business identified in the business entity's
86 application for dealer registration documentation of the nicotine content
87 provided pursuant to subdivision (1) of this subsection by the person
88 with a manufacturer registration for each electronic nicotine delivery
89 system and vapor product sold, given or delivered by such person to
90 the business entity, and (B) provide such documentation at the request
91 of the Commissioner of Mental Health and Addiction Services, or the
92 commissioner's designee, during any unannounced compliance checks
93 conducted pursuant to section 21a-415b of the general statutes, as
94 amended by this act.

95 Sec. 3. Section 21a-415b of the 2020 supplement to the general statutes
96 is repealed and the following is substituted in lieu thereof (*Effective*
97 *January 1, 2021*):

98 (a) Each business entity with a dealer registration shall place and
99 maintain in legible condition at each point of sale of electronic nicotine
100 delivery systems or vapor products a notice to consumers that states (1)
101 the sale, giving or delivering of electronic nicotine delivery systems and
102 vapor products to any person under twenty-one years of age is
103 prohibited by section 53-344b, as amended by this act, (2) the use of false
104 identification by a person under twenty-one years of age to purchase an
105 electronic nicotine delivery system or a vapor product is prohibited, and
106 (3) the penalties and fines for violating the provisions of this section and
107 section 53-344b, as amended by this act.

108 (b) (1) The Commissioner of Mental Health and Addiction Services,
109 or the commissioner's designee, shall conduct unannounced compliance
110 checks on business entities holding a dealer registration by engaging
111 persons between the ages of sixteen and twenty to enter the place of
112 business of each such business entity to attempt to purchase an
113 electronic nicotine delivery system or a vapor product. The
114 commissioner shall conduct unannounced follow-up compliance checks
115 of all noncompliant business entities and shall refer all noncompliant
116 business entities to the Commissioner of Revenue Services.

117 (2) The Commissioner of Mental Health and Addiction Services, or
118 the commissioner's designee, shall conduct unannounced compliance
119 checks on business entities holding a dealer registration to determine
120 whether each such business entity is selling, giving or delivering or has
121 sold, given or delivered any electronic nicotine delivery system or vapor
122 product with a flavoring agent, other than tobacco flavor, that has been
123 added for the purpose of flavoring the contents of the electronic nicotine
124 delivery system or vapor product in violation of section 2 of this act. The
125 commissioner shall conduct unannounced follow-up compliance checks
126 of all noncompliant business entities and shall refer all noncompliant
127 business entities to the Commissioner of Revenue Services.

128 (3) The Commissioner of Mental Health and Addiction Services, or
129 the commissioner's designee, shall conduct unannounced compliance
130 checks on business entities holding a dealer registration to determine
131 whether the business entity is in possession of documentation of the
132 nicotine content provided by each person with a manufacturer
133 registration pursuant to section 2 of this act for each electronic nicotine
134 delivery system or vapor product sold, given or delivered within the
135 retail establishment of the business entity. The commissioner shall refer
136 all business entities that do not possess documentation of nicotine
137 content, or that possess documentation of nicotine content that indicates
138 a level of nicotine that is greater than 35 milligrams per milliliter, in
139 violation of section 2 of this act, to the Commissioner of Revenue
140 Services.

141 (c) Upon receipt of a referral made pursuant to subsection (b) of this
142 section, the Commissioner of Revenue Services may, following a
143 hearing, impose a civil penalty and direct the Commissioner of
144 Consumer Protection to suspend or revoke the dealer registration of the
145 business entity that is the subject of such referral. The Commissioner of
146 Revenue Services shall provide such business entity with written notice
147 of the hearing, specifying the time and place of such hearing and
148 requiring such business entity to show cause why such dealer
149 registration should not be suspended or revoked. The written notice of
150 the hearing shall be mailed or delivered to such business entity not less
151 than ten days preceding the date of the hearing. Such notice may be
152 served personally or by registered or certified mail.

153 (d) If the Commissioner of Revenue Services finds, after a hearing
154 pursuant to subsection (c) of this section, that any person employed by
155 any business entity issued a dealer registration under section 21a-415,
156 as amended by this act, has sold, given or delivered an electronic
157 nicotine delivery system or vapor product to a person under twenty-one
158 years of age, other than a person under twenty-one years of age who is
159 delivering or accepting delivery in such person's capacity as an
160 employee, said commissioner shall, for the first violation, require such
161 employee to successfully complete an online prevention education
162 program administered by the Department of Mental Health and
163 Addiction Services not later than thirty days after said commissioner's
164 finding. Said commissioner shall assess any employee who fails to
165 complete such program a civil penalty of [two] four hundred dollars.
166 Said commissioner shall assess any employee a civil penalty of [two
167 hundred fifty] five hundred dollars for a second or subsequent violation
168 on or before twenty-four months after the date of the first violation.

169 (e) If the Commissioner of Revenue Services finds, after a hearing
170 pursuant to subsection (c) of this section, that (1) any business entity
171 issued a dealer registration under section 21a-415, as amended by this
172 act, has sold, given or delivered an electronic nicotine delivery system
173 or vapor product to a person under twenty-one years of age, other than
174 a person under twenty-one years of age who is delivering or accepting

175 delivery in such person's capacity as an employee, or (2) such person's
176 employee has sold, given or delivered an electronic nicotine delivery
177 system or vapor product to a person under twenty-one years of age, the
178 commissioner shall, for the first violation, require the authorized owner
179 of such business entity to successfully complete an online prevention
180 education program administered by the Department of Mental Health
181 and Addiction Services not later than thirty days after said
182 commissioner's finding. Said commissioner shall assess any business
183 entity issued a dealer registration, whose authorized owner fails to
184 complete such program, a civil penalty of [~~three~~] six hundred dollars for
185 the first violation. Said commissioner shall assess such business entity a
186 civil penalty of [~~seven hundred fifty~~] one thousand five hundred dollars
187 for a second violation on or before twenty-four months after the date of
188 the first violation. For a third violation by such business entity on or
189 before twenty-four months after the date of the first violation, said
190 commissioner shall assess such business entity a civil penalty of [~~one~~]
191 two thousand dollars and notify the Commissioner of Consumer
192 Protection that the dealer registration held by such business entity
193 under this chapter shall be suspended for not less than thirty days. For
194 a fourth violation on or before twenty-four months after the date of the
195 first violation, the Commissioner of Revenue Services shall assess such
196 business entity a civil penalty of [~~one~~] two thousand dollars and notify
197 the Commissioner of Consumer Protection that the dealer registration
198 held by such business entity under said chapter shall be revoked. The
199 Commissioner of Revenue Services shall order such business entity to
200 conspicuously post a notice in a public place stating that electronic
201 nicotine delivery systems and vapor products cannot be sold during the
202 period of suspension or revocation and the reasons for such suspension
203 or revocation. Any sale of an electronic nicotine delivery system or
204 vapor product by such business entity during the period of such
205 suspension or revocation shall be deemed an additional violation of this
206 section.

207 (f) If the Commissioner of Revenue Services finds, after a hearing
208 pursuant to subsection (c) of this section, that (1) any business entity

209 issued a dealer registration under section 21a-415, as amended by this
210 act, has sold, given or delivered an electronic nicotine delivery system
211 or a vapor product with a flavoring agent, other than tobacco flavor, that
212 has been added for the purpose of flavoring the contents of the
213 electronic nicotine delivery system or vapor product, or (2) any such
214 business entity does not possess documentation of nicotine content, or
215 possesses documentation of nicotine content that indicates a level of
216 nicotine that is greater than 35 milligrams per milliliter for any electronic
217 nicotine delivery system or vapor product sold, given or delivered
218 within the retail establishment of the business entity, the commissioner
219 shall, for the first violation, require the authorized owner of such
220 business entity to successfully complete an online prevention education
221 program administered by the Department of Mental Health and
222 Addiction Services not later than thirty days after said commissioner's
223 finding. Said commissioner shall assess such business entity a civil
224 penalty of six hundred dollars for a first violation. Said commissioner
225 shall assess such business entity a civil penalty of one thousand five
226 hundred dollars for a second violation on or before twenty-four months
227 after the date of the first violation. For a third violation by such business
228 entity on or before twenty-four months after the date of the first
229 violation, said commissioner shall assess such business entity a civil
230 penalty of two thousand dollars and notify the Commissioner of
231 Consumer Protection that the dealer registration held by such business
232 entity under chapter 420g shall be suspended for not less than thirty
233 days. For a fourth violation on or before twenty-four months after the
234 date of the first violation, the Commissioner of Revenue Services shall
235 assess such business entity a civil penalty of two thousand dollars and
236 notify the Commissioner of Consumer Protection that the dealer
237 registration held by such business entity under said chapter shall be
238 revoked. The Commissioner of Revenue Services shall order such
239 business entity to conspicuously post a notice in a public place stating
240 that electronic nicotine delivery systems and vapor products cannot be
241 sold during the period of suspension or revocation and the reasons for
242 such suspension or revocation. Any sale of an electronic nicotine
243 delivery system or a vapor product by such business entity during the

244 period of such suspension or revocation shall be deemed an additional
245 violation of this section.

246 [(f)] (g) Upon receipt of notice of determination from the
247 Commissioner of Revenue Services made under subsection (e) or (f) of
248 this section, the Commissioner of Consumer Protection shall suspend or
249 revoke the dealer registration of the business entity that is the subject of
250 said determination. The Commissioner of Consumer Protection shall
251 not be required to hold a hearing in connection with any notice of
252 determination received from the Commissioner of Revenue Services
253 under this section.

254 [(g)] (h) The Commissioner of Consumer Protection shall not issue a
255 new dealer registration to a former registrant whose dealer registration
256 was revoked unless the commissioner is satisfied that such business
257 entity that holds a dealer registration will comply with the provisions of
258 this chapter and any regulations related thereto, and section 53-344b, as
259 amended by this act.

260 Sec. 4. Section 12-295a of the 2020 supplement to the general statutes
261 is repealed and the following is substituted in lieu thereof (*Effective*
262 *January 1, 2021*):

263 (a) If the Commissioner of Revenue Services finds, after a hearing,
264 that any person employed by a dealer or distributor, as defined in
265 section 12-285, has sold, given or delivered cigarettes or tobacco
266 products to a person under twenty-one years of age other than a person
267 under twenty-one years of age who is delivering or accepting delivery
268 in such person's capacity as an employee, said commissioner shall, for
269 the first violation, require such person to successfully complete an
270 online tobacco prevention education program administered by the
271 Department of Mental Health and Addiction Services not later than
272 thirty days after said commissioner's finding. Said commissioner shall
273 assess any person who fails to complete such program a civil penalty of
274 [two] four hundred dollars. Said commissioner shall assess any person
275 employed by a dealer or distributor a civil penalty of [two hundred fifty]

276 five hundred dollars for a second or subsequent violation on or before
277 twenty-four months after the date of the first violation.

278 (b) If the Commissioner of Revenue Services finds, after a hearing,
279 that any dealer or distributor has sold, given or delivered cigarettes or a
280 tobacco product to a person under twenty-one years of age other than a
281 person under twenty-one years of age who is delivering or accepting
282 delivery in such person's capacity as an employee, or such dealer or
283 distributor's employee has sold, given or delivered cigarettes or a
284 tobacco product to such person, said commissioner shall require such
285 dealer or distributor, for the first violation, to successfully complete an
286 online tobacco prevention education program administered by the
287 Department of Mental Health and Addiction Services not later than
288 thirty days after said commissioner's finding. Said commissioner shall
289 assess any dealer or distributor who fails to complete such program a
290 civil penalty of [~~three~~] six hundred dollars. Said commissioner shall
291 assess any dealer or distributor a civil penalty of [~~seven hundred fifty~~]
292 one thousand five hundred dollars for a second violation on or before
293 twenty-four months after the date of the first violation. For a third
294 violation on or before twenty-four months after the date of the first
295 violation, said commissioner shall assess such dealer or distributor a
296 civil penalty of [~~one~~] two thousand dollars and suspend any license held
297 by such dealer or distributor under this chapter for not less than thirty
298 days. For a fourth violation on or before twenty-four months after the
299 date of the first violation, said commissioner shall assess such dealer or
300 distributor a civil penalty of [~~one~~] two thousand dollars and revoke any
301 license issued to such dealer or distributor under this chapter. Said
302 commissioner shall order such distributor or dealer to conspicuously
303 post a notice in a public place within such distributor's or dealer's
304 establishment stating that cigarettes and tobacco products cannot be
305 sold during the period of such suspension or revocation and the reasons
306 for such suspension or revocation. Any sale of cigarettes or a tobacco
307 product by such dealer or distributor during such suspension or
308 revocation shall be deemed an additional violation of this subsection.

309 (c) If the Commissioner of Revenue Services finds, after a hearing,

310 that any owner of an establishment in which a cigarette vending
311 machine or restricted cigarette vending machine is located has sold,
312 given or delivered cigarettes or tobacco products from any such
313 machine to a person under twenty-one years of age other than a person
314 under twenty-one years of age who is delivering or accepting delivery
315 in such person's capacity as an employee, or has allowed cigarettes or
316 tobacco products to be sold, given or delivered to such person from any
317 such machine, said commissioner shall require such owner, for the first
318 violation, to successfully complete an online tobacco prevention
319 education program administered by the Department of Mental Health
320 and Addiction Services not later than thirty days after said
321 commissioner's finding. Said commissioner shall assess any owner who
322 fails to complete such program a civil penalty of [five hundred] one
323 thousand dollars. Said commissioner shall assess any owner a civil
324 penalty of [seven hundred fifty] one thousand five hundred dollars for
325 a second violation on or before twenty-four months after the date of the
326 first violation. For a third violation on or before twenty-four months
327 after the date of the first violation, said commissioner shall assess such
328 owner a civil penalty of [one] two thousand dollars and immediately
329 remove any such machine from such establishment and no such
330 machine may be placed in such establishment for a period of one year
331 following such removal.

332 (d) Any person aggrieved by any action of the commissioner
333 pursuant to this section may take any appeal of such action as provided
334 in sections 12-311 and 12-312.

335 Sec. 5. Subsection (b) of section 53-344 of the 2020 supplement to the
336 general statutes is repealed and the following is substituted in lieu
337 thereof (*Effective January 1, 2021*):

338 (b) Any person who sells, gives or delivers to any person under
339 twenty-one years of age cigarettes or a tobacco product shall be fined
340 not more than [three] six hundred dollars for the first offense, not more
341 than [seven hundred fifty] one thousand five hundred dollars for a
342 second offense on or before twenty-four months after the date of the first

343 offense and not more than [one] two thousand dollars for each
344 subsequent offense on or before twenty-four months after the date of the
345 first offense. The provisions of this subsection shall not apply to a person
346 under twenty-one years of age who is delivering or accepting delivery
347 of cigarettes or a tobacco product (1) in such person's capacity as an
348 employee, or (2) as part of a scientific study being conducted by an
349 organization for the purpose of medical research to further efforts in
350 cigarette and tobacco product use prevention and cessation, provided
351 such medical research has been approved by the organization's
352 institutional review board, as defined in section 21a-408.

353 Sec. 6. Subsection (b) of section 53-344b of the 2020 supplement to the
354 general statutes is repealed and the following is substituted in lieu
355 thereof (*Effective January 1, 2021*):

356 (b) Any person who sells, gives or delivers to any person under
357 twenty-one years of age an electronic nicotine delivery system or vapor
358 product in any form shall be fined not more than [three] six hundred
359 dollars for the first offense, not more than [seven hundred fifty] one
360 thousand five hundred dollars for a second offense on or before twenty-
361 four months after the date of the first offense and not more than [one]
362 two thousand dollars for each subsequent offense on or before twenty-
363 four months after the date of the first offense. The provisions of this
364 subsection shall not apply to a person under twenty-one years of age
365 who is delivering or accepting delivery of an electronic nicotine delivery
366 system or vapor product (1) in such person's capacity as an employee,
367 or (2) as part of a scientific study being conducted by an organization
368 for the purpose of medical research to further efforts in tobacco use
369 prevention and cessation, provided such medical research has been
370 approved by the organization's institutional review board, as defined in
371 section 21a-408.

372 Sec. 7. Subsection (c) of section 38a-1083 of the general statutes is
373 repealed and the following is substituted in lieu thereof (*Effective from*
374 *passage*):

375 (c) The exchange is authorized and empowered to:

376 (1) Have perpetual succession as a body politic and corporate and to
377 adopt bylaws for the regulation of its affairs and the conduct of its
378 business;

379 (2) Adopt an official seal and alter the same at pleasure;

380 (3) Maintain an office in the state at such place or places as it may
381 designate;

382 (4) Employ such assistants, agents, managers and other employees as
383 may be necessary or desirable;

384 (5) Acquire, lease, purchase, own, manage, hold and dispose of real
385 and personal property, and lease, convey or deal in or enter into
386 agreements with respect to such property on any terms necessary or
387 incidental to the carrying out of these purposes, provided all such
388 acquisitions of real property for the exchange's own use with amounts
389 appropriated by this state to the exchange or with the proceeds of bonds
390 supported by the full faith and credit of this state shall be subject to the
391 approval of the Secretary of the Office of Policy and Management and
392 the provisions of section 4b-23;

393 (6) Receive and accept, from any source, aid or contributions,
394 including money, property, labor and other things of value;

395 (7) Charge assessments or user fees to health carriers that are capable
396 of offering a qualified health plan through the exchange or otherwise
397 generate funding necessary to support the operations of the exchange
398 and the all-payer claims database program established under section
399 19a-755a and impose interest and penalties on such health carriers for
400 delinquent payments of such assessments or fees;

401 (8) Procure insurance against loss in connection with its property and
402 other assets in such amounts and from such insurers as it deems
403 desirable;

404 (9) Invest any funds not needed for immediate use or disbursement
405 in obligations issued or guaranteed by the United States of America or
406 the state and in obligations that are legal investments for savings banks
407 in the state;

408 (10) Issue bonds, bond anticipation notes and other obligations of the
409 exchange for any of its corporate purposes, and to fund or refund the
410 same and provide for the rights of the holders thereof, and to secure the
411 same by pledge of revenues, notes and mortgages of others;

412 (11) Borrow money for the purpose of obtaining working capital;

413 (12) Account for and audit funds of the exchange and any recipients
414 of funds from the exchange;

415 (13) Make and enter into any contract or agreement necessary or
416 incidental to the performance of its duties and execution of its powers,
417 including, but not limited to, an agreement with the Office of Health
418 Strategy to use funds collected under this section for the operation of
419 the all-payer claims database established under section 19a-755a and to
420 receive data from such database. The contracts entered into by the
421 exchange shall not be subject to the approval of any other state
422 department, office or agency, provided copies of all contracts of the
423 exchange shall be maintained by the exchange as public records, subject
424 to the proprietary rights of any party to the contract, except any
425 agreement with the Office of Health Strategy shall be subject to approval
426 by said office and the Office of Policy and Management and no portion
427 of such agreement shall be considered proprietary;

428 (14) To the extent permitted under its contract with other persons,
429 consent to any termination, modification, forgiveness or other change of
430 any term of any contractual right, payment, royalty, contract or
431 agreement of any kind to which the exchange is a party;

432 (15) Award grants to trained and certified individuals and
433 institutions that will assist individuals, families and small employers
434 and their employees in enrolling in appropriate coverage through the

435 exchange. Applications for grants from the exchange shall be made on
436 a form prescribed by the board;

437 (16) Limit the number of plans offered, and use selective criteria in
438 determining which plans to offer, through the exchange, provided
439 individuals and employers have an adequate number and selection of
440 choices;

441 (17) Evaluate jointly with the Health Care Cabinet established
442 pursuant to section 19a-725 the feasibility of implementing a basic
443 health program option as set forth in Section 1331 of the Affordable Care
444 Act;

445 (18) Establish one or more subsidiaries, in accordance with section
446 38a-1093, to further the purposes of the exchange;

447 (19) Make loans to each subsidiary established pursuant to section
448 38a-1093 from the assets of the exchange and the proceeds of bonds,
449 bond anticipation notes and other obligations issued by the exchange or
450 assign or transfer to such subsidiary any of the rights, moneys or other
451 assets of the exchange, provided such assignment or transfer is not in
452 violation of state or federal law;

453 (20) Sue and be sued, plead and be impleaded;

454 (21) Adopt regular procedures that are not in conflict with other
455 provisions of the general statutes, for exercising the power of the
456 exchange; and

457 (22) Do all acts and things necessary and convenient to carry out the
458 purposes of the exchange, provided such acts or things shall not conflict
459 with the provisions of the Affordable Care Act, regulations adopted
460 thereunder or federal guidance issued pursuant to the Affordable Care
461 Act.

462 (d) (1) The chief executive officer of the exchange shall provide to the
463 commissioner the name of any health carrier that fails to pay any
464 assessment or user fee under subdivision (7) of subsection (c) of this

465 section to the exchange. The commissioner shall see that all laws
466 respecting the authority of the exchange pursuant to said subdivision
467 (7) are faithfully executed. The commissioner has all the powers
468 specifically granted under this title and all further powers that are
469 reasonable and necessary to enable the commissioner to enforce the
470 provisions of said subdivision (7).

471 (2) Any health carrier aggrieved by an administrative action taken by
472 the commissioner under subdivision (1) of this subsection may appeal
473 therefrom in accordance with the provisions of section 4-183, except
474 venue for such appeal shall be in the judicial district of New Britain.

475 Sec. 8. Subsection (a) of section 19a-490 of the 2020 supplement to the
476 general statutes is repealed and the following is substituted in lieu
477 thereof (*Effective April 1, 2021*):

478 (a) "Institution" means a hospital, short-term hospital special hospice,
479 hospice inpatient facility, residential care home, nursing home facility,
480 home health care agency, home health aide agency, behavioral health
481 facility, assisted living services agency, substance abuse treatment
482 facility, outpatient surgical facility, outpatient clinic, an infirmary
483 operated by an educational institution for the care of students enrolled
484 in, and faculty and employees of, such institution; a facility engaged in
485 providing services for the prevention, diagnosis, treatment or care of
486 human health conditions, including facilities operated and maintained
487 by any state agency; and a residential facility for persons with
488 intellectual disability licensed pursuant to section 17a-227 and certified
489 to participate in the Title XIX Medicaid program as an intermediate care
490 facility for individuals with intellectual disability. "Institution" does not
491 include any facility for the care and treatment of persons with mental
492 illness or substance use disorder operated or maintained by any state
493 agency, except Whiting Forensic Hospital and the hospital and
494 psychiatric residential treatment facility units of the Albert J. Solnit
495 Children's Center;

496 Sec. 9. Section 19a-490 of the general statutes is amended by adding

497 subsection (q) as follows (*Effective April 1, 2021*):

498 (NEW) (q) "Psychiatric residential treatment facility" means a
499 nonhospital facility with a provider agreement with the Department of
500 Social Services to provide inpatient services to Medicaid-eligible
501 individuals under the age of twenty-one.

502 Sec. 10. (NEW) (*Effective from passage*) (a) The Commissioner of Public
503 Health shall adopt regulations, in accordance with the provisions of
504 chapter 54 of the general statutes, concerning licensure by the
505 Department of Public Health of the psychiatric residential treatment
506 facilities at the Albert J. Solnit Children's Center. As used in this
507 subsection, "psychiatric residential treatment facility" means a
508 nonhospital facility with a provider agreement with the Department of
509 Social Services to provide inpatient services to Medicaid-eligible
510 individuals under the age of twenty-one.

511 (b) The commissioner may implement policies and procedures
512 concerning the licensure of the psychiatric residential treatment
513 facilities at the Albert J. Solnit Children's Center while in the process of
514 adopting such policies and procedures as regulations, provided notice
515 of intent to adopt regulations is published on the eRegulations System
516 not later than twenty days after the date of implementation. Policies and
517 procedures implemented pursuant to this subsection shall be valid until
518 the time final regulations are adopted.

519 Sec. 11. Subsection (a) of section 10-19 of the general statutes is
520 repealed and the following is substituted in lieu thereof (*Effective July 1,*
521 *2020*):

522 (a) The knowledge, skills and attitudes required to understand and
523 avoid the effects of alcohol, [of] nicotine, [or] tobacco, electronic nicotine
524 delivery systems, vapor products, marijuana and [of] drugs, as defined
525 in subdivision (17) of section 21a-240, on health, character, citizenship
526 and personality development shall be taught every academic year to
527 pupils in all grades in the public schools; and, in teaching such subjects,
528 textbooks and such other materials as are necessary shall be used.

529 Annually, at such time and in such manner as the Commissioner of
530 Education shall request, each local and regional board of education shall
531 attest to the State Board of Education that all pupils enrolled in its
532 schools have been taught such subjects pursuant to this subsection and
533 in accordance with a planned, ongoing and systematic program of
534 instruction. The content and scheduling of instruction shall be within
535 the discretion of the local or regional board of education. Institutions of
536 higher education approved by the State Board of Education to train
537 teachers shall give instruction on the subjects prescribed in this section
538 and concerning the best methods of teaching the same. The State Board
539 of Education and the Board of Regents for Higher Education in
540 consultation with the Commissioner of Mental Health and Addiction
541 Services and the Commissioner of Public Health shall develop health
542 education or other programs for elementary and secondary schools and
543 for the training of teachers, administrators and guidance personnel with
544 reference to understanding and avoiding the effects of nicotine or
545 tobacco, alcohol and drugs.

546 Sec. 12. Section 19a-535a of the general statutes is repealed and the
547 following is substituted in lieu thereof (*Effective October 1, 2020*):

548 (a) As used in this section: [, a "facility"]

549 (1) "Facility" means a residential care home, as defined in section 19a-
550 490; [.]

551 (2) "Emergency" means a situation in which a resident of a facility
552 presents an imminent danger of serious physical harm to self, another
553 resident or an employee or the owner of the facility;

554 (3) "Department" means the Department of Public Health; and

555 (4) "Commissioner" means the Commissioner of Public Health, or the
556 commissioner's designee.

557 (b) A facility shall not transfer or discharge a resident from the facility
558 unless (1) the transfer or discharge is necessary to meet the resident's

559 welfare and the resident's welfare cannot be met in the facility, (2) the
560 transfer or discharge is appropriate because the resident's health has
561 improved sufficiently so the resident no longer needs the services
562 provided by the facility, (3) the health or safety of individuals in the
563 facility is endangered, (4) the resident has failed, after reasonable and
564 appropriate notice, to pay for a stay or a requested service, at the facility
565 or (5) the facility ceases to operate. [In the case of an involuntary transfer
566 or discharge the resident and, if known, his legally liable relative,
567 guardian or conservator shall be given a thirty-day written notification
568 which includes the reason for the transfer or discharge and notice of the
569 right of the resident to appeal a transfer or discharge by the facility
570 pursuant to subsection (d) of this section.] No resident shall be
571 involuntarily transferred or discharged from a facility if such transfer or
572 discharge presents imminent danger of death.

573 (c) The facility shall be responsible for assisting the resident in finding
574 appropriate placement. A discharge plan, prepared by the facility,
575 which indicates the resident's individual needs and how such needs will
576 be met by such alternative placement shall accompany the patient.

577 [(d) (1) For transfers or discharges effected on or after October 1, 1989,
578 a resident or his legally liable relative, guardian or conservator who has
579 been notified by a facility, pursuant to subsection (b) of this section, that
580 he will be transferred or discharged from the facility may appeal such
581 transfer or discharge to the Commissioner of Public Health by filing a
582 request for a hearing with the commissioner within ten days of receipt
583 of such notice. Upon receipt of any such request, the commissioner or
584 his designee shall hold a hearing to determine whether the transfer or
585 discharge is being effected in accordance with this section. Such a
586 hearing shall be held within seven business days of receipt of such
587 request and a determination made by the commissioner or his designee
588 within twenty days of the termination of the hearing. The hearing shall
589 be conducted in accordance with chapter 54.

590 (2) In an emergency the facility may request that the commissioner
591 make a determination as to the need for an immediate transfer or

592 discharge of a resident. Before making such a determination, the
593 commissioner shall notify the resident and, if known, his legally liable
594 relative, guardian or conservator. The commissioner shall issue such a
595 determination no later than seven days after receipt of the request for
596 such determination. If, as a result of such a request, the commissioner or
597 his designee determines that a failure to effect an immediate transfer or
598 discharge would endanger the health, safety or welfare of the resident
599 or other residents, the commissioner or his designee shall order the
600 immediate transfer or discharge of the resident from the facility. A
601 hearing shall be held in accordance with the requirements of
602 subdivision (1) of this subsection within seven business days of the
603 issuance of any determination issued pursuant to this subdivision.

604 (3) Any involuntary transfer or discharge shall be stayed pending a
605 determination by the commissioner or his designee. Notwithstanding
606 any provision of the general statutes, the determination of the
607 commissioner or his designee after a hearing shall be final and binding
608 upon all parties and not subject to any further appeal.]

609 (d) On or after October 1, 2020, whenever a transfer or discharge of a
610 resident from a facility takes place, except in the case of an emergency,
611 the facility shall:

612 (1) Notify, in writing, the resident and, if known, the resident's legal
613 guardian, conservator or other authorized representative of such
614 transfer or discharge not less than sixty calendar days prior to the date
615 of effecting such transfer or discharge. Such notice shall include, but not
616 be limited to: (A) The proposed transfer or discharge; (B) the reasons for
617 the proposed transfer or discharge, including enough detail to enable
618 the resident or the resident's representative to prepare a response; (C)
619 the effective date of the proposed transfer or discharge; (D) the name of
620 the facility and location to which the resident is to be transferred or
621 discharged; (E) the right of the resident or the resident's legal guardian,
622 conservator or other authorized representative to appeal the proposed
623 transfer or discharge and the procedures for initiating such an appeal,
624 as determined by the department; (F) the deadline by which such an

625 appeal shall be initiated in order to (i) preserve the resident's right to an
626 appeal hearing; and (ii) stay the proposed transfer or discharge during
627 the pendency of the appeal, including notice of the right to seek an
628 extension of such deadline for good cause; and (G) the resident's right
629 to represent himself or herself or be represented by legal counsel, the
630 resident's legal guardian, conservator or other authorized
631 representative, or a relative, or friend. The notice shall also include the
632 name, mailing address and telephone number of the State Long-Term
633 Care Ombudsman and be sent by facsimile or electronic communication
634 to the Office of the Long-Term Care Ombudsman on the same day as
635 the notice is given to the resident. If the resident is, or the facility alleges
636 that the resident is, mentally ill or developmentally disabled, the notice
637 shall also include the name, mailing address and telephone number of
638 the entity designated by the Governor in accordance with section 46a-
639 10b to serve as the Connecticut protection and advocacy system.

640 (2) Except in the case of an emergency, whenever the commissioner
641 receives a request for a hearing in response to a notice of proposed
642 transfer or discharge under this section and such notice does not meet
643 the requirements of subdivision (1) of this subsection, the commissioner
644 shall, not later than ten business days after the date of receipt of such
645 notice from the resident or the facility, order the transfer or discharge
646 stayed and return such notice to the facility. Upon receipt of such
647 returned notice, the facility shall issue a revised notice that meets the
648 requirements of subdivision (1) of this subsection.

649 (3) The resident or the resident's legal guardian, conservator or other
650 authorized representative who has been notified by a facility pursuant
651 to subdivision (1) of this subsection that such resident will be transferred
652 or discharged from the facility may initiate an appeal by submitting a
653 written request to the commissioner not later than sixty calendar days
654 after the facility issues the notice of the proposed transfer or discharge,
655 except as provided in subdivision (6) of this subsection. In order to stay
656 a proposed transfer or discharge pending appeal, such appeal shall be
657 initiated not later than twenty days after the date the resident receives
658 the notice of the proposed transfer or discharge from the facility, unless

659 the resident demonstrates good cause for failing to initiate such appeal
660 within the twenty-day period.

661 (4) Upon receipt of any such request to appeal a proposed transfer or
662 discharge by the resident and a determination by the commissioner that
663 the notice by the facility meets the requirements of subdivision (1) of
664 this subsection, the commissioner shall hold a hearing on the appeal and
665 determine whether the transfer or discharge is being effected in
666 accordance with this section. The commissioner shall hold such hearing
667 not later than ten business days after the date of receipt of such request,
668 except the resident may request a continuance of the hearing in order to
669 secure legal counsel or for other good cause. The facility shall bear the
670 burden of proving by a preponderance of the evidence that it has
671 complied with the provisions of this section. The commissioner shall
672 make a determination regarding the proposed transfer or discharge not
673 later than thirty days after the date of conclusion of the hearing. The
674 hearing shall be conducted in accordance with the provisions of chapter
675 54.

676 (5) Not less than five days prior to the date on which a hearing is to
677 be conducted pursuant to this section, the resident and the resident's
678 legal guardian, conservator or other authorized representative shall
679 have an opportunity to examine, during regular business hours, the
680 contents of the resident's file maintained by the facility and all
681 documents and records to be used by the commissioner or the facility at
682 the hearing. The facility shall have an opportunity to examine, during
683 regular business hours not less than five business days prior to the date
684 of such hearing, all documents and records to be used by the resident at
685 the hearing.

686 (6) (A) In the case of an emergency, the facility may request that the
687 commissioner hold an expedited hearing on an appeal of a transfer or
688 discharge under this section. The facility shall provide a copy of the
689 request for an expedited hearing and the notice described in subdivision
690 (1) of this subsection to the resident, the resident's legal guardian,
691 conservator or other authorized representative, if known, and the State

692 Long-Term Care Ombudsman at the same time it makes such request
693 for an expedited hearing. If the commissioner determines that an
694 emergency exists with respect to the resident, the commissioner shall
695 hold a hearing not less than seven business days after the date of receipt
696 of such request. The commissioner shall notify the facility, the resident,
697 the resident's legal guardian, conservator or other authorized
698 representative and the Office of the Long-Term Care Ombudsman of the
699 date of the hearing not less than two business days prior to such date. If
700 the commissioner determines, based on the request, that an emergency
701 does not exist, the commissioner shall proceed in accordance with the
702 provisions of subdivisions (2) to (5), inclusive, of this subsection. The
703 facility shall bear the burden of proving by a preponderance of the
704 evidence that it has complied with the provisions of this section. The
705 hearing shall be conducted in accordance with the provisions of chapter
706 54.

707 (B) If a hearing is held based on the assertion by the facility that an
708 emergency exists, a determination regarding transfer or discharge shall
709 be made by the commissioner not later than ten calendar days after the
710 date of the conclusion of the hearing. The facility shall not effect a
711 transfer or discharge of the resident prior to five days after the date of
712 receipt of the decision by the resident or the resident's legal guardian,
713 conservator or other authorized representative, provided any Sunday or
714 legal holiday intervening shall be excluded in computing such five-day
715 period.

716 (7) If the commissioner determines, after a hearing held in accordance
717 with this section, that the facility transferred or discharged a resident in
718 violation of the provisions of this section, the commissioner may require
719 the facility to readmit the resident to the facility, regardless of whether
720 the resident has accepted placement in another facility or residence
721 pending the issuance of a hearing decision.

722 (e) The commissioner shall send a copy of his or her decision
723 regarding a transfer or discharge to the facility, the resident and the
724 resident's legal guardian, conservator or other authorized

725 representative, if known, or the resident's legally liable relative or other
726 responsible party. The decision shall be deemed to have been received
727 five days after the date it was mailed unless the facility, the resident or
728 the resident's legal guardian, conservator, other authorized
729 representative, legally liable relative or other responsible party proves
730 otherwise by a preponderance of the evidence. The facility may not
731 effect a transfer or discharge of the resident prior to fifteen days after
732 the date of receipt of the decision by the resident and the resident's legal
733 guardian, conservator or other authorized representative, if known, or
734 the resident's legally liable relative or other responsible party, except as
735 provided in subdivision (6) of this subsection.

736 (f) Not later than ten days after the date of a determination by the
737 commissioner in favor of a proposed transfer or discharge of a resident
738 by a facility, the resident may request from the department additional
739 time to find suitable housing. The commissioner shall consider all of the
740 circumstances surrounding the proposed transfer or discharge, the
741 equities involved and whether any undue hardship would result to
742 either party in making its determination.

743 (g) A facility or resident who is aggrieved by a final decision may
744 appeal to the Superior Court in accordance with the provisions of
745 chapter 54. If the transfer or discharge was stayed during the pendency
746 of the appeal to the commissioner, such stay shall remain in place and
747 be continued during any appeal to the Superior Court pursuant to this
748 section and for such additional period as is required for a decision by
749 the commissioner pursuant to subsection (d) or (e) of this section.
750 Nothing in this section shall preclude the commissioner or the Superior
751 Court, in its discretion, from extending or imposing a stay beyond the
752 minimum stay required by this section. The Superior Court may
753 consider an appeal from a decision of the commissioner pursuant to this
754 section as a privileged case in order to dispose of the case with the least
755 possible delay.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2021</i>	21a-415(a)
Sec. 2	<i>January 1, 2021</i>	New section
Sec. 3	<i>January 1, 2021</i>	21a-415b
Sec. 4	<i>January 1, 2021</i>	12-295a
Sec. 5	<i>January 1, 2021</i>	53-344(b)
Sec. 6	<i>January 1, 2021</i>	53-344b(b)
Sec. 7	<i>from passage</i>	38a-1083(c)
Sec. 8	<i>April 1, 2021</i>	19a-490(a)
Sec. 9	<i>April 1, 2021</i>	19a-490
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>July 1, 2020</i>	10-19(a)
Sec. 12	<i>October 1, 2020</i>	19a-535a

Statement of Purpose:

To implement the Governor's budget recommendations.

[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.]