



# 2019 Connecticut Bar Association Legislative Report

Connecticut's 2019 legislative session convened on January 9 and adjourned on June 5. A tax on legal services was originally recommended by Governor Ned Lamont in the state's initial budget. The CBA strongly opposed the proposal as it would unnecessarily tax people in times of their greatest need. The CBA submitted joint letters from the Connecticut Council of Bar Presidents, a group comprised of the presidents of Connecticut's more than 35 voluntary bar associations representing 20,000 Connecticut attorneys, and 14 past presidents of the Connecticut Bar Association to Governor Lamont opposing the proposed tax on legal services. Many CBA members contacted their state representatives and state senators to express their opposition to the tax and then-President Jonathan Shapiro provided testimony on behalf of the CBA, and all attorneys in the state.

The governor expected that by taxing legal services, \$35.3 million would be placed in the state coffers in 2020 and then \$71.7 million in tax on legal services dollars in 2021. The approved two-year budget does not include a sales tax on legal services.



## Bills of interest to our members from the 2019 Legislative Session

### Consumer Law

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#### **Foreclosure Mediation Program**

The legislature passed a new law extending the state's foreclosure mediation program by four years until June 30, 2023. The program helps certain property owners avoid foreclosure by reaching an agreement with lenders. Judicial Branch mediators facilitate the process ([HB 6996](#), as amended by House "A," effective upon passage).

### Criminal Justice

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#### **Ghost Guns**

This new law prohibits anyone from (1) completing the manufacture of a firearm without subsequently obtaining and engraving or permanently affixing on it a unique serial number or other identification mark from the Department of Emergency Services and Public Protection or (2) manufacturing a firearm from polymer plastic that is not detectible by a walk-through metal detector. Under the new law, these actions are class C felonies, punishable by up to 10 years in prison with a two-year mandatory minimum sentence, up to a \$10,000 fine, or both ([PA 19-6](#), mostly effective October 1, 2019).

#### **Police Accountability**

The legislature approved various changes that (1) make certain body-worn or dashboard camera recordings disclosable to the public within 96 hours after the incident, (2) narrow the instances during which use of deadly force is justified, and (3) prohibit a pursuing police officer from discharging a firearm into or at a fleeing motor vehicle. Lastly, the act (1) establishes a task force to study police transparency and accountability and (2) requires the Police Officer Standards and Training Council (POST) to study and review police officers using firearms during a pursuit ([PA 19-90](#), as amended by Senate "A," effective October 1, 2019, except the task force and POST study provisions take effect upon passage).

#### **Safe Storage of Firearms in Homes and Cars**

A new (Ethan's) law expands the crime of criminally negligent storage of a firearm to include situations involving the unsafe storage of a loaded or unloaded firearm in a home with a minor under age 18.

Prior law applied only to the unsafe storage of a loaded firearm in a home with a minor under age 16. The new law also makes changes to expand the age range for which schools may offer firearm safety programs for kindergarten through grade 12 instead of kindergarten through 8 eight as under prior law ([PA 19-5](#), most provisions effective October 1, 2019).

Another new law prohibits storing a handgun in an unattended motor vehicle if it is not in the trunk, a locked safe, or a locked glove box. The penalty ranges from (1) a class A misdemeanor punishable by up to one year in prison, up to a \$2,000 fine, or both for a first offense to (2) a class D felony punishable by up to five years in prison, up to a \$5,000 fine, or both for subsequent offenses ([PA 19-7](#), effective October 1, 2019).

### **Sexual Assault and Sexual Harassment**

A new law contains several provisions on sexual assault, workplace sexual harassment, and related issues. The act (1) eliminates or extends the criminal statute of limitations for various sexual assault crimes, (2) extends the time for alleged victims under age 21 to file a civil lawsuit related to sexual abuse or related conduct, (3) expands requirements for employers on training employees about sexual harassment laws, and (4) gives claimants more time to file a complaint alleging employment discrimination, including sexual harassment ([PA 19-16](#), as amended by [SB 1111](#) as amended by Senate “A,” with most provisions effective October 1, 2019).

## **Education Law**

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### **The Inclusion of Black and Latino Studies in the Public School Curriculum**

Under a new law, all public school districts must (1) include African American and black and Puerto Rican and Latino studies in their curriculum beginning with the 2021-22 school year and (2) offer a black and Latino studies high school course in the 2022-23 school year. The proposed course is to be reviewed and approved by the State Board of Education by January 1, 2021 ([PA 19-12](#), various effective dates).

### **School Climate and Bullying**

A new law makes various changes to the school laws about bullying and school climate, as (1) establishing a 33-member school climate advisory collaborative, with responsibilities such as directing resources to support statewide and local initiatives to foster and improve positive school climates, and (2) modifying the definition of bullying by eliminating the requirement that the action occur between students ([sHB 7215](#), as amended by House “A,” various effective dates).

## **Environmental Law**

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### **Transfer Act**

Connecticut’s property transfer law, commonly referred to as the “Transfer Act,” regulates the transfer of real property on which, or a business operation from which hazardous waste was generated or processed or a dry cleaning, furniture stripping, or vehicle body repair business operated. The Transfer Act requires (1) the disclosure of environmental conditions and (2) in some cases, investigation and remediation. This year the legislature reduced the number of properties and businesses subject to the Transfer Act by narrowing the types of hazardous waste that trigger the act’s application. The new law also (1) shortens, from three years to

one year, the window for commencing audits of Transfer Act final verifications received on or after October 1, 2019, and (2) requires the Department of Energy and Environmental Protection (DEEP) to complete such audits within three years after receiving the final verification. Lastly, the legislature created a working group to examine the Transfer Act and recommend potential changes to it (sSB 1030, as amended by Senate “A,” effective October 1, 2019, except for the working group provision which takes effect upon passage).

### **Hemp Production**

A new law requires the state Department of Agriculture (DoAg) commissioner to (1) establish and operate a hemp research pilot program in Connecticut and (2) prepare a hemp production state plan in accordance with federal law for approval by the US Department of Agriculture. It establishes licensing requirements, qualifications, and fees for hemp growers, processors, and manufacturers. DoAg must regulate growers and processors; the Department of Consumer Protection must regulate manufacturers. Lastly, the new law sets inspection and testing requirements for growers and processors, as well as independent testing requirements for manufacturers, to ensure compliance with state and federal conditions ([PA 19-3](#), as amended by [HB 7424](#) §§ 152-154, as amended by House “A” and “B,” effective upon passage).

### **Plastic Bags**

As part of the act implementing the state’s FY 20-21 budget, the legislature passed a ban on single-use plastic bags that stores provide to consumers beginning July 1, 2021. From August 1, 2019, until that date, the new law imposes a 10-cent fee, payable to the state, on such bags. Bags used for such things as meat or seafood, loose produce, unwrapped food, newspapers, or laundry or dry cleaning are exempt ([HB 7424](#), § 355, as amended by House “A” and “B,” effective August 1, 2019).

## **Energy & Public Utility Law**

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### **Offshore Wind Energy**

The legislature took a significant step towards increasing the state’s use of wind energy by establishing a process to solicit proposals from developers of offshore wind power facilities. More specifically, a new law requires the DEEP commissioner, within 14 days after the law takes effect, to initiate a solicitation for offshore wind projects that have a total nameplate (i.e., generating) capacity of up to 2,000 megawatts in the aggregate. The commissioner must require any selected proposals to include contractual commitments to both pay at least the prevailing wage to construction workers on the project and to engage in good faith negotiations over a project labor agreement. In addition, the responding bidders must include an environmental and fisheries mitigation plan for their facilities’ construction and operation. If the commissioner determines that a responding proposal meets certain criteria, such as being in ratepayers’ best interests, the new law allows her to direct the electric distribution companies (EDCs) to enter into power purchase agreements (PPAs) for up to 20 years with the projects. The EDCs must recover their net costs for the PPAs from electric ratepayers ([sHB 7156](#), as amended by House “A,” effective upon passage).

### **Renewable Programs and Tariffs**

Last year, the legislature passed [PA 18-50](#), which established a process to transition from traditional net metering (where customers are compensated for renewable generation at the retail electricity rate) to new tariffs (detailed rate rules and schedules determined by the Public Utilities Regulatory Authority). This year, a new law makes changes to the process and tariffs required under PA 18-50 and also extends certain renewable programs that otherwise would have expired during this transition: namely, the low- and zero-emissions renewable energy credit program and the Green Bank's Residential Solar Incentive Program ([PA 19-35](#), §§ 1-6, effective upon passage).

## **Estates and Probate**

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### **Connecticut Uniform Trust Code**

This new legislation establishes numerous rules on creating, modifying, terminating and enforcing trusts, which are an arrangement in which one person holds money or property for the benefit of another person. The bill ([PA 19-137](#)) establishes rules, outlines powers, obligations and responsibilities of the various trust directors and other parties. It is a pro-business bill that will promote clients keeping their wealth in Connecticut rather than trusts in New Hampshire and Delaware.

## **Franchise Law**

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### **Alcohol Permitting**

A new law makes various changes to the Liquor Control Act. It (1) increases the daily per person amount of beer certain manufacturer permittees may sell for off-premises consumption from nine liters (2.4 gallons) to nine gallons and (2) allows cider manufacturer permittees to sell cider and apple wine for on-premises consumption. Beginning January 1, 2020, it decreases beer manufacturer permittees' excise tax exemption for beer sold for on-premises consumption by requiring them to pay excise tax for amounts exceeding 15 barrels (31 gallons in a barrel of beer) annually.

Beginning July 1, 2020, the new law also includes the following: 1. consolidates (a) four manufacturer beer permits into one and (b) various permits for on-premises consumption; 2. creates a new wine, cider, and mead permit with requirements substantially similar to a farm winery permittee; 3. establishes a Connecticut craft café permit that allows manufacturer permittees to sell other Connecticut-manufactured alcohol for on-premises consumption; and 4. allows alcoholic liquor permittees to hold both a manufacturer permit and a Connecticut craft café permit or a restaurant permit ([PA 19-24](#), various effective dates).

## Insurance Law

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### **Crumbling Concrete Foundations**

A new law makes significant changes to laws, programs, and insurance policies affecting residential homes with foundations that are deteriorating due to the presence of pyrrhotite. The law (1) expands the definition of “residential building” to include large condominium buildings; (2) fixes practical issues with the \$12 Healthy Homes Fund insurance surcharge; (3) requires sellers of residential property to disclose any knowledge of defects that significantly impair the property’s value and the health and safety of its future occupants, and creates a private right of action for buyers against sellers who fail to do so; and (4) establishes a loan guarantee program for impacted homeowners who need supplemental loans ([sHB 7179](#), as amended by House “A,” and [HB 7269](#), as amended by House “A,” various effective dates).

## Judicial Branch

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### **Court Operations**

This new bill makes changes in various laws related to court operations and judicial employees. Among other things, it makes various changes in the laws related to court reporters, monitors, and transcripts. It allows parties who have filed for divorce to subsequently file under certain criteria for a non-adversarial divorce, and includes changes to conform to the closure of the Litchfield courthouse in August 2017 and the upcoming closure of the Bristol Courthouse ([PA 19-64](#), as amended by Senate “A,” various effective dates).

### **Probate Court Operations**

This new legislation makes changes to the state’s probate court operations laws. These include allowing for electronic filing, expands DCF commissioner notification of abuse or neglect allegations, and alters certain notification requirement for termination of parental rights proceedings ([PA 19-47](#), various effective dates).

## Labor & Employment Law

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### **Minimum Wage Increase**

This session the legislature enacted a law increasing the state’s minimum hourly wage from \$10.10 to \$11.00 on October 1, 2019, and then by another \$1.00 every 11 months thereafter until it reaches \$15.00 on June 1, 2023. Beginning January 1, 2024, the law indexes future annual minimum wage changes to the federal employment cost index.

The new law also freezes how much employers must pay as their share of the minimum wage for hotel and restaurant staff and bartenders (\$6.38 for hotel and restaurant staff, \$8.23 for bartenders), as long as their tips make up the difference between the employer’s share and the increasing minimum wage ([PA 19-4](#), effective October 1, 2019, with the tip provisions effective upon passage).

### **Paid Family and Medical Leave**

A new law creates the Family and Medical Leave Insurance (FMLI) program to provide limited wage replacement benefits to certain employees taking leave for reasons allowed under the state's Family and Medical Leave Act (FMLA), which the new law also amends. It provides up to 12 weeks of FMLI benefits over a 12-month period. The program is funded by employee contributions, with collections beginning in January 2021; benefit payouts begin in January 2022. The Paid Family and Medical Leave Insurance Authority, a quasi-public agency that the new law establishes, will oversee the program.

Starting on January 1, 2022, the new law also changes various provisions of the state's FMLA. It (1) extends the FMLA to cover nearly all private-sector employers in the state; (2) lowers the work threshold for an employee to qualify for job-protected leave; and (3) expands the types of family members for whom an employee can take FMLA leave to include siblings, grandparents, grandchildren, and anyone else related by blood or affinity whose close association the employee shows to be the equivalent of certain family members ([PA 19-25](#) and [HB 7424](#), §§232-235, as amended by House "A" and "B," effective upon passage, except provisions that affect the terms of the current FMLA are effective January 1, 2022).

### **Workers' Compensation for PTSD**

A new law allows police officers, parole officers, and firefighters to receive certain workers' compensation benefits for post-traumatic stress disorder (PTSD) caused by "qualifying events" while in the line of duty, such as viewing a deceased minor, someone's death, or a traumatic physical injury that results in the loss of a vital body part. The new law (1) imposes certain limits on the benefits' duration and availability; (2) offsets PTSD benefits by the amount of other benefits (e.g., Social Security) an officer or firefighter receives under certain conditions; and (3) establishes a process for employers to contest PTSD claims ([PA 19-17](#), §§ 1-3, effective July 1, 2019).

## **LGBTQ**

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### **Gay and Transgender Panic Defense**

This bill prohibits criminal defendants from claiming a defense based solely on the person's discovery or knowledge of, or the potential disclosure of, the victim's actual or perceived sex, sexual orientation, or gender identity or expression ([PA 19-27](#), effective October 1, 2019).

### **LGBTQ Network**

The biennial budget act also establishes a Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Health and Human Services Network to make recommendations to the state legislative, executive, and judicial branches about health and human services delivery to LGBTQ people in the state. It also requires the Department of Public Health, within available appropriations, to (1) assist the network with conducting a needs analysis about health and human services for LGBTQ people and (2) award grants to organizations that further the network's mission ([HB 7424](#), §§ 207 & 208, as amended by House "A" and "B," effective July 1, 2019).

## Opioid

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### Opioid Use

This session, the legislature continued to address issues associated with opioid abuse. It passed a new law that requires:

1. any practitioner who prescribes a patient more than a 12-week supply of an opioid drug to establish a treatment agreement or discuss a care plan for chronic opioid drug use;
2. higher education institutions to develop and implement a policy on the availability and use of opioid antagonists (e.g., Narcan) by students and employees;
3. Department of Mental Health and Addiction Services-operated or -approved treatment programs to educate patients with opioid use disorder, and their relatives and significant others, on opioid antagonists and how to administer them; and
4. hospitals to administer a mental health screening or assessment, if medically appropriate, to patients treated for a nonfatal opioid drug overdose ([PA 19-191](#), as amended by House “A,” various effective dates).

## Real Property

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### Real Estate Closings

This new bill requires anyone conducting a real estate closing to be a Connecticut-admitted attorney in good standing. This bill makes violating this provision the unauthorized practice of law, which is punishable, if a Class C misdemeanor, by up to three months imprisonment, a \$500 fine, or both; OR, if a Class D felony, punishable by up to five years imprisonment, a fine of up to \$5,000, or both. ([PA 19-88](#), as amended by Senate “A,” is effective October 1, 2019).

## Taxes

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### Income Tax

Among its income tax provisions, the budget act:

1. extends to the 2019 and 2020 tax years the eligibility limits for the property tax credit against the personal income tax;
2. reduces the pass-through entity tax credit from 93.01% to 87.5% of a member’s share of taxes paid by the entity; and
3. delays by two years the scheduled increase in the teacher pension income tax exemption from 25% to 50% ([HB 7424](#), §§ 332-335, as amended by House “A” and “B,” effective upon passage and applicable to tax years beginning on or after January 1, 2019).



### **Mansion Tax**

The budget act increases the state real estate conveyance tax rate on residential property with a sales price of more than \$2.5 million beginning July 1, 2020. It does so by adding a new marginal conveyance tax rate of 2.25% on the sale price of residential property that exceeds \$2.5 million. As under prior law, a rate of (1) 0.75% applies to the first \$800,000 of the sales price and (2) 1.25% applies to the portion that exceeds \$800,000.

Beginning with the 2021 tax year, the act allows taxpayers who paid conveyance tax at the 2.25% rate to calculate their property tax credit against the income tax based on the amount of conveyance tax they paid ([HB 7424](#), §§ 335 & 337, as amended by House “A” and “B,” effective July 1, 2019, except that the tax credit provision is effective upon passage).

### **Sales and Use Tax**

The budget act makes a number of sales and use tax changes, including:

1. extending the tax to specified parking services; dry cleaning and laundry services (excluding coin-operated services); and interior design services, except business-to-business services;
2. increasing the rate on sales of meals and beverages from 6.35% to 7.35%;
3. increasing the rate on digital goods and certain electronically delivered software from 1% to 6.35%; and
4. lowering the threshold for sales tax economic nexus and broadening its application ([HB 7424](#), §§ 319-328, as amended by House “A” and “B,” various effective dates).

### **Business Taxes and Fees**

The budget act’s business tax and fee changes include:

1. eliminating the business entity tax as of January 1, 2020;
2. phasing out the capital base tax on corporations over four years from 2021 to 2024;
3. extending the 10% corporation business tax surcharge for two additional years to the 2019 and 2020 income years;
4. increasing, from \$20 to \$80, the fee that foreign and domestic limited partnerships, limited liability companies, and limited liability partnerships must pay for filing an annual report with the secretary of state;
5. extending the angel investor tax credit program by five years to 2024, increasing the aggregate amount of credits that may be reserved under the program, and increasing the total amount of credits allowed to any angel investor; and
6. decreasing, from 70% to 50.01%, the amount by which a company may reduce its tax liability using research and development and Urban Reinvestment Act tax credits ([HB 7424](#), §§ 338- 347 & 349, as amended by House “A” and “B,” various effective dates).

### **Other Tax and Fee Changes**

The budget act also makes the following tax and fee changes:

1. increases the excise tax on alcoholic beverages (except beer) by 10%;
2. reduces the tax rate by 50% on beer sold for off-premises consumption by a

- premise covered by a manufacturer's permit;
3. reduces the admissions tax rate on certain venues in two steps: from 10% to 7.5% starting July 1, 2019, and from 7.5% to 5% starting July 1, 2020;
  4. eliminates a scheduled reduction of hospital tax rates for inpatient and outpatient services by maintaining them at FY 19 levels but requiring the base year for calculating the tax to be adjusted each biennium;
  5. requires short-term rental facilitators to collect and remit Connecticut room occupancy tax on the short-term rentals they facilitate for operators on their platforms;
  6. imposes a tax on e-cigarette products at a rate of (a) 40 cents per milliliter for pre-filled e-cigarette products and (b) 10% of the wholesale price for all other e-cigarette products;
  7. increases the fee that transportation network companies must pay on each ride originating in Connecticut from 25 cents to 30 cents; and
  8. increases the motor vehicle trade-in fee from \$35 to \$100 ([HB 7424](#), as amended by House "A" and "B," various sections and effective dates).