S T A T E O F N E W Y O R K

949

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. McDONOUGH, BARRA -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the alcoholic beverage control law, in relation to the unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of twenty-one years

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

Section 1. Subdivision 3 of section 65-c of the alcoholic beverage control law, as amended by chapter 137 of the laws of 2001, is amended to read as follows:

3. Any person who unlawfully possesses an alcoholic beverage with intent to consume may be summoned before and examined by a court having jurisdiction of that charge; provided, however, that nothing contained herein shall authorize, or be construed to authorize, a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or a police officer as defined in subdivision thirty-four of section 1.20 of such law to arrest a person who unlawfully possesses an alcoholic beverage with intent to consume; AND PROVIDED FURTHER, THAT NOTHING CONTAINED IN THIS SUBDIVISION SHALL PROHIBIT OR BE CONSTRUED TO PROHIBIT SUCH POLICE OFFICER OR PEACE OFFICER FROM ISSUING AN APPEARANCE TICKET, AS SUCH TERM IS DEFINED IN SECTION 150.10 OF THE CRIMINAL PROCEDURE LAW, TO A PERSON WHO UNLAWFULLY POSSESSES AN ALCOHOLIC BEVERAGE WITH INTENT TO CONSUME. If a determination is made sustaining such charge the court may impose a fine OF not [exceeding] LESS THAN fifty dollars [and/or] NOR MORE THAN TWO HUNDRED DOLLARS AND completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law, AND/OR A VICTIMS IMPACT PROGRAM and/or an appropriate amount of community service not to exceed thirty hours.

S 2. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.

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

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