



**Ministry of Environment
and Food of Denmark**
Danish Veterinary and
Food Administration

How do the Nordic Countries Regulate Energy Drinks?

Nordic symposium – Energy
drinks and young people

Reykjavik, Iceland
22nd of October 2019

Agenda

- **EU framework**
- **Approaches of the Nordic countries**
 - Danish
 - Norwegian
 - Swedish
 - Finnish
 - Icelandic
- **Common understandings**





Regulation No 1925/2006 on the addition of vitamins and minerals and of certain other substances to food

‘Other substance’ means a substance other than a vitamin or a mineral that has a nutritional or physiological effect (e.g. caffeine).

It provides a framework to regulate food fortification.

Substances greatly exceeding amounts that can reasonably be expected under normal conditions (via a balanced diet) and/or would otherwise represent a potential risk to consumers can be **monitored, restricted, or prohibited.**

Caffeine restriction has not been harmonised.

ANNEX III

SUBSTANCES WHOSE USE IN FOODS IS PROHIBITED, RESTRICTED OR UNDER COMMUNITY SCRUTINY

Part A — Prohibited substances

▼M6
Ephedra herb and its preparations originating from *Ephedra* species

▼M9
Yohimbe bark and its preparations originating from Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille)

▼M8

PART B

Restricted substances

Restricted substance	Conditions of use	Additional requirements
Trans fat other than trans fat naturally occurring in fat of animal origin	Maximum 2 grams per 100 grams of fat in food intended for the final consumer and food intended for supply to retail	Food business operators supplying other food business operators with food not intended for the final consumer or not intended for supply to retail, shall ensure that supplied food business operators are provided with information on the amount of trans fat, other than trans fat naturally occurring in fat of animal origin, where that amount exceeds 2 grams per 100 grams of fat.

▼B

Part C — Substances under Community scrutiny

▼M9 —————

EU Legislation



EU countries need to notify the Commission if they consider it necessary to adopt new legislation on the use of other substances in absence of Community provisions.

There must be thorough justifications for the proposed national measures.

Examples of countries with national regulation on (some) other substances:

- Denmark
- Belgium (only food supplements)
- Iceland
- Latvia (only food supplements)

Countries without national restrictions are still allowed to prohibit the marketing of individual products with a high caffeine (or other substances) content based on the general food law (Regulation No 178/2002).

Article 14

Food safety requirements

1. Food shall not be placed on the market if it is unsafe.
2. Food shall be deemed to be unsafe if it is considered to be:
 - (a) injurious to health;
 - (b) unfit for human consumption.
3. In determining whether any food is unsafe, regard shall be had:
 - (a) to the normal conditions of use of the food by the consumer and at each stage of production, processing and distribution, and
 - (b) to the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.
4. In determining whether any food is injurious to health, regard shall be had:
 - (a) not only to the probable immediate and/or short-term and/or long-term effects of that food on the health of a person consuming it, but also on subsequent generations;
 - (b) to the probable cumulative toxic effects;
 - (c) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers.



EU Legislation



Beverages with a caffeine content above 15 mg /100 ml must be labelled with the warning:

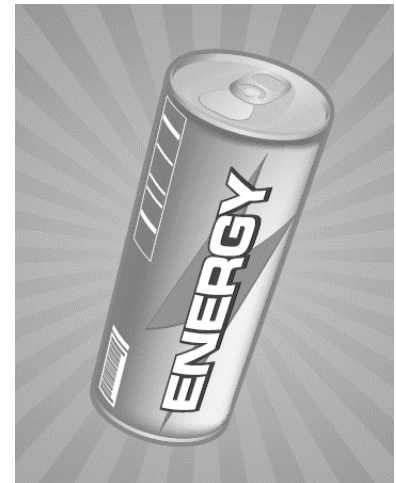
‘High caffeine content. Not recommended for children or pregnant or breast-feeding women.’

in the same field of vision as the name of the beverage, followed by a reference to the caffeine content expressed in mg per 100 ml.

This has been mandatory since 2014.

Beverages based on coffee, tea, or coffee/tea extract where the name of the food includes the term ‘coffee’ or ‘tea’ are exempted.

The term “energy drink” is not defined in the EU legislation. In most eyes, it is a reference to a non-alcoholic, but highly caffeinated soft drink.



Danish Legislation



Caffeine was originally restricted by the Environmental Protection Agency's National Order on Poisons:

- Prohibited in foods except for 15 mg/100 ml in soft drinks.

In 2009 caffeine regulation was moved to the Food Administration's National Order on Food "Additives":

- Companies had to apply for permission to use caffeine in foods.
- Permission of up to 32 mg/100 ml was given to individual products with restrictions for can size and warning requirements.

In 2011 standalone Order on Addition of Other Substances to Food was created:

- General approval of 32 mg/100 ml in soft drinks (250 ml can \approx a cup of coffee).
- Companies have to apply for permission to use caffeine in higher amounts or new food categories.
- A warning statement for drinks with a high caffeine content was introduced.

In 2019 the standalone Order is still in force:

- Many categories have a general approval for addition of caffeine.
- The caffeine limit for soft drinks will not be increased despite applications due to health risks.



Danish Recommendations



A **moderate** intake of caffeine via energy drinks is considered safe for adults and teenagers with the current maximum limit.

Legislation cannot in all cases protect against **excessive** intakes of a product.

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There is a need for consumer recommendations alongside legislation.

Find the Danish guidance on energy drinks for parents and youngsters [here](#).

Vidste du, at unge ...

... højst tåler en lille dåse energidrik om dagen (25 cl), men kun hvis de ikke får koffein fra cola, kaffe eller te. På grund af sukkerindholdet anbefaler Fødevarestyrelsen dog, at unge maks. drikker en halv liter energidrik eller andre sukkerdrikke om ugen.

Energidrikke og alkohol er en farlig cocktail for unge

Energidrikke kan camouflere alkoholens virkning, så man ikke opfatter, hvor påvirket man reelt er. Derfor skal man passe på med at blande energidrikke og alkohol sammen.



Norwegian Legislation



Norway has created a national Order shares many similarities with the current Danish regulation on addition of other substances to food.

- General approval of 32 mg/100 ml in soft drinks will come into force from January 1st 2020.
- Companies have to apply for permission to use caffeine in higher amounts or new food categories.
- Norwegian authorities consider it unlikely that the caffeine limit for soft drinks will be increased due to health risks.

The new legislation is based on an investigation from 2018 on potential measures to protect children and youngsters against high caffeine intakes.

Their report found that if energy drinks contained 32 mg / 100 ml, the moderate intakes for 12-18 years olds would not give rise to sleep disturbances or other adverse effects.

Teenagers with a prolonged high intake of energy drinks are still at risk.



Norwegian Considerations



Besides introducing a caffeine limit for soft drinks, the authorities recommended the following:

- Increase the level of knowledge about both caffeine and energy drinks.
- Monitor market developments, and children and adolescents' intake of energy drinks and other caffeinated foods and beverages.
- Enter into dialogue with the industry to encourage the development of more binding guidelines for self-regulation of the energy drink market.

A statutory age limit was considered, but the measure was found not to be proportionate with the current risk.

However, such a statutory age limit can be reconsidered at a later date if the consumption of energy drinks among children and young people in Norway continues to increase despite other measures being implemented.



Swedish Insights



- No national legislation concerning caffeine in foods currently exist.
- At the moment the authorities are prioritising the development of legislation for the addition of vitamins and minerals to food supplements.
- The Swedish Marketing Act establishes restrictions for marketing to children, but there are no specific provisions for energy drinks.
- The most common amount of caffeine in energy drinks is 32 mg/100 ml, but some exceeds this level. 50 ml shots with caffeine are also seen on the market.
- Authorities encourage the voluntary age limit of 15 years used by parts of the industry.

Find all the Swedish recommendations on caffeine for children and other population groups [here](#).



Swedish Considerations



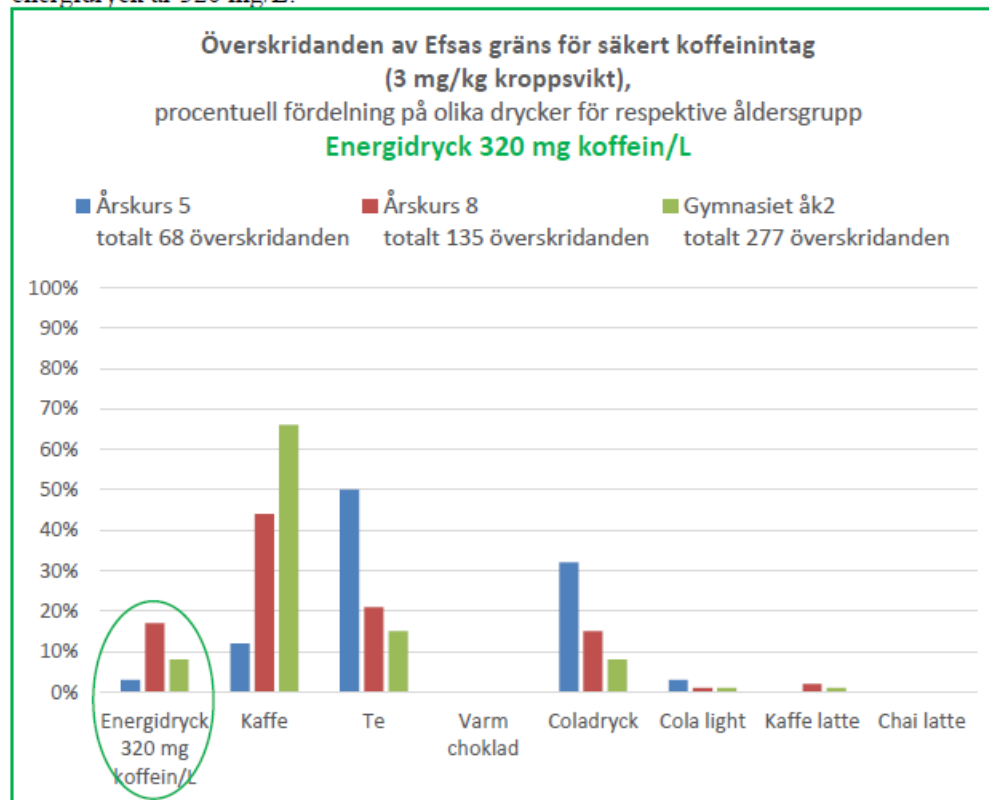
In 2018 the authorities conducted an investigation of the need to limit the sale of energy drinks.

They found that in the age range of 11-18 years, the consumption of energy drinks was low and that the age group is more likely to get caffeine from coffee, tea, and cola drinks.

However, it was also concluded that a maximal limit for caffeine content would be beneficial in some cases.

Find their report from 2018 [here](#).

Överskridanden av Efsas gräns för säkert koffeinintag för olika drycker om koffeinhalten i energidryck är 320 mg/L:





No national legislation concerning caffeine in foods currently exist.

Risk management decisions are made on the basis of EFSA's opinion on the safety of the caffeine from 2015.

Too high consumption of energy drinks amongst young people has been a concern in Finland for several years.

The political aim is to minimise the sale of energy drinks to young people, but no political decisions have been taken yet.

Some companies has on a voluntary basis ceased to sell the energy drinks to children under the age of 15.



Icelandic Legislation/Insights



A little of history...

Caffeine was originally restricted by regulation nr. 285/2002 on food additive:

- Allowed only in soft drinks and other drinks without alcohol - **max. 135 mg/l**

Caffeine was moved to regulation nr. 587/1993 on food flavoring with regulation nr. 413/2005:

- Setting maximum limit of **150 mg/l** in all kind of soft drinks.

With regulation nr. 1316/2007 was aimed to set clearer rules maintaining the maximum limit.

- Prohibited in foods except for soft drinks with a max. of 150 mg/l.

BUT

Technical notification procedure to EU of regulation nr. 1316/2007 led to

- Revision of the regulation after comments from Commission:
 - Free movement of goods, labelling for products with higher amount of 150 mg/l already harmonized in EU and the principle of proportionality should be taken more into consideration!

New regulation nr. 906/2008 came into force:

No maximum limit for caffeine in soft drinks but prohibited in other foods.





From 2008

- Marketing of energy drinks with an amount of 320 mg/l was allowed in Iceland.
- Energy shots (50-60 ml) with high caffeine amount were found also on the Icelandic market
- No restrictions for can size or bottle size
 - Import of energy drinks with different amounts of caffeine in different sizes
 - Example: 1 L bottle containing 300 mg caffeine
- Labelling of energy drinks in different languages
 - No Icelandic labelling was required

Case in 2011:

- Two teenagers were hospitalized with increased heart rate and arrhythmias, severe tremors and dizziness and difficulty breathing **after drinking energy drink.**

Food supplement companies asking for revision of the regulation

- Until then only soft drinks were allowed but not food supplements.

Result of the “Survey of the diet of Icelanders 2010-2011” showed

- Overall increase of consumption of caffeine among teenagers specially from soft drinks but also from energy drinks.

A new regulation setting max. limit for caffeine was adopted in Iceland in 2014



National regulation No. 453/2014 was introduced setting a maximum limits for caffeine in food:

Tegundir matvæla	Hámarks magn koffins (þ.m.t. íblöndun kjarna/útdrátta náttúrulegra koffingjafa)
Áfengi	0 mg/l
Drykkjarvörur (aðrar en áfengi)	320 mg/l
Fæðubótarefni	300 mg í ráðlögðum daglegum neysluskammti
Önnur matvæli	150 mg/kg

For soft drinks was allowed 320 mg/l (32 mg/100ml)

BUT if the caffeine content is higher than 320 mg/l in beverages food business operator (FBO) can apply for authorization.

EU requirement for labelling, warning statement, for products containing more than 150 mg/l was already in force since 2014 in Europe.

- **Also in Iceland but obligatory in Icelandic!**



According to regulation nr. 453/2014:

- Caffeine was allowed up to 320 mg/l in soft drinks/beverages without permission.
- Companies/FBO had to apply for permission if exceeding that amount in soft drinks
- FBO have been able to apply since the beginning of 2015
- The first application for energy drinks was received in 2017
- No marketing possible without permission from MAST (The Icelandic Food and Veterinary Authority)
- Control on the market by the local control Authorities.

Application procedure:

- Permission shall be based on a risk assessment
- MAST may seek expert assistance for assessment of applications
- MAST may issue conditions for the addition of caffeine into the product
- MAST may prohibit or impose conditions for production, marketing and import if the authority considers that the product may be harmful to the consumer or to a group of consumers.
- **MAST may also prohibit or impose conditions to products that have previously received a permission**
 - Prohibition or additional conditions shall be based on a risk assessment.

Icelandic Legislation/Insights



Some challenges for consumers:

- All types of energy drinks, both with 320 mg/l or 550 mg/l on the same spot/shelf in the stores
- Sometimes NO differentiation in the appearance
 - Might be easy to confuse when buying
- Different approach in labelling energy drinks with high amount of caffeine.
 - Some use stickers and some are printed on the can.

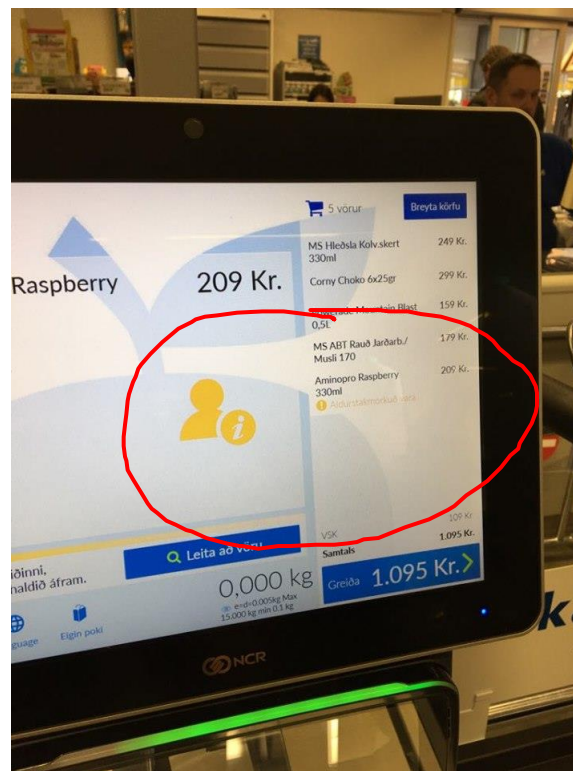


Icelandic Legislation/Insights



Some challenges for the Local control Authorities:

- The sale of energy drinks is limited for children (age limit) but no harmonization in the stores
- Self service system in the stores a new challenge
 - Is the control for the sales ban for children efficient?



Common understandings

The energy drink market is increasing.

In 2016 the sale of energy drinks totalled to **48,320,000 liters in Sweden.**

This corresponds to an increase by 160 % between 2009 and 2016.

In Denmark there has been an increase in sale from **4 million liters in 2010 to 16 million liters in 2016.**

One market prognosis states that the sale will increase to 25 million liters in 2021.

In Iceland the import of energy drinks has increased from **564,070 netto weight** in 2018 to **1,664,484 netto weight in 2019** (october).

These numbers represent only the declared "energy drinks" on import papers!



Common understandings

- **Voluntary measures are useful tools.**

Organisations such as [EDE](#) (Energy Drinks Europe) and [Unesda](#) (Soft Drinks Europe) have developed a code of practise.

In the recent years several supermarket chains have introduced voluntary age limits in a number of EU countries.

- Excessive intakes of energy drinks are undesirable and a multifaceted approach is more likely to yield results.
- More awareness of the effect of caffeine is important:
 - Information to parents, teachers and teenagers, For example campaigns, social media.

Energy drinks: UK supermarkets ban sales to under-16s

🕒 5 March 2018 📄

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Retailers will ban the sale of energy drinks containing more than 150mg of caffeine per litre

Sales of energy drinks to children under 16 have been banned in most major UK supermarkets, amid concerns about high levels of sugar and caffeine.

Boots is also joining supermarkets such as Asda, Waitrose, Tesco and the Co-op in introducing the rule.

Retailers will limit sale of energy drinks containing more than 150mg of caffeine per litre to under-16s.

Co-op said it recognised the "growing concern about the consumption of energy drinks" among children.