

7195

I N   S E N A T E

May 5, 2014

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Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to prohibiting the sale of powdered alcohol and prohibiting the possession of powdered distilled alcohol by persons under the age of twenty-one

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The alcoholic beverage control law is amended by adding a  
2 new section 117-c to read as follows:

3     S 117-C. SALE OF POWDERED DISTILLED ALCOHOL PROHIBITED. 1. NO PERSON,  
4 CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY SHALL KNOWINGLY  
5 SELL OR OFFER FOR SALE POWDERED DISTILLED ALCOHOL.

6     2. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE AN OFFENSE  
7 PUNISHABLE BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS. A VIOLATION  
8 OF THE PROVISIONS OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY CONVICTED  
9 OF SUCH AN OFFENSE WITHIN THE PREVIOUS FIVE YEARS SHALL BE A CLASS B  
10 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS.

11     3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE AUTHORI-  
12 TY FROM INSTITUTING PROCEEDINGS TO SUSPEND, CANCEL, OR REVOKE A LICENSE  
13 AS PROVIDED IN SECTION SEVENTEEN OF THIS CHAPTER.

14     S 2. Section 65-c of the alcoholic beverage control law, as added by  
15 chapter 592 of the laws of 1989, subdivision 3 as amended by chapter 137  
16 of the laws of 2001, is amended to read as follows:

17     S 65-c. Unlawful possession of an alcoholic beverage OR POWDERED  
18 DISTILLED ALCOHOL with the intent to consume by persons under the age of  
19 twenty-one years. 1. Except as hereinafter provided, no person under the  
20 age of twenty-one years shall possess any alcoholic beverage, as defined  
21 in this chapter, OR POWDERED DISTILLED ALCOHOL with the intent to  
22 consume such beverage OR POWDERED DISTILLED ALCOHOL.

23     2. A person under the age of twenty-one years may possess any alcohol-  
24 ic beverage with intent to consume if the alcoholic beverage is given:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (a) to a person who is a student in a curriculum licensed or regis-  
2 tered by the state education department and the student is required to  
3 taste or imbibe alcoholic beverages in courses which are a part of the  
4 required curriculum, provided such alcoholic beverages are used only for  
5 instructional purposes during class conducted pursuant to such curric-  
6 ulum; or

7 (b) to the person under twenty-one years of age by that person's  
8 parent or guardian.

9 3. Any person who unlawfully possesses an alcoholic beverage OR  
10 POWDERED DISTILLED ALCOHOL with intent to consume may be summoned before  
11 and examined by a court having jurisdiction of that charge; provided,  
12 however, that nothing contained herein shall authorize, or be construed  
13 to authorize, a peace officer as defined in subdivision thirty-three of  
14 section 1.20 of the criminal procedure law or a police officer as  
15 defined in subdivision thirty-four of section 1.20 of such law to arrest  
16 a person who unlawfully possesses an alcoholic beverage OR POWDERED  
17 DISTILLED ALCOHOL with intent to consume. If a determination is made  
18 sustaining such charge the court may impose a fine not exceeding fifty  
19 dollars and/or completion of an alcohol awareness program established  
20 pursuant to section 19.25 of the mental hygiene law and/or an appropri-  
21 ate amount of community service not to exceed thirty hours.

22 4. No such determination shall operate as a disqualification of any  
23 such person subsequently to hold public office, public employment, or as  
24 a forfeiture of any right or privilege or to receive any license granted  
25 by public authority; and no such person shall be denominated a criminal  
26 by reason of such determination, nor shall such determination be deemed  
27 a conviction.

28 5. Whenever a peace officer as defined in subdivision thirty-three of  
29 section 1.20 of the criminal procedure law or police officer as defined  
30 in subdivision thirty-four of section 1.20 of the criminal procedure law  
31 shall observe a person under twenty-one years of age openly in  
32 possession of an alcoholic beverage as defined in this chapter, OR  
33 POWDERED DISTILLED ALCOHOL with the intent to consume such beverage OR  
34 POWDERED DISTILLED ALCOHOL in violation of this section, said officer  
35 may seize the beverage OR POWDERED DISTILLED ALCOHOL, and shall deliver  
36 it to the custody of his or her department.

37 6. Any alcoholic beverage OR POWDERED DISTILLED ALCOHOL seized in  
38 violation of this section is hereby declared a nuisance. The official to  
39 whom the beverage OR POWDERED DISTILLED ALCOHOL has been delivered  
40 shall, no earlier than three days following the return date for initial  
41 appearance on the summons, dispose of or destroy the alcoholic beverage  
42 OR POWDERED DISTILLED ALCOHOL seized or cause it to be disposed of or  
43 destroyed. Any person claiming ownership of an alcoholic beverage OR  
44 POWDERED DISTILLED ALCOHOL seized under this section may, on the initial  
45 return date of the summons or earlier on five days notice to the offi-  
46 cial or department in possession of the beverage OR POWDERED DISTILLED  
47 ALCOHOL, apply to the court for an order preventing the destruction or  
48 disposal of the alcoholic beverage OR POWDERED DISTILLED ALCOHOL seized  
49 and ordering the return of that beverage OR POWDERED DISTILLED ALCOHOL.  
50 The court may order the beverage OR POWDERED DISTILLED ALCOHOL returned  
51 if it is determined that return of the beverage OR POWDERED DISTILLED  
52 ALCOHOL would be in the interest of justice or that the beverage OR  
53 POWDERED DISTILLED ALCOHOL was improperly seized.

54 S 3. This act shall take effect immediately.