



**Governor Ned Lamont
State of Connecticut**



FACT SHEET
2020 Legislative Session

**HOUSE BILL 5020
AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS
REGARDING PUBLIC HEALTH**

Summary of Proposal:

Sections 1-6. Reduce Use of Vaping Products by Youth. These sections implement various policies aimed at reducing the prevalence of youth vaping. Effective January 1, 2021, these changes include:

- Prohibiting the sale of any electronic nicotine delivery system (ENDS) or vapor product that (a) is flavored with a flavor other than tobacco, or (b) has a nicotine content greater than 35 milligrams per milliliter.
- Documentation of the nicotine content of each product sold by a manufacturer of an ENDS or vapor product will be required to be provided by the manufacturer to a registered ENDS dealer. This documentation must be maintained by a retail establishment and made available upon request to the Department of Mental Health and Addiction Services (DMHAS).
- Requiring that DMHAS conduct unannounced checks on registered ENDS dealers to determine compliance with the sales prohibitions. Consistent with current enforcement activities related to sales of tobacco and vaping products to minors, noncompliant business entities will be referred to the Department of Revenue Services which may conduct enforcement activities including requiring the successful completion of an online prevention education program administered by DMHAS, assessing financial penalties and directing the Department of Consumer Protection to suspend or revoke the dealer's registration.
- Financial penalties imposed upon employees and business entities selling tobacco products, ENDS or vaping products to persons under age twenty-one will be doubled. Equivalent civil penalties will be established for business entities found to be selling flavored ENDS or vapor products or selling such products having a nicotine content that exceeds 35 milligrams per milliliter.

Section 7. Access Health CT Assessment to Support All-Payer Claims Database. This section authorizes Access Health CT to charge assessments or user fees to support the continued

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operation of the All-Payer Claims Database (APCD) program and to enter into an agreement with the Office of Health Strategy (OHS) to transfer the funds collected to OHS. The language also requires that the agreement be subject to approval by OHS and the Office of Policy and Management.

Sections 8-10. Implement Licensure of Albert J. Solnit Children's Center (Solnit Center). Effective April 1, 2021, these sections remove the licensure exemption for the hospital and Psychiatric Residential Treatment Facility (PRTF) units at the Solnit Center, operated by the Department of Children and Families (DCF). The Solnit Center consists of a south campus, having a 50-bed children's psychiatric hospital, and a 24-bed PRTF serving adolescent girls; and a north campus, having a 38-bed PTRF serving adolescent males.

The Department of Public Health (DPH) will be required adopt regulations to license the PRTF units on the Solnit Center's north and south campuses. The department is granted discretionary authorization to license the facility prior to the adoption of regulations through implementation of policies and procedures, provided DPH publishes notice of intent to adopt the regulations on the eRegulations system not later than twenty days after implementation.

Section 11. Include Vaping and Marijuana Use in School Health Curriculum. This section adds the avoidance of electronic nicotine delivery systems (ENDS), vaping products and marijuana to the list of topics that must be included in the health curriculum taught every academic year to pupils in all grades in the public schools.

Section 12. Enhance Rights of Residential Care Homes Residents Experiencing Involuntary Transfer or Discharge. This section makes changes that will allow a Residential Care Home (RCH) to qualify as a home and community-based setting under federal regulations, thus enabling RCH residents to receive home and community-based services and avoid institutionalization. Approximately 250 individuals currently reside in RCHs and receive Medicaid services under the Connecticut Home Care Program for Elders waiver. Pursuant to 42 CFR 441.301, residents living in home and community-based settings must have comparable protections to those provided to tenants under the state's landlord/tenant law. CGS 19a-535a, regarding the transfer or discharge of RCH patients, is amended to provide broader protections and appeal rights that are consistent with this requirement.

Major changes from current law include:

- requiring notice to the resident of a non-emergency transfer or discharge be made at least 60 days prior to the proposed transfer or discharge date, as opposed to 30 days prior under current law;
- allowing the resident or his representative 60 days to initiate an appeal; however, to stay a proposed transfer or discharge, the appeal must be filed within 20 days after receipt of the notice unless good cause is demonstrated. Under current law, the request for a hearing must be filed within 10 days of the receipt of the notice;
- authorizing DPH to require an RCH to readmit a resident that has been transferred or discharged in violation of the law;

- allowing an aggrieved party to appeal to the Superior Court and requiring the court to consider such an appeal as a privileged case.

Reason for Proposal:

Legislation is required to implement the Governor's proposed budget.

Significant Impacts:

Sections 1 - 3. DMHAS will hire two additional Special Investigators to conduct compliance checks to enforce the ban on flavored vaping products and monitor adherence to the nicotine content cap sales restriction. Consistent with how DMHAS funds their other tobacco compliance staff, these positions will be funded out of the Drug Asset Forfeiture Revolving Account, a non-appropriated, non-lapsing account in the General Fund. DMHAS will make available the online prevention education program required within Section 3 within existing resources. This program will be available to persons who violate the flavor ban as well as the nicotine content cap.

The Governor also proposes doubling the penalties assessed to employees and businesses who sell vaping products to those under the age of 21 (**Sections 3 and 6**). Civil penalties for employees who do not complete an online prevention education program will go from \$200 to \$400 for a first offense, and from \$250 to \$500 for subsequent offenses. Civil penalties for businesses will go from \$300 to \$600 for a first offense for those not completing an online prevention program, from \$750 to \$1,500 for a second offense, and from \$1,000 to \$2,000 for a third offense. Maximum criminal fines for selling vaping products to underage persons are similarly doubled (\$300 to \$600 first offense, \$750 to \$1,500 second offense, \$1,000 to \$2,000 third offense). The resulting revenue gain from these changes is not anticipated to exceed \$10,000.

Similarly, the penalties assessed to employees and businesses who sell cigarette and tobacco products to those under the age of 21 will be doubled (**Sections 4 and 5**). Civil penalties for those employees who do not complete an online prevention education program will go from \$200 to \$400 for a first offense, and from \$250 to \$500 for subsequent offenses. Civil penalties for businesses will go from \$300 to \$600 for a first offense for those not completing an online prevention program, from \$750 to \$1,500 for a second offense, and from \$1,000 to \$2,000 for a third offense. For business entities having cigarette vending machines, for those who do not complete an online prevention education program, the penalties will go from \$500 to \$1,000 for a first violation, from \$750 to \$1,500 for a second violation, and from \$1,000 to \$2,000 for a third violation. Maximum criminal fines for selling tobacco products to underage persons are similarly doubled (\$300 to \$600 first offense, \$750 to \$1,500 second offense, \$1,000 to \$2,000 third offense). The resulting revenue gain from these changes is not anticipated to exceed \$10,000.

Establishing equivalent civil penalties for businesses found to have violated the sales ban on flavored vaping products or the nicotine content cap will result in a revenue gain that is not anticipated to exceed \$10,000.

Future cost savings to public health insurance programs would be expected to result as improved long-range health outcomes are associated with reduced utilization of tobacco and vaping products.

Section 7. The total cost of the APCD program is approximately \$650,000 annually. Access Health CT will increase assessments or user fees in order to make up the funding shortfall. This amount will then be transferred to the Insurance Fund to be available to OHS to fully support the program.

Section 8-10. The budget adds \$44,828 under DPH's budget to support the half-year salary of one Nurse Consultant to conduct inspection and complaint investigation activities related to the Albert J. Solnit Children's Center. Also added is \$328,040 under DCF's budget to support the half-year salaries of six nursing and one psychologist positions at the Solnit Center's north campus. The annualized cost in FY 2022 of these additional positions is a combined total of \$700,908.

An estimated \$350,000 in capital costs associated with addressing ligature risks at the Solnit Center's north campus will be supported with prior bond authorizations to DCF.

Section 11. No state or municipal fiscal impact is associated with expanding the school health curriculum as described above.

Section 12. Provisions within this section preclude additional Medicaid costs by ensuring current residential care home residents can stay in a home and community-based setting, thereby avoiding more costly institutionalization.

The budget also adds \$16,622 under DPH to support the partial-year salary of a half-time Staff Attorney 2 to accommodate any additional workload resulting from enhancing RCH residents' appeal rights. The annualized cost of this position is \$48,019 in FY 2022.