



NATIONAL ASSEMBLY OF QUÉBEC

THIRD SESSION

FORTY-THIRD LEGISLATURE

Bill 9

**An Act to prevent the harmful effects
of energy drinks on the health
of young people**

Introduction

**Introduced by
Madam Sonia Bélanger
Minister of Health**

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EXPLANATORY NOTES

The purpose of this bill is to prevent the harmful effects of energy drinks on the health of young people by prohibiting anyone from selling energy drinks to a person under 16 years of age.

The bill also prohibits persons under 16 years of age from purchasing energy drinks for themselves or others and from falsely representing themselves as being 16 years of age or over in order to purchase energy drinks.

To those ends, the bill defines what an energy drink is, provides that the giving away of energy drinks is considered to be a sale of energy drinks, creates various penal offences, puts in place inspection and investigation mechanisms entrusted to Santé Québec and prohibits the sale of energy drinks otherwise than in the physical presence of the vendor or an employee of the vendor, except in the cases and according to the terms that may be prescribed by government regulation.

Bill 9

AN ACT TO PREVENT THE HARMFUL EFFECTS OF ENERGY DRINKS ON THE HEALTH OF YOUNG PEOPLE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

RESTRICTIONS ON THE SALE OF ENERGY DRINKS

1. No one may sell energy drinks

- (1) to a person under 16 years of age; or
- (2) to a person 16 years of age or over if they know that the person is purchasing energy drinks for a person under 16 years of age.

For the purposes of this Act, a beverage is an energy drink if it has a caffeine concentration of 150 milligrams per litre or more and contains other ingredients, such as taurine, vitamins or minerals.

Subject to a regulation made under subparagraph 2 of the fourth paragraph, coffee, tea or a natural health product covered by a regulation made under paragraph *a* of subsection 1 of section 30 of the Food and Drugs Act (R.S.C. 1985, c. F-27) is not considered to be an energy drink.

The Government may, by regulation,

- (1) specify any product or class of product that is or is not considered to be an energy drink; and
- (2) prescribe the cases in which and conditions under which coffee, tea or a natural health product referred to in the third paragraph is considered to be an energy drink.

2. Persons under 16 years of age may not purchase energy drinks for themselves or others.

Furthermore, such persons may not falsely represent themselves as being 16 years of age or over in order to purchase energy drinks.

3. A person who wishes to purchase energy drinks is required to provide proof, on the request of the vendor or an employee of the vendor, that the person is 16 years of age or over.

When required to provide proof of age, such a person must produce photo identification issued by a government, a government department or a public body showing the person's name and date of birth.

A vendor or an employee of the vendor must refuse to sell energy drinks to a person if the vendor or employee considers that the identification produced cannot prove the person's identity.

4. The sale of energy drinks otherwise than in the physical presence of the vendor or an employee of the vendor and the purchaser, in particular where the sale is made over the Internet or by means of a vending machine, is prohibited, except in the cases and according to the terms that may be prescribed by government regulation.

Such a regulation may also prescribe procedures for verifying the purchaser's age or identity that depart from those prescribed in section 3.

5. The giving away of energy drinks is considered to be a sale of energy drinks.

In such a case, the provisions of this Act applicable to the sale or purchase of energy drinks apply, with the necessary modifications, to the giving away of energy drinks or the acceptance of such gifts.

DIVISION II

INSPECTIONS AND INVESTIGATIONS

6. For the purpose of verifying compliance with this Act or the regulations, section 741, the first paragraph of section 742 and sections 743, 744 and 746 of the Act respecting the governance of the health and social services system (chapter G-1.021) apply, with the necessary modifications.

For the purposes of the first paragraph of that section 742, "premises" means any place other than a dwelling house.

In addition, an inspector authorized under that section 741 may, for that purpose,

(1) conduct tests to ascertain compliance with the provisions of Division I of this Act; and

(2) require any person present on premises where energy drinks are sold or leaving such premises to provide proof they are 16 years of age or over by producing the identification referred to in the second paragraph of section 3 of this Act.

Before requiring proof of age from a person referred to in subparagraph 2 of the third paragraph, an inspector must be reasonably convinced that the person purchased an energy drink.

The prohibition under the first paragraph of section 2 of this Act does not apply to a person under 16 years of age acting as part of a test to ascertain compliance referred to in subparagraph 1 of the third paragraph.

DIVISION III

PENAL PROVISIONS

7. A person under 16 years of age who contravenes the provisions of section 2 is liable to a fine of \$100.

The same applies to a minor, other than a merchant, who contravenes the provisions of the first paragraph of section 1 or section 4.

8. A person of full age, other than a merchant, who contravenes the provisions of the first paragraph of section 1 or section 4 is liable to a fine of \$500 to \$1,500.

9. A merchant who contravenes the provisions of the first paragraph of section 1 or section 4 is liable to a fine of \$2,500 to \$25,000 in the case of a natural person or \$5,000 to \$62,500 in any other case.

10. Anyone who in any way hinders or attempts to hinder an inspector or investigator in the performance of their functions, in particular by deceiving the inspector or investigator by concealment or misrepresentation or, in the case of an inspector, by refusing to provide information or a document that the inspector is entitled to require under section 6, is liable to a fine of \$2,500 to \$25,000 in the case of a natural person or \$5,000 to \$62,500 in any other case.

11. The minimum and maximum fines set out in sections 7 to 10 are doubled for a subsequent offence.

12. In proceedings for a contravention of the first paragraph of section 1, no penalty may be imposed on a defendant who shows that a reasonable effort was made to verify the age of the person and that there were reasonable grounds to believe that the person was 16 years of age or over.

In all other respects, sections 823 to 831 of the Act respecting the governance of the health and social services system (chapter G-1.021) apply, with the necessary modifications, in proceedings relating to an offence under this Act or the regulations.

DIVISION IV

MISCELLANEOUS AND FINAL PROVISIONS

13. The Minister of Health and Social Services is responsible for the administration of this Act.

14. The provisions of this Act come into force on (*insert the date that is six months after the date of assent to this Act*), except those of section 4 and, to the extent that they refer to that section, those of sections 7 to 9, which come into force on the date of coming into force of the first regulation made under section 4.

