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

5171--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 3 of the alcoholic beverage control law is amended by adding a new subdivision 7-c to read as follows:

7-C. "CAFFEINATED OR STIMULANT-ENHANCED ALCOHOLIC BEVERAGE" MEANS AND INCLUDES A BEER OR WINE PRODUCT THAT CONTAINS MORE THAN SIX PER CENTUM ALCOHOL BY VOLUME AND AN UNSAFE FOOD ADDITIVE. FOR THE PURPOSES OF THIS SUBDIVISION, "UNSAFE FOOD ADDITIVE" SHALL HAVE THE SAME MEANING AS PROVIDED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (21 U.S.C. S 348) AND SHALL INCLUDE, BUT NOT BE LIMITED TO, CAFFEINE OR OTHER STIMULANTS DIRECTLY ADDED TO AN ALCOHOLIC BEVERAGE AS A SEPARATE INGREDIENT WITHOUT APPROVAL BY FEDERAL REGULATION OR ACKNOWLEDGEMENT AS GENERALLY RECOGNIZED AS SAFE.

S 2. Section 100 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

8. NO LICENSEE, PERMITTEE OR PERSON SHALL SELL, DELIVER OR GIVE AWAY, OR CAUSE, PERMIT OR PROCURE TO BE SOLD, DELIVERED OR GIVEN AWAY ANY CAFFEINATED OR STIMULANT-ENHANCED ALCOHOLIC BEVERAGE, AS DEFINED IN SUBDIVISION SEVEN-C OF SECTION THREE OF THIS CHAPTER.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the provisions of this act shall not be deemed to prohibit any person, licensed to sell alcoholic beverages at retail for on-premises or off-premises consumption, from

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

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selling, delivering or giving away any caffeinated or stimulant-enhanced alcoholic beverage to a distributor or manufacturer of such beverage within sixty days of the effective date of this act when the caffeinated or stimulant-enhanced beverage was received by the retail licensee prior to the effective date of this act. Effective immediately, the state liquor authority is authorized to amend, add and/or repeal any rules and regulations necessary to implement the provisions of this act on or before its effective date.