

5171

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 14, 2011

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Introduced by M. of A. ORTIZ, ROBINSON, AUBRY, N. RIVERA, STEVENSON,  
P. RIVERA -- Multi-Sponsored by -- M. of A. ARROYO, McENENY, THIELE,  
WEISENBERG -- read once and referred to the Committee on Economic  
Development

AN ACT to amend the alcoholic beverage control law, in relation to  
prohibiting the sale of caffeinated or stimulant-enhanced alcoholic  
beverages

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

1     Section 1. Subdivision 3 of section 3 of the alcoholic beverage  
2     control law is amended and a new subdivision 7-c is added to read as  
3     follows:  
4     3. "Beer" means and includes any fermented beverages of any name or  
5     description manufactured from malt, wholly or in part, or from any  
6     substitute therefor; PROVIDED, HOWEVER, THAT SUCH TERM SHALL NOT INCLUDE  
7     ANY CAFFEINATED OR STIMULANT-ENHANCED ALCOHOLIC BEVERAGE THAT CONTAINS  
8     MORE THAN FIVE PER CENTUM OF ALCOHOL BY VOLUME, IN COMBINATION WITH MORE  
9     THAN SIX MILLIGRAMS PER OUNCE OF CAFFEINE OR ANY OTHER STIMULANT,  
10    INCLUDING, BUT NOT LIMITED TO, GUARANA, GINSENG, TAURINE OR WORMWOOD  
11    OIL, THAT HAS AN EQUIVALENT EFFECT AS SUCH QUANTITY OF CAFFEINE.  
12    7-C. "CAFFEINATED OR STIMULANT-ENHANCED ALCOHOLIC BEVERAGE" MEANS AND  
13    INCLUDES ANY ALCOHOLIC BEVERAGE OF ANY NAME OR DESCRIPTION THAT IS MANU-  
14    FACTURED FROM MALT, WHOLLY OR IN PART, OR FROM ANY SUBSTITUTE THEREFOR  
15    INCLUDING, BUT NOT LIMITED TO, LIQUOR, SPIRITS OR WINE; AND CONTAINING  
16    MORE THAN FIVE PER CENTUM AND NOT MORE THAN FIFTEEN PER CENTUM ALCOHOL  
17    BY VOLUME, IN COMBINATION WITH MORE THAN SIX MILLIGRAMS PER OUNCE OF  
18    CAFFEINE OR ANY OTHER STIMULANT, INCLUDING, BUT NOT LIMITED TO GUARANA,  
19    GINSENG, TAURINE OR WORMWOOD OIL, THAT HAS AN EQUIVALENT EFFECT AS SUCH  
20    QUANTITY OF CAFFEINE. FOR THE PURPOSES OF THIS CHAPTER, CAFFEINATED OR  
21    STIMULANT-ENHANCED BEVERAGES SHALL NOT BE CONSIDERED BEER OR WINE PROD-  
22    UCT.

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

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1 S 2. Section 100 of the alcoholic beverage control law is amended by  
2 adding a new subdivision 8 to read as follows:  
3 8. NO PERSON SHALL SELL, DELIVER OR GIVE AWAY, OR CAUSE, PERMIT OR  
4 PROCURE TO BE SOLD, DELIVERED OR GIVEN AWAY ANY CAFFEINATED OR STIMU-  
5 LANT-ENHANCED ALCOHOLIC BEVERAGE TO ANY OTHER PERSON.  
6 S 3. This act shall take effect on the two hundred seventieth day  
7 after it shall have become a law; provided that the provisions of this  
8 act shall not apply to any retail sale of an alcoholic beverage which is  
9 received by a person licensed to sell alcoholic beverages for on-premis-  
10 es or off-premises consumption within sixty days of the date this act  
11 shall have become a law. Effective immediately, the state liquor author-  
12 ity is authorized to amend, add and/or repeal any rules and regulations  
13 necessary to implement the provisions of this act on or before its  
14 effective date.