
OLR Bill Analysis

sHB 5539

AN ACT CONCERNING REQUIREMENTS FOR AND PENALTIES ON HOLDERS OF DEALER REGISTRATIONS REGARDING ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS AND MANUFACTURER REGISTRATION REQUIREMENTS OF SUCH DELIVERY SYSTEMS AND PRODUCTS.

SUMMARY

This bill expands the requirements for businesses that sell electronic nicotine delivery systems (ENDS) or vapor products, commonly known as e-cigarette dealers. By law, e-cigarette dealers must have a dealer registration for each of their business locations and renew it annually. Among other things, the bill:

1. requires certain e-cigarette dealers to get a compliance bond of at least \$250,000 that is conditioned on the dealer's compliance with applicable laws and payment of related taxes, fees, penalties, and other charges;
2. expands the individual owners who must provide their contact information and a third-party background check as part of a dealer's application to include anyone with at least 5%, rather than 10%, ownership or interest rights;
3. expands the information dealer registration applicants must provide to include a certification that the ENDS or vapor products they sell comply with federal and state laws;
4. generally expands the circumstances under which the Department of Consumer Protection (DCP) may deny a dealer's registration or take other enforcement actions;
5. extends the existing one-year reapplication prohibition to anyone with a financial interest in the e-cigarette dealer and prohibits anyone whose dealer registration was revoked from having a

financial interest in another applicant for one year after the revocation date;

6. authorizes the DCP commissioner to impose a civil penalty of up to \$10,000 for each ENDS or vapor product sold in violation of the dealer registration law and requires these products to be deemed a common nuisance and subject to seizure by police;
7. specifies that registered e-cigarette dealers are deemed to have constructive notice of communications the DCP commissioner sends to an email address they provided;
8. makes violations of the dealer registration law a violation of the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND); and
9. makes technical and conforming changes.

The bill also establishes product certification and registration requirements for anyone manufacturing ENDS and vapor products sold in Connecticut. Specifically, it requires these manufacturers to:

1. by October 1, 2026, certify that their products have received specified federal Food and Drug Administration (FDA) approvals or documents and
2. by January 1, 2027, annually register with DCP each product they sell in Connecticut and pay an initial \$2,000 registration fee and \$500 renewal fee for each one.

It requires DCP, by October 1, 2027, to create an online directory of ENDS and vapor products sold in the state and bans the sale of unlisted products starting January 1, 2028.

EFFECTIVE DATE: October 1, 2026

§ 1 — E-CIGARETTE DEALERS

Compliance Bonds

The bill imposes a compliance bond requirement on e-cigarette

dealers that derive at least 50% of their annual gross revenue from selling e-cigarettes and cigarettes; drug paraphernalia; synthetic nicotine; and nicotine, tobacco, or vapor products. The bond must be for at least \$250,000 and may be (1) provided by a surety bond company, (2) posted as cash in an attorney's escrow account, or (3) posted as U.S. government bonds payable to the state.

The bond must be:

1. conditioned on the registration holder complying with the laws and regulations for e-cigarette businesses and paying all related taxes, fees, penalties, and charges and
2. forfeited to the state if the holder violates any applicable business law.

The bill allows DCP to require the compliance bond's full value to be forfeited and its proceeds used to pay fines and penalties assessed against the holder or as reimbursement for product seizure, confiscation, and destruction costs (as described below).

Individual Owners

Existing law generally requires anyone applying for an initial or renewal e-cigarette dealer registration to provide the name and contact information and a third-party background check for the business's individual owners (those with a direct or indirect financial interest in the applicant). The bill expands this requirement to cover anyone with at least 5%, rather than 10%, ownership or interest rights in the business. As under current law, this includes the total financial interest held by the individual owner and his or her spouse, parents, and children.

As under existing law, applicants do not need to provide this information if they are a publicly traded company listed on a national stock exchange.

Grounds for Denying an Initial or Renewal Dealer Registration

Under current law, the DCP commissioner must issue a dealer registration within 30 days of the application unless he makes certain

findings. The bill extends the same timeframe and reasons for denying a dealer registration to renewals and expands the reasons for a denial to include the following:

1. if an individual owner named in the application made materially false or misleading statements in a DCP application, rather than just the applicant;
2. if the business owner's or named designee's criminal background check is sufficient for denying the registration under the existing law that prohibits state-issued credentials because of a prior criminal conviction, rather than if the commissioner finds that the applicant has a criminal history sufficient to disqualify him or her for a state-issued credential under this law; and
3. if the applicant, its authorized owner, or any entity owned or managed by any individual owner named in the application (a) committed multiple violations of the e-cigarette dealer law, (b) is subject to a delinquency assessment by the Department of Revenue Services, or (c) is the subject of any other adverse determination by a government agency, rather than if the applicant violated any other provision of the e-cigarette dealer law.

Registration Requirements

The bill expands the information applicants for an initial or renewal e-cigarette dealer registration must provide to include (1) proof that they have obtained the compliance bond described above, if applicable, and (2) a certification that the ENDS and vapor products they offer for sale comply with federal and state law, including the federal Food, Drug and Cosmetic Act's requirement for tobacco products.

Sufficient Cause for DCP Enforcement Actions

Current law allows the DCP commissioner to take certain actions against an e-cigarette dealer for sufficient cause, including suspending, revoking, or refusing to grant or renew their registration. Under current law, sufficient cause includes illegally possessing, offering, or selling

any illegal or controlled substance. The bill specifies that this applies to the registrant, its owner, or anyone with a financial interest in the registrant (presumably the individual owners named in the application, as described above).

Reapplication Prohibition

Current law prohibits anyone whose dealer registration was revoked, including the registrant's owners, from applying for a dealer registration for one year after the revocation date. The bill (1) extends this reapplication prohibition to anyone with a financial interest in the registrant and (2) bars anyone whose dealer registration was revoked from having a financial interest in another applicant for one year after the revocation date.

Civil Penalty

The bill authorizes the DCP commissioner to impose a civil penalty of up to \$10,000 for each ENDS and vapor product sold, offered for sale, or marketed in violation of the dealer registration law. Each of these products is a separate violation. The bill allows the attorney general, upon the DCP commissioner's request, to bring an action in the Hartford Superior Court to collect the civil penalty and for any injunctive or equitable relief. In any enforcement action the attorney general brings where the state wins, the state may recover the investigation costs, expert witness fees, costs of the action, and reasonable attorney's fees.

Seizure of Products in Violation of the Law

Under the bill, any ENDS or vapor products sold, offered for sale, or marketed in violation of the dealer registration law, as well as any controlled substance or cannabis sold, offered for sale, or marketed by a dealer in violation of state law, are a common nuisance and subject to immediate seizure by state or local police.

The officers must hold the products subject to confiscation and destruction by a court order and the seller or marketer is liable for all seizure, confiscation, and destruction costs, which may be paid from the dealer's compliance bond or sought from its fiduciary agent or guarantor.

§ 2 — PRODUCT CERTIFICATION AND REGISTRATION REQUIREMENTS FOR E-CIGARETTE MANUFACTURERS

Required Certification of FDA Actions

Starting October 1, 2026, the bill requires anyone manufacturing ENDS and vapor products sold or offered for sale in Connecticut (e-cigarette manufacturers) to certify, under penalty for false statement, that each product:

1. has been issued a marketing granted order (MGO) by the FDA or
2. was on the market as of September 9, 2020, and the manufacturer received a filing or substantive review letter from the FDA confirming that the product's application is currently undergoing scientific evaluation by the federal government.

By law, making a false statement is a class A misdemeanor (punishable by up to 364 days' imprisonment, a fine of \$2,000, or both).

E-cigarette manufacturers must give the DCP commissioner (1) a copy of the FDA's MGO or letter, as applicable; (2) a unique submission tracking number for each product; and (3) an annual certification that the product has not been issued an FDA marketing denial order or withdrawn from the federal review process.

Product Registration and Directory

Starting January 1, 2027, the bill requires e-cigarette manufacturers to register their products with DCP annually, subject to an initial \$2,000 registration fee and \$500 renewal fee for each product.

DCP must create an online directory of these products and their manufacturers by October 1, 2027, and update it at least annually. Starting January 1, 2028, the bill prohibits selling or offering to sell any products not listed in the directory and makes products sold in violation of the bill's product certification and registration requirements subject to the penalties and seizure provisions for e-cigarettes, as amended by the bill.

BACKGROUND

CUTPA

By law, CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner, under specified procedures, to issue regulations defining an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, impose civil penalties of up to \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and up to \$25,000 for a restraining order violation.

Related Bill

sSB 231 (File 174), favorably reported by the General Law Committee, contains the same provisions that generally expand the reasons for which DCP must deny a dealer registration.

sHB 5228 (File 235), favorably reported by the General Law Committee, requires DCP to deny an initial or renewal e-cigarette dealer registration if more than (1) half of the applicant's annual gross revenue comes from sales of certain nicotine-related products and (2) 25% of its retail sales area is dedicated to selling these products. It also requires DCP to deny an initial dealer registration if the proposed business is located in a municipality that already has one dealer for every 2,500 residents based on the most recently completed decennial census.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 53 Nay 0 (04/01/2026)