



General Assembly

**Substitute Bill No. 5585**

January Session, 2001

**AN ACT AUTHORIZING THE USE OF TRANSACTION SCAN DEVICES  
BY SELLERS OF ALCOHOLIC LIQUOR AND TOBACCO.**

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

1 Section 1. Section 30-86 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) As used in this section:

4 (1) "Cardholder" means any person who presents a driver's license  
5 or an identity card to a permittee or permittee's agent or employee, to  
6 purchase or receive alcoholic liquor from such permittee or permittee's  
7 agent or employee;

8 (2) "Identity card" means an identification card issued in accordance  
9 with the provisions of section 1-1h;

10 (3) "Transaction scan" means the process by which a permittee or  
11 permittee's agent or employee checks, by means of a transaction scan  
12 device, the validity of a driver's license or an identity card; and

13 (4) "Transaction scan device" means any commercial device or  
14 combination of devices used at a point of sale that is capable of  
15 deciphering in an electronically readable format the information  
16 encoded on the magnetic strip or bar code of a driver's license or an  
17 identity card.

18       **(b)** Any permittee or any servant or agent of a permittee who sells  
19 or delivers alcoholic liquor to any minor, or to any intoxicated person,  
20 or to any habitual drunkard, knowing the person to be such an  
21 habitual drunkard, shall be subject to the penalties of section 30-113.  
22 Any person who sells, ships, delivers or gives any such liquors to such  
23 minor, by any means, including, but not limited to, the Internet or any  
24 other on-line computer network, except on the order of a practicing  
25 physician, shall be fined not more than one thousand five hundred  
26 dollars or imprisoned not more than eighteen months, or both. The  
27 provisions of this section shall not apply (1) to a sale, shipment or  
28 delivery made to a person over age eighteen who is an employee or  
29 permit holder under section 30-90a and where such sale, shipment or  
30 delivery is made in the course of such person's employment or  
31 business, (2) to a sale, shipment or delivery made in good faith to a  
32 minor who practices any deceit in the procurement of an identity card  
33 issued in accordance with the provisions of section 1-1h, who uses or  
34 exhibits any such identity card belonging to any other person or who  
35 uses or exhibits any such identity card that has been altered or  
36 tampered with in any way, or (3) to a shipment or delivery made to a  
37 minor by a parent, guardian or spouse of the minor, provided such  
38 parent, guardian or spouse has attained the age of twenty-one and  
39 provided such minor possesses such alcoholic liquor while  
40 accompanied by such parent, guardian or spouse.

41       **(c)** (1) A permittee or permittee's agent or employee may perform a  
42 transaction scan to check the validity of a driver's license or identity  
43 card presented by a cardholder as a condition for selling, giving away  
44 or otherwise distributing alcoholic liquor to the cardholder.

45       **(2)** If the information deciphered by the transaction scan performed  
46 under subdivision (1) of this subsection fails to match the information  
47 printed on the driver's license or identity card presented by the  
48 cardholder, or if the transaction scan indicates that the information so  
49 printed is false or fraudulent, neither the permittee nor any permittee's  
50 agent or employee shall sell, give away or otherwise distribute any  
51 alcoholic liquor to the cardholder.

52 (3) Subdivision (1) of this subsection does not preclude a permittee  
53 or permittee's agent or employee from using a transaction scan device  
54 to check the validity of a document presented as identification other  
55 than a driver's license or an identity card, if the document includes a  
56 bar code or magnetic strip that may be scanned by the device, as a  
57 condition for selling, giving away or otherwise distributing alcoholic  
58 liquor to the person presenting the document.

59 (d) (1) No permittee or permittee's agent or employee shall  
60 electronically or mechanically record or maintain any information  
61 derived from a transaction scan, except the following: (A) The name  
62 and date of birth of the person listed on the driver's license or identity  
63 card presented by a cardholder; (B) the expiration date and  
64 identification number of the driver's license or identity card presented  
65 by a cardholder.

66 (2) No permittee or permittee's agent or employee shall use a  
67 transaction scan device for a purpose other than the purposes specified  
68 in subsection (c) of this section or subsection (d) of section 53-344, as  
69 amended by this act.

70 (3) No permittee or permittee's agent or employee shall sell or  
71 otherwise disseminate the information derived from a transaction scan  
72 to any third party for any purpose, including, but not limited to, any  
73 marketing, advertising or promotional activities, except that a  
74 permittee or permittee's agent or employee may release that  
75 information pursuant to a court order.

76 (4) Nothing in subsection (c) of this section or this subsection  
77 relieves a permittee or permittee's agent or employee of any  
78 responsibility to comply with any other applicable state or federal laws  
79 or rules governing the sale, giving away or other distribution of  
80 alcoholic liquor.

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

83 (e) (1) Except as provided in subdivision (2) of this subsection, a  
84 permittee or permittee's agent or employee may not be found guilty of  
85 selling alcoholic liquor to a minor under subsection (b) of this section if  
86 the permittee or permittee's agent or employee raises and proves as an  
87 affirmative defense that all of the following occurred: (A) A cardholder  
88 attempting to purchase or receive alcoholic liquor presented a driver's  
89 license or an identity card; (B) a transaction scan of the driver's license  
90 or identity card that the cardholder presented indicated that the license  
91 or card was valid; and (C) the alcoholic liquor was sold, given away or  
92 otherwise distributed to the cardholder in reasonable reliance upon the  
93 identification presented and the completed transaction scan.

94 (2) In determining whether a permittee or permittee's agent or  
95 employee has proven the affirmative defense provided by subdivision  
96 (1) of this subsection, the trier of fact in the action for the alleged  
97 violation of subsection (b) of this section shall consider that reasonable  
98 reliance upon the identification presented and the completed  
99 transaction scan may require a permittee or permittee's agent or  
100 employee to exercise reasonable diligence and that the use of a  
101 transaction scan device does not excuse a permittee or permittee's  
102 agent or employee from exercising such reasonable diligence to  
103 determine the following: (A) Whether a person to whom the permittee  
104 or permittee's agent or employee sells, gives away or otherwise  
105 distributes alcoholic liquor is twenty-one years of age or older; and (B)  
106 whether the description and picture appearing on the driver's license  
107 or identity card presented by a cardholder is that of the cardholder.

108 Sec. 2. Section 53-344 of the general statutes is repealed and the  
109 following is substituted in lieu thereof:

110 (a) As used in this section:

111 (1) "Cardholder" means any person who presents a driver's license  
112 or an identity card to a seller or seller's agent or employee, to purchase  
113 or receive tobacco from such seller or seller's agent or employee;

114 (2) "Identity card" means an identification card issued in accordance

115 with the provisions of section 1-1h;

116 (3) "Transaction scan" means the process by which a seller or seller's  
117 agent or employee checks, by means of a transaction scan device, the  
118 validity of a driver's license or an identity card; and

119 (4) "Transaction scan device" means any commercial device or  
120 combination of devices used at a point of sale that is capable of  
121 deciphering in an electronically readable format the information  
122 encoded on the magnetic strip or bar code of a driver's license or an  
123 identity card.

124 ~~[(a)]~~ (b) Any person who sells, gives or delivers to any minor under  
125 eighteen years of age tobacco, unless the minor is delivering or  
126 accepting delivery in [his] such person's capacity as an employee, in  
127 any form shall be fined not more than two hundred dollars for the first  
128 offense, not more than three hundred fifty dollars for a second offense  
129 within an eighteen-month period and not more than five hundred  
130 dollars for each subsequent offense within an eighteen-month period.

131 ~~[(b)]~~ (c) Any person under eighteen years of age who purchases or  
132 misrepresents [his] such person's age to purchase tobacco in any form  
133 shall be fined not more than fifty dollars for the first offense and not  
134 less than fifty dollars nor more than one hundred dollars for each  
135 subsequent offense.

136 (d) (1) A seller or seller's agent or employee may perform a  
137 transaction scan to check the validity of a driver's license or identity  
138 card presented by a cardholder as a condition for selling, giving away  
139 or otherwise distributing tobacco to the cardholder.

140 (2) If the information deciphered by the transaction scan performed  
141 under subdivision (1) of this subsection fails to match the information  
142 printed on the driver's license or identity card presented by the  
143 cardholder, or if the transaction scan indicates that the information so  
144 printed is false or fraudulent, neither the seller nor any seller's agent or  
145 employee shall sell, give away or otherwise distribute any tobacco to

146 the cardholder.

147 (3) Subdivision (1) of this subsection does not preclude a seller or  
148 seller's agent or employee from using a transaction scan device to  
149 check the validity of a document other than a driver's license or an  
150 identity card, if the document includes a bar code or magnetic strip  
151 that may be scanned by the device, as a condition for selling, giving  
152 away or otherwise distributing tobacco to the person presenting the  
153 document.

154 (e) (1) No seller or seller's agent or employee shall electronically or  
155 mechanically record or maintain any information derived from a  
156 transaction scan, except the following: (A) The name and date of birth  
157 of the person listed on the driver's license or identity card presented by  
158 a cardholder; (B) the expiration date and identification number of the  
159 driver's license or identity card presented by a cardholder.

160 (2) No seller or seller's agent or employee shall use a transaction  
161 scan device for a purpose other than the purposes specified in  
162 subsection (d) of this section or subsection (c) of section 30-86, as  
163 amended by this act.

164 (3) No seller or seller's agent or employee shall sell or otherwise  
165 disseminate the information derived from a transaction scan to any  
166 third party, including, but not limited to, selling or otherwise  
167 disseminating that information for any marketing, advertising or  
168 promotional activities, but a seller or seller's agent or employee may  
169 release that information pursuant to a court order.

170 (4) Nothing in subsection (d) of this section or this subsection  
171 relieves a seller or seller's agent or employee of any responsibility to  
172 comply with any other applicable state or federal laws or rules  
173 governing the sale, giving away or other distribution of tobacco.

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

176 (f) (1) Except as provided in subdivision (2) of this subsection, a  
177 seller or seller's agent or employee may not be found guilty of a charge  
178 of a violation of subsection (b) of this section if the seller or seller's  
179 agent or employee raises and proves as an affirmative defense that all  
180 of the following occurred: (A) A cardholder attempting to purchase or  
181 receive tobacco presented a driver's license or an identity card; (B) a  
182 transaction scan of the driver's license or identity card that the  
183 cardholder presented indicated that the license or card was valid; and  
184 (C) the tobacco was sold, given away or otherwise distributed to the  
185 cardholder in reasonable reliance upon the identification presented  
186 and the completed transaction scan.

187 (2) In determining whether a seller or seller's agent or employee has  
188 proven the affirmative defense provided by subdivision (1) of this  
189 section, the trier of fact in the action for the alleged violation of  
190 subsection (b) of this section shall consider that reasonable reliance  
191 upon the identification presented and the completed transaction scan  
192 may require a seller or seller's agent or employee to exercise  
193 reasonable diligence and that the use of a transaction scan device does  
194 not excuse a seller or seller's agent or employee from exercising such  
195 reasonable diligence to determine the following: (A) Whether a person  
196 to whom the seller or seller's agent or employee sells, gives away or  
197 otherwise distributes tobacco is eighteen years of age or older; and (B)  
198 whether the description and picture appearing on the driver's license  
199 or identity card presented by a cardholder is that of the cardholder.

**GL** *Joint Favorable Subst.*

**TRA** *Joint Favorable*