



General Assembly

Amendment

February Session, 2022

LCO No. 5149



Offered by:
SEN. MINER, 30th Dist.

To: Senate Bill No. 367

File No. 316

Cal. No. 235

"AN ACT CONCERNING ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 53-344 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2022*):

5 (a) As used in this section:

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

9 (2) "Cigarette" has the same meaning as provided in subsection (b) of
10 section 12-285;

11 (3) "Identity card" means an identification card issued in accordance
12 with the provisions of section 1-1h;

- 13 (4) "Sale" has the same meaning as provided in section 53-344b;
- 14 (5) "Give" or "giving" has the same meaning as provided in section
15 53-344b;
- 16 (6) "Deliver" or "delivering" has the same meaning as provided in
17 section 53-344b;
- 18 (7) "Seller" means any person engaged in the sale, giving or delivering
19 of cigarettes or tobacco products;
- 20 (8) "Tobacco products" has the same meaning as provided in section
21 12-330a;
- 22 (9) "Transaction scan" means the process by which a seller or seller's
23 agent or employee checks, by means of a transaction scan device, the
24 validity of a driver's license or an identity card; and
- 25 (10) "Transaction scan device" means any commercial device or
26 combination of devices used at a point of sale that is capable of
27 deciphering in an electronically readable format the information
28 encoded on the magnetic strip or bar code of a driver's license or an
29 identity card.
- 30 (b) Any person who sells, gives or delivers to any person under
31 twenty-one years of age cigarettes or a tobacco product shall be fined
32 not more than three hundred dollars for the first offense, not more than
33 seven hundred fifty dollars for a second offense on or before twenty-
34 four months after the date of the first offense and not more than one
35 thousand dollars for each subsequent offense on or before twenty-four
36 months after the date of the first offense. The provisions of this
37 subsection shall not apply to a person under twenty-one years of age
38 who is delivering or accepting delivery of cigarettes or a tobacco
39 product (1) in such person's capacity as an employee, or (2) as part of a
40 scientific study being conducted by an organization for the purpose of
41 medical research to further efforts in cigarette and tobacco product use
42 prevention and cessation, provided such medical research has been

43 approved by the organization's institutional review board, as defined in
44 section 21a-408.

45 (c) Any person under twenty-one years of age who misrepresents
46 such person's age to purchase cigarettes or a tobacco product shall be
47 fined not more than fifty dollars for the first offense and not less than
48 fifty dollars or more than one hundred dollars for each subsequent
49 offense.

50 (d) (1) A seller or seller's agent or employee shall request that each
51 person intending to purchase cigarettes or a tobacco product present a
52 driver's license or identity card to establish that such person is twenty-
53 one years of age or older.

54 ~~[(d) (1)]~~ (2) A seller or seller's agent or employee may perform a
55 transaction scan to check the validity of a driver's license or identity card
56 presented by a cardholder as a condition for selling, giving away or
57 otherwise distributing cigarettes or a tobacco product to the cardholder.

58 ~~[(2)]~~ (3) If the information deciphered by the transaction scan
59 performed under subdivision ~~[(1)]~~ (2) of this subsection fails to match
60 the information printed on the driver's license or identity card presented
61 by the cardholder, or if the transaction scan indicates that the
62 information so printed is false or fraudulent, neither the seller nor any
63 seller's agent or employee shall sell, give away or otherwise distribute
64 any cigarettes or a tobacco product to the cardholder.

65 ~~[(3)]~~ (4) Subdivision ~~[(1)]~~ (2) of this subsection does not preclude a
66 seller or seller's agent or employee from using a transaction scan device
67 to check the validity of a document other than a driver's license or an
68 identity card, if the document includes a bar code or magnetic strip that
69 may be scanned by the device, as a condition for selling, giving away or
70 otherwise distributing cigarettes or a tobacco product to the person
71 presenting the document.

72 (e) (1) No seller or seller's agent or employee shall electronically or
73 mechanically record or maintain any information derived from a

74 transaction scan, except the following: (A) The name and date of birth
75 of the person listed on the driver's license or identity card presented by
76 a cardholder; and (B) the expiration date and identification number of
77 the driver's license or identity card presented by a cardholder.

78 (2) No seller or seller's agent or employee shall use a transaction scan
79 device for a purpose other than the purposes specified in subsection (e)
80 of section 53-344b, subsection (d) of this section or subsection (c) of
81 section 30-86.

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

88 (4) Nothing in subsection (d) of this section or this subsection relieves
89 a seller or seller's agent or employee of any responsibility to comply
90 with any other applicable state or federal laws or rules governing the
91 sale, giving away or other distribution of cigarettes or tobacco products.

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

94 (f) (1) In any prosecution of a seller or seller's agent or employee for
95 a violation of subsection (b) of this section, it shall be an affirmative
96 defense that all of the following occurred: (A) A cardholder attempting
97 to purchase or receive cigarettes or a tobacco product presented a
98 driver's license or an identity card; (B) a transaction scan of the driver's
99 license or identity card that the cardholder presented indicated that the
100 license or card was valid and indicated that the cardholder was at least
101 twenty-one years of age; and (C) the cigarettes or a tobacco product was
102 sold, given away or otherwise distributed to the cardholder in
103 reasonable reliance upon the identification presented and the completed
104 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 section, the trier of fact in such prosecution shall consider that
108 reasonable reliance upon the identification presented and the completed
109 transaction scan may require a seller or seller's agent or employee to
110 exercise reasonable diligence and that the use of a transaction scan
111 device does not excuse a seller or seller's agent or employee from
112 exercising such reasonable diligence to determine the following: (A)
113 Whether a person to whom the seller or seller's agent or employee sells,
114 gives away or otherwise distributes cigarettes or a tobacco product is
115 twenty-one years of age or older; and (B) whether the description and
116 picture appearing on the driver's license or identity card presented by a
117 cardholder is that of the cardholder."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>July 1, 2022</i>	53-344