



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 Section 30-86 of the general statutes is repealed and the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) In any prosecution of a permittee or permittee's agent or
84 employee for selling alcoholic liquor to a minor in violation of
85 subsection (b) of this section, it shall be an affirmative defense that all
86 of the following occurred: (A) A cardholder attempting to purchase or
87 receive alcoholic liquor presented a driver's license or an identity card;
88 (B) a transaction scan of the driver's license or identity card that the
89 cardholder presented indicated that the license or card was valid; and
90 (C) the alcoholic liquor was sold, given away or otherwise distributed
91 to the cardholder in reasonable reliance upon the identification
92 presented and the completed transaction scan.

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

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 Section 53-344 of the general statutes is repealed and the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

108 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

174 (f) (1) In any prosecution of a seller or seller's agent or employee for
175 a violation of subsection (b) of this section, it shall be an affirmative

176 defense that all of the following occurred: (A) A cardholder attempting
177 to purchase or receive tobacco presented a driver's license or an
178 identity card; (B) a transaction scan of the driver's license or identity
179 card that the cardholder presented indicated that the license or card
180 was valid; and (C) the tobacco was sold, given away or otherwise
181 distributed to the cardholder in reasonable reliance upon the
182 identification presented and the completed transaction scan.

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

JUD *Joint Favorable Subst.*