



General Assembly

January Session, 2019

***Raised Bill No. 7007***

LCO No. 3487



Referred to Committee on COMMITTEE ON CHILDREN

Introduced by:  
(KID)

***AN ACT PROHIBITING THE SALE OF ENERGY DRINKS TO PERSONS  
UNDER SIXTEEN YEARS OF AGE.***

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

- 1       Section 1. (NEW) (*Effective July 1, 2019*) (a) As used in this section:
- 2       (1) "Cardholder" means any person who presents a motor vehicle  
3       operator's license or identity card to a seller or seller's agent or  
4       employee;
- 5       (2) "Dealer" means any person who is engaged in this state in the  
6       business of selling energy drinks to retail consumers;
- 7       (3) "Deliver" or "delivery" means an act done intentionally by any  
8       person, whether as principle, proprietor, agent, servant or employee,  
9       of transferring or offering or attempting to transfer, physical  
10      possession or control of one or more energy drinks;
- 11      (4) "Energy drink" means a soft drink that contains (A) not less than  
12      eighty milligrams of caffeine per nine fluid ounces, and (B)  
13      methylxanthines, B vitamins or herbal ingredients;

14 (5) "Give" or "giving" means an act done intentionally by any  
15 person, whether done as principle, proprietor, agent, servant or  
16 employee, of transferring or offering or attempting to transfer without  
17 consideration one or more energy drinks;

18 (6) "Identity card" means an identification card issued pursuant to  
19 section 1-1h of the general statutes;

20 (7) "Proper proof" means a motor vehicle operator's license, valid  
21 passport or identity card;

22 (8) "Sale" or "sell" means an act done intentionally by any person,  
23 whether done as principle, proprietor, agent, servant or employee, of  
24 transferring or offering or attempting to transfer, for consideration, one  
25 or more energy drinks, including bartering or exchanging or offering  
26 to barter or exchange, one or more energy drinks;

27 (9) "Transaction scan" means the process by which a seller or seller's  
28 agent or employee checks, by means of a transaction scan device, the  
29 validity of a motor vehicle operator's license or identity card; and

30 (10) "Transaction scan device" means any commercial device or  
31 combination of devices used at a point of sale that is capable of  
32 deciphering in an electronically readable format the information  
33 encoded on the magnetic strip or bar code of a motor vehicle operator's  
34 license or identity card.

35 (b) On and after January 1, 2020, any person who sells, gives or  
36 delivers an energy drink to any person under sixteen years of age shall  
37 be fined not more than two hundred dollars for the first offense, not  
38 more than three hundred fifty dollars for the second offense within a  
39 twenty-four-month period and not more than five hundred dollars for  
40 each subsequent offense within a twenty-four-month period. The  
41 provisions of this subsection shall not apply to a person under sixteen  
42 years of age who is delivering or accepting delivery of one or more  
43 energy drinks (1) in such person's capacity as an employee, or (2) as  
44 part of a scientific study being conducted by an organization for the

45 purpose of medical research to further efforts to understand the effects  
46 of energy drinks on the body, provided such medical research has  
47 been approved by the organization's institutional review board, as  
48 defined in section 21a-408 of the general statutes.

49 (c) On and after January 1, 2020, each seller of energy drinks or such  
50 seller's agent or employee shall require a person who is purchasing or  
51 attempting to purchase one or more energy drinks, whose age is in  
52 question, to exhibit proper proof of age. If a person fails to provide  
53 such proof, such seller or seller's agent or employee shall not sell an  
54 energy drink to the person.

55 (d) (1) On and after January 1, 2020, a seller or seller's agent or  
56 employee may perform a transaction scan to check the validity of a  
57 motor vehicle operator's license or identity card presented by a  
58 cardholder as a condition for selling, giving or delivering an energy  
59 drink to the cardholder.

60 (2) If the information deciphered by the transaction scan performed  
61 pursuant to subdivision (1) of this subsection fails to match the  
62 information printed on the motor vehicle operator's license or identity  
63 card presented by the cardholder or the transaction scan indicates that  
64 the printed information is false or fraudulent, neither the seller nor  
65 seller's agent or employee shall sell, give or deliver an energy drink to  
66 the cardholder.

67 (3) Subdivision (1) of this subsection shall not preclude a seller or  
68 seller's agent or employee from using a transaction scan device to  
69 check the validity of a document other than a motor vehicle operator's  
70 license or identity card if the document includes a bar code or  
71 magnetic strip that may be scanned by the device, as a condition for  
72 selling, giving or delivering one or more energy drinks.

73 (e) (1) No seller or seller's agent or employee shall record or  
74 maintain any information derived from a transaction scan, except the  
75 name and date of birth of the person listed on the motor vehicle  
76 operator's license or identity card presented by a cardholder and the

77 expiration date and identification number of the motor vehicle  
78 operator's license or identity card presented by a cardholder.

79 (2) No seller or seller's agent or employee shall use a transaction  
80 scan device for a purpose other than those specified in subsection (c) of  
81 section 30-86 of the general statutes, subsection (d) of section 53-344 of  
82 the general statutes, subsection (e) of section 53-344b of the general  
83 statutes, as amended by this act, and subsection (d) of this section.

84 (3) No seller or seller's agent or employee shall sell or otherwise  
85 disseminate the information derived from a transaction scan to any  
86 third party, including, but not limited to, selling or otherwise  
87 disseminating that information for any marketing, advertising or  
88 promotional activities, except that a seller or seller's agent or employee  
89 may release such information pursuant to a court order.

90 (4) Nothing in subsection (d) of this section relieves a seller or  
91 seller's agent or employee of any responsibility to comply with  
92 applicable state and federal laws and rules governing the sale, giving  
93 or delivering of energy drinks.

94 (5) Any person who violates this subsection shall be subject to a civil  
95 penalty of not more than one thousand dollars.

96 (f) (1) In any prosecution of a seller or seller's agent or employee for  
97 a violation of subsection (b) of this section, it shall be an affirmative  
98 defense that the following occurred: (A) A cardholder attempting to  
99 purchase or receive one or more energy drinks presented a motor  
100 vehicle operator's license or identity card; (B) a transaction scan of the  
101 motor vehicle operator's license or identity card indicated that the  
102 license or card was valid; and (C) one or more energy drinks was sold,  
103 given or delivered to the cardholder in reasonable reliance upon the  
104 identification presented and the completed transaction scan.

105 (2) In determining whether a seller or seller's agent or employee has  
106 proven the affirmative defense provided by subdivision (1) of this  
107 subsection, the trier of fact in such prosecution shall consider that

108 reasonable reliance upon the identification presented and the  
109 completed transaction scan may require a seller or seller's agent or  
110 employee to exercise reasonable diligence and that the use of a  
111 transaction scan device does not excuse a seller or seller's agent or  
112 employee from exercising such reasonable diligence to determine  
113 whether the cardholder is sixteen years of age or older and the  
114 description and picture appearing on the motor vehicle operator's  
115 license or identity card presented by the cardholder is that of the  
116 cardholder.

117 (g) (1) On and after January 1, 2020, each dealer shall place and  
118 maintain in legible condition at each point of sale of energy drinks to  
119 consumers, including the front of each vending machine containing  
120 energy drinks, a notice which states that the sale, giving or delivering  
121 of energy drinks to any person under sixteen years of age is prohibited  
122 by this section.

123 (2) The Commissioner of Consumer Protection may investigate any  
124 alleged violation of the provisions of subdivision (1) of this subsection  
125 and, if there appears to be reasonable cause therefor, on reasonable  
126 notice to any dealer accused of any such violation, may make  
127 complaint to the prosecuting authority having jurisdiction of any such  
128 complaint or may, after notice and a hearing as provided in section 20-  
129 321 of the general statutes, fine a dealer who violates subdivision (1) of  
130 this subsection one hundred dollars per violation. Each day a dealer  
131 fails to post a notice in violation of subdivision (1) of this subsection  
132 shall be a separate violation.

133 Sec. 2. (NEW) (*Effective July 1, 2019*) Not later than January 1, 2020,  
134 the Commissioner of Public Health shall publish information  
135 concerning the dangers of energy drink consumption on the Internet  
136 web site of the Department of Public Health.

137 Sec. 3. Subdivision (2) of subsection (d) of section 30-86 of the  
138 general statutes is repealed and the following is substituted in lieu  
139 thereof (*Effective January 1, 2020*):

140 (2) No permittee or permittee's agent or employee shall use a  
 141 transaction scan device for a purpose other than the purposes specified  
 142 in subsection (c) of this section, subsection (d) of section 53-344, [or]  
 143 subsection (e) of section 53-344b, as amended by this act, or subsection  
 144 (d) of section 1 of this act.

145 Sec. 4. Subdivision (2) of subsection (e) of section 53-344 of the  
 146 general statutes is repealed and the following is substituted in lieu  
 147 thereof (*Effective January 1, 2020*):

148 (2) No seller or seller's agent or employee shall use a transaction  
 149 scan device for a purpose other than the purposes specified in  
 150 subsection (e) of section 53-344b, as amended by this act, subsection (d)  
 151 of this section, [or] subsection (c) of section 30-86 or subsection (d) of  
 152 section 1 of this act.

153 Sec. 5. Subdivision (2) of subsection (e) of section 53-344b of the  
 154 general statutes is repealed and the following is substituted in lieu  
 155 thereof (*Effective January 1, 2020*):

156 (2) No seller or seller's agent or employee shall use a transaction  
 157 scan device for a purpose other than the purposes specified in  
 158 subsection (d) of this section, subsection (d) of section 53-344, [or]  
 159 subsection (c) of section 30-86 or subsection (d) of section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	New section
Sec. 2	<i>July 1, 2019</i>	New section
Sec. 3	<i>January 1, 2020</i>	30-86(d)(2)
Sec. 4	<i>January 1, 2020</i>	53-344(e)(2)
Sec. 5	<i>January 1, 2020</i>	53-344b(e)(2)

**Statement of Purpose:**

To prohibit the sale, giving or delivering of energy drinks to persons under the age of sixteen and require the Commissioner of Public Health to publish information concerning the dangers of energy drink

consumption on the Internet web site of the Department of Public Health.

*[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.]*