



General Assembly

February Session, 2020

Raised Bill No. 78

LCO No. 1158



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS REGARDING THE CLEAN INDOOR AIR ACT.***

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

1 Section 1. Section 19a-342 of the 2020 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2020*):

4 (a) As used in this section: [, "smoke"]

5 (1) "Smoke" or "smoking" means the [lighting or carrying] burning of
6 a lighted cigarette, cigar, pipe or any other similar device; [.] and

7 (2) "Any area" means the interior of the facility, building or
8 establishment and the outside area within twenty-five feet of any
9 doorway, operable window or air intake vent of the facility, building or
10 establishment.

11 (b) (1) Notwithstanding the provisions of section 31-40q, as amended
12 by this act, no person shall smoke: (A) In any area of a building or
13 portion of a building, partially enclosed shelter on a rail platform or bus

14 shelter owned and operated or leased and operated by the state or any
15 political subdivision thereof; (B) in any area of a health care institution,
16 including, but not limited to, a psychiatric facility; (C) in any area of a
17 retail [food store] establishment accessed by the general public; (D) in
18 any restaurant; (E) in any area of an establishment with a permit issued
19 for the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b,
20 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-
21 37f, in any area of an establishment with a permit for the sale of alcoholic
22 liquor pursuant to section 30-23 issued after May 1, 2003, and, on and
23 after April 1, 2004, in any area of an establishment with a permit issued
24 for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or the
25 bar area of a bowling establishment holding a permit pursuant to
26 subsection (a) of section 30-37c; (F) [within] in any area of a school
27 building or on the grounds of such school; (G) within a child care facility
28 or on the grounds of such child care facility, except, if the child care
29 facility is a family child care home, as defined in section 19a-77, such
30 smoking is prohibited only when a child enrolled in such home is
31 present; (H) in any passenger elevator; [, provided no person shall be
32 arrested for violating this subsection unless there is posted in such
33 elevator a sign which indicates that smoking is prohibited by state law;]
34 (I) in any area of a dormitory in any public or private institution of
35 higher education; [or] (J) [on and after April 1, 2004,] in any area of a
36 dog race track or a facility equipped with screens for the simulcasting of
37 off-track betting race programs or jai alai games; or (K) in any room
38 offered as an accommodation to guests by the operator of a hotel, motel
39 or similar lodging. For purposes of this subsection, "restaurant" means
40 space, in a suitable and permanent building, kept, used, maintained,
41 advertised and held out to the public to be a place where meals are
42 regularly served to the public, "school" has the same meaning as
43 provided in section 10-154a and "child care facility" has the same
44 meaning as provided in section 19a-342a, as amended by this act.

45 (2) [This section] Subdivision (1) of this subsection shall not apply to
46 [(A) correctional facilities; (B) designated smoking areas in psychiatric

47 facilities; (C) public] the following: (A) Public housing projects, as
48 defined in subsection (b) of section 21a-278a; [(D)] (B) any classroom
49 where demonstration smoking is taking place as part of a medical or
50 scientific experiment or lesson; [(E)] smoking rooms provided by
51 employers for employees, pursuant to section 31-40q; (F)] (C)
52 notwithstanding the provisions of subparagraph (E) of subdivision (1)
53 of this subsection, the outdoor portion of the premises of any permittee
54 listed in subparagraph (E) of subdivision (1) of this subsection,
55 provided, in the case of any seating area maintained for the service of
56 food, at least seventy-five per cent of the outdoor seating capacity is an
57 area in which smoking is prohibited and which is clearly designated
58 with written signage as a nonsmoking area, except that any temporary
59 seating area established for special events and not used on a regular
60 basis shall not be subject to the smoking prohibition or signage
61 requirements of this subparagraph; [(G)] (D) any medical research site
62 where smoking is integral to the research being conducted; or [(H)] (E)
63 any tobacco bar or tobacco specialist, provided no tobacco bar shall
64 expand in size or change its location from its size or location as of
65 December 31, 2002. For purposes of this subdivision, "outdoor" means
66 an area which has no roof or other ceiling enclosure, "tobacco bar"
67 means an establishment with a permit for the sale of alcoholic liquor to
68 consumers issued pursuant to chapter 545 that, in the calendar year
69 ending December 31, 2002, generated ten per cent or more of its total
70 annual gross income from the on-site sale of tobacco products and the
71 rental of on-site humidors, [and] "tobacco product" means any
72 substance that contains tobacco, including, but not limited to, cigarettes,
73 cigars, pipe tobacco or chewing tobacco, and "tobacco specialist" means
74 an establishment engaged in the sale of tobacco products that generates
75 at least seventy-five per cent of its annual gross income from the on-site
76 sale of tobacco products and the rental of on-site humidors.

77 [(c) The operator of a hotel, motel or similar lodging may allow guests
78 to smoke in not more than twenty-five per cent of the rooms offered as
79 accommodations to guests.]

80 [(d)] (c) In each room, elevator, area or building in which smoking is
81 prohibited by this section, the person in control of the premises shall
82 post or cause to be posted in a conspicuous place signs stating that
83 smoking is prohibited by state law. Such signs, except in elevators,
84 restaurants, establishments with permits to sell alcoholic liquor to
85 consumers issued pursuant to chapter 545, hotels, motels or similar
86 lodgings, and health care institutions, shall have letters at least four
87 inches high with the principal strokes of letters not less than one-half
88 inch wide.

89 [(e)] (d) Any person found guilty of smoking in violation of this
90 section, failure to post signs as required by this section or the
91 unauthorized removal of such signs shall have committed an infraction.
92 Nothing in this section shall be construed to require the person in
93 control of a building to post such signs in every room of [a] the building,
94 provided such signs are posted in a conspicuous place in [such] the
95 building.

96 [(f)] (e) Nothing in this section shall be construed to require any
97 smoking area [in] inside or outside any building or the entryway to any
98 building or on any property.

99 [(g) The provisions of this section shall supersede and preempt the
100 provisions of any municipal law or ordinance relative to smoking
101 effective prior to, on or after October 1, 1993.]

102 Sec. 2. Section 19a-342a of the 2020 supplement to the general statutes
103 is repealed and the following is substituted in lieu thereof (*Effective*
104 *October 1, 2020*):

105 (a) As used in this section: [and section 2 of public act 15-206:]

106 (1) "Any area" means the interior of the facility, building or
107 establishment and the outside area within twenty-five feet of any
108 doorway, operable window or air intake vent of the facility, building or
109 establishment;

110 [(1)] (2) "Child care facility" means a provider of child care services as
111 defined in section 19a-77, or a person or entity required to be licensed
112 under section 17a-145;

113 [(2)] (3) "Electronic nicotine delivery system" [has the same meaning
114 as provided in section 21a-415;] means an electronic device used in the
115 delivery of nicotine or other substances to a person inhaling from the
116 device, and includes, but is not limited to, an electronic cigarette,
117 electronic cigar, electronic cigarillo, electronic pipe or electronic hookah
118 and any related device and any cartridge or other component of such
119 device, including, but not limited to, electronic cigarette liquid;

120 [(3)] (4) "Liquid nicotine container" means a container that holds a
121 liquid substance containing nicotine that is sold, marketed or intended
122 for use in an electronic nicotine delivery system or vapor product,
123 except "liquid nicotine container" does not include such a container that
124 is prefilled and sealed by the manufacturer and not intended to be
125 opened by the consumer; and

126 [(4)] (5) "Vapor product" [has the same meaning as provided in
127 section 21a-415] means any product that employs a heating element,
128 power source, electronic circuit or other electronic, chemical or
129 mechanical means, regardless of shape or size, to produce a vapor that
130 may include nicotine and is inhaled by the user of such product. "Vapor
131 product" does not include a medicinal or therapeutic product that is (A)
132 used by a licensed health care provider to treat a patient in a health care
133 setting, (B) used by a patient, as prescribed or directed by a licensed
134 health care provider in any setting, or (C) any drug or device, as defined
135 in the federal Food, Drug and Cosmetic Act, 21 USC 321, as amended
136 from time to time, any combination product, as described in said act, 21
137 USC 353(g), as amended from time to time, or any biological product, as
138 defined in 42 USC 262, as amended from time to time, and 21 CFR 600.3,
139 as amended from time to time, authorized for sale by the United States
140 Food and Drug Administration.

141 (b) (1) No person shall use an electronic nicotine delivery system or
 142 vapor product: (A) In any area of a building or portion of a building
 143 owned and operated or leased and operated by the state or any political
 144 subdivision thereof; (B) in any area of a health care institution,
 145 including, but not limited to, a psychiatric facility; (C) in any area of a
 146 retail [food store] establishment accessed by the public; (D) in any
 147 restaurant; (E) in any area of an establishment with a permit issued for
 148 the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-
 149 22, 30-22a, 30-22c, 30-26, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-
 150 37e or 30-37f, in any area of establishment with a permit issued for the
 151 sale of alcoholic liquor pursuant to section 30-23 issued after May 1,
 152 2003, or the bar area of a bowling establishment holding a permit
 153 pursuant to subsection (a) of section 30-37c; (F) [within] in any area of a
 154 school building or on the grounds of such school; (G) within a child care
 155 facility or on the grounds of such child care facility, except, if the child
 156 care facility is a family child care home as defined in section 19a-77, such
 157 use is prohibited only when a child enrolled in such home is present;
 158 (H) in any passenger elevator; [provided no person shall be arrested
 159 for violating this subsection unless there is posted in such elevator a sign
 160 which indicates that such use is prohibited by state law;] (I) in any area
 161 of a dormitory in any public or private institution of higher education;
 162 [or] (J) in any area of a dog race track or a facility equipped with screens
 163 for the simulcasting of off-track betting race programs or jai alai games;
 164 or (K) in any room offered as an accommodation to guests by the
 165 operator of a hotel, motel or similar lodging. For purposes of this
 166 subsection, "restaurant" means space, in a suitable and permanent
 167 building, kept, used, maintained, advertised and held out to the public
 168 to be a place where meals are regularly served to the public, and "school"
 169 has the same meaning as provided in section 10-154a.

170 (2) [This section] Subdivision (1) of this subsection shall not apply to
 171 [(A) correctional facilities; (B) designated smoking areas in psychiatric
 172 facilities; (C) public] the following: (A) Public housing projects, as
 173 defined in subsection (b) of section 21a-278a; [(D)] (B) any classroom

174 where a demonstration of the use of an electronic nicotine delivery
175 system or vapor product is taking place as part of a medical or scientific
176 experiment or lesson; ~~[(E)] (C)~~ any medical research site where the use
177 of an electronic nicotine delivery system or vapor product is integral to
178 the research being conducted; ~~[(F)] (D)~~ establishments without a permit
179 for the sale of alcoholic liquor that sell electronic nicotine delivery
180 systems, vapor products or liquid nicotine containers on-site and allow
181 their customers to use such systems, products or containers on-site; ~~[(G)]~~
182 smoking rooms provided by employers for employees, pursuant to
183 section 31-40q; ~~(H)] (E)~~ notwithstanding the provisions of subparagraph
184 (E) of subdivision (1) of this subsection, the outdoor portion of the
185 premises of any permittee listed in subparagraph (E) of subdivision (1)
186 of this subsection, provided, in the case of any seating area maintained
187 for the service of food, at least seventy-five per cent of the outdoor
188 seating capacity is an area in which smoking is prohibited and which is
189 clearly designated with written signage as a nonsmoking area, except
190 that any temporary seating area established for special events and not
191 used on a regular basis shall not be subject to the prohibition on the use
192 of an electronic nicotine delivery system or vapor product or the signage
193 requirements of this subparagraph; or ~~[(I)] (F)~~ any tobacco bar, provided
194 no tobacco bar shall expand in size or change its location from its size or
195 location as of October 1, 2015. For purposes of this subdivision,
196 "outdoor" means an area which has no roof or other ceiling enclosure,
197 "tobacco bar" means an establishment with a permit for the sale of
198 alcoholic liquor to consumers issued pursuant to chapter 545 that, in the
199 calendar year ending December 31, 2015, generated ten per cent or more
200 of its total annual gross income from the on-site sale of tobacco products
201 and the rental of on-site humidors, and "tobacco product" means any
202 substance that contains tobacco, including, but not limited to, cigarettes,
203 cigars, pipe tobacco or chewing tobacco.

204 [(c) The operator of a hotel, motel or similar lodging may allow guests
205 to use an electronic nicotine delivery system or vapor product in not
206 more than twenty-five per cent of the rooms offered as accommodations

207 to guests.]

208 [(d)] (c) In each room, elevator, area or building in which the use of
209 an electronic nicotine delivery system or vapor product is prohibited by
210 this section, the person in control of the premises shall post or cause to
211 be posted in a conspicuous place signs stating that such use is prohibited
212 by state law. Such signs, except in elevators, restaurants, establishments
213 with permits to sell alcoholic liquor to consumers issued pursuant to
214 chapter 545, hotels, motels or similar lodgings, and health care
215 institutions, shall have letters at least four inches high with the principal
216 strokes of letters not less than one-half inch wide.

217 [(e)] (d) Any person found guilty of using an electronic nicotine
218 delivery system or vapor product in violation of this section, failure to
219 post signs as required by this section or the unauthorized removal of
220 such signs shall have committed an infraction. Nothing in this
221 subsection shall be construed to require the person in control of a
222 building to post such signs in every room of the building, provided such
223 signs are posted in a conspicuous place in the building.

224 [(f)] (e) Nothing in this section shall be construed to require the
225 designation of any area for the use of electronic nicotine delivery system
226 or vapor product [in] inside or outside any building or the entryway to
227 any building or on any property.

228 [(g)] The provisions of this section shall supersede and preempt the
229 provisions of any municipal law or ordinance relative to the use of an
230 electronic nicotine delivery system or vapor product effective prior to,
231 on or after October 1, 2015.]

232 Sec. 3. Section 31-40q of the general statutes is repealed and the
233 following is substituted in lieu thereof (*Effective October 1, 2020*):

234 (a) As used in this section:

235 (1) "Person" means one or more individuals, partnerships,

236 associations, corporations, limited liability companies, business trusts,
237 legal representatives or any organized group of persons; [.]

238 (2) "Employer" means a person engaged in business who has
239 employees, including the state and any political subdivision thereof; [.]

240 (3) "Employee" means any person engaged in service to an employer
241 in the business of his employer; [.]

242 (4) "Business facility" means a structurally enclosed location or
243 portion thereof at which employees perform services for their employer.
244 The term "business facility" does not include: (A) Facilities listed in
245 [subparagraph (A), (C) or (H) of] subdivision (2) of subsection (b) of
246 section 19a-342, as amended by this act, or subdivision (2) of subsection
247 (b) of 19a-342a, as amended by this act; (B) any establishment with a
248 permit for the sale of alcoholic liquor pursuant to section 30-23 issued
249 on or before May 1, 2003; (C) for any business that is engaged in the
250 testing or development of tobacco or tobacco products, the areas of such
251 business designated for such testing or development; or (D) during the
252 period from October 1, 2003, to April 1, 2004, establishments with a
253 permit issued for the sale of alcoholic liquor pursuant to section 30-22a
254 or 30-26 or the bar area of a bowling establishment holding a permit
255 pursuant to subsection (a) of section 30-37c; [.]

256 (5) ["Smoking"] "Smoke" or "smoking" means the burning of a lighted
257 cigar, cigarette, pipe or any other [matter or substance which contains
258 tobacco.] similar device;

259 (6) "Electronic nicotine delivery system" means an electronic device
260 used in the delivery of nicotine or other substances to a person inhaling
261 from the device, and includes, but is not limited to, an electronic
262 cigarette, electronic cigar, electronic cigarillo, electronic pipe or
263 electronic hookah and any related device and any cartridge or other
264 component of such device, including, but not limited to, electronic
265 cigarette liquid;

266 (7) "Vapor product" means any product that employs a heating
267 element, power source, electronic circuit or other electronic, chemical or
268 mechanical means, regardless of shape or size, to produce a vapor that
269 may include nicotine and is inhaled by the user of such product. "Vapor
270 product" does not include a medicinal or therapeutic product that is (A)
271 used by a licensed health care provider to treat a patient in a health care
272 setting, (B) used by a patient, as prescribed or directed by a licensed
273 health care provider in any setting, or (C) any drug or device, as defined
274 in the federal Food, Drug and Cosmetic Act, 21 USC 321, as amended
275 from time to time, any combination product, as described in said act, 21
276 USC 353(g), as amended from time to time, or any biological product, as
277 defined in 42 USC 262, as amended from time to time, and 21 CFR 600.3,
278 as amended from time to time, authorized for sale by the United States
279 Food and Drug Administration; and

280 (8) "Any area" means the interior of the facility, building or
281 establishment and the outside area within twenty-five feet of any
282 doorway, operable window or air intake vent of the facility, building or
283 establishment.

284 [(b) Each employer with fewer than five employees in a business
285 facility shall establish one or more work areas, sufficient to
286 accommodate nonsmokers who request to utilize such an area, within
287 each business facility under his control, where smoking is prohibited.
288 The employer shall clearly designate the existence and boundaries of
289 each nonsmoking area by posting signs which can be readily seen by
290 employees and visitors. In the areas within the business facility where
291 smoking is permitted, existing physical barriers and ventilation systems
292 shall be used to the extent practicable to minimize the effect of smoking
293 in adjacent nonsmoking areas.]

294 [(c) (1)] (b) Each employer [with five or more employees] shall
295 prohibit smoking [in] and the use of electronic nicotine systems and
296 vapor products in any area of any business facility under said
297 employer's control. [, except that an employer may designate one or

298 more smoking rooms.]

299 [(2) Each employer that provides a smoking room pursuant to this
 300 subsection shall provide sufficient nonsmoking break rooms for
 301 nonsmoking employees.

302 (3) Each smoking room designated by an employer pursuant to this
 303 subsection shall meet the following requirements: (A) Air from the
 304 smoking room shall be exhausted directly to the outside by an exhaust
 305 fan, and no air from such room shall be recirculated to other parts of the
 306 building; (B) the employer shall comply with any ventilation standard
 307 adopted by (i) the Commissioner of Labor pursuant to chapter 571, (ii)
 308 the United States Secretary of Labor under the authority of the
 309 Occupational Safety and Health Act of 1970, as from time to time
 310 amended, or (iii) the federal Environmental Protection Agency; (C) such
 311 room shall be located in a nonwork area, where no employee, as part of
 312 his or her work responsibilities, is required to enter, except such work
 313 responsibilities shall not include any custodial or maintenance work
 314 carried out in the smoking room when it is unoccupied; and (D) such
 315 room shall be for the use of employees only.]

316 [(d)] (c) Nothing in this section may be construed to prohibit an
 317 employer from designating an entire business facility and the real
 318 property on which the business facility is located as a nonsmoking area.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	19a-342
Sec. 2	<i>October 1, 2020</i>	19a-342a
Sec. 3	<i>October 1, 2020</i>	31-40q

Statement of Purpose:

To implement the Department of Public Health's recommendations regarding the Clean Indoor Air Act.

[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.]