

S T A T E   O F   N E W   Y O R K

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4221--A

2011-2012 Regular Sessions

I N   S E N A T E

March 23, 2011

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Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged and said bill committed to the Committee on Alcoholism and Drug Abuse -- 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 including, for the purposes of distribution, and wholesale and retail sale, flavored malt beverages within the definition of liquor

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

- 1     Section 1. Subdivisions 3 and 19 of section 3 of the alcoholic beverage control law are amended to read as follows:  
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3     3. "Beer" means and includes any fermented beverages of any name or  
4 description manufactured from malt, wholly or in part, or from any  
5 substitute therefor AND SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL  
6 NATURALLY FERMENTED OR TRADITIONALLY BREWED BEERS, SUCH AS ALES,  
7 BITTERS, BROWNS, LAGERS, PORTERS, STOUTS, SEASONAL BEERS, WHEAT BEERS OR  
8 OTHER SPECIALTY BEERS. SUCH TERM SHALL NOT INCLUDE FLAVORED MALT BEVER-  
9 AGES.  
10     19. "Liquor" means and includes any and all distilled or rectified  
11 spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic  
12 beverages, including all dilutions and mixtures of one or more of  
13 the foregoing; PROVIDED, FURTHER, THAT, SOLELY FOR THE PURPOSES OF THE  
14 DISTRIBUTION, AND WHOLESALE AND RETAIL SALE THEREOF, SHALL INCLUDE  
15 FLAVORED MALT BEVERAGES.  
16     S 2. Subdivision 12-c of section 3 of the alcoholic beverage control  
17 law, as renumbered by chapter 366 of the laws of 1992, is renumbered  
18 subdivision 12-d and a new subdivision 12-c is added to read as follows:  
19     12-C. "FLAVORED MALT BEVERAGE" MEANS AND INCLUDES ANY ALCOHOLIC BEVER-  
20 AGE OF ANY NAME OR DESCRIPTION THAT IS MANUFACTURED FROM MALT, WHOLLY OR

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

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1 IN PART, OR FROM ANY SUBSTITUTE THEREFOR INCLUDING, BUT NOT LIMITED TO,  
2 LIQUOR, SPIRIT OR WINE; AND CONTAINING MORE THAN SIX PER CENTUM ALCOHOL  
3 BY VOLUME AND MORE THAN ONE PER CENTUM SUGAR BY VOLUME WHICH IS MANUFAC-  
4 TURED WITH THE ADDITION OF FLAVORINGS OR OTHER INGREDIENTS INCLUDING,  
5 BUT NOT LIMITED TO, FRUIT, FRUIT JUICE OR FRUIT FLAVOR, OR HERBS, NUTS  
6 OR SPICES (INCLUDING, BUT NOT LIMITED TO, CHOCOLATE, LICORICE OR VANIL-  
7 LA), OR STIMULANTS (INCLUDING, BUT NOT LIMITED TO, CAFFEINE, GUARANA,  
8 GINSING, TAURINE OR WORMWOOD OIL). THE AUTHORITY MAY, PURSUANT TO SUBDI-  
9 VISION FIFTEEN OF SECTION SEVENTEEN OF THIS CHAPTER, FURTHER DEFINE  
10 THOSE ALCOHOLIC BEVERAGES THAT SHALL BE INCLUDED WITHIN SUCH TERM.  
11 PROVIDED THAT, FLAVORED MALT BEVERAGES SHALL NOT BE DEEMED TO BE BEER,  
12 CIDER OR A WINE PRODUCT.

13 S 3. Section 17 of the alcoholic beverage control law is amended by  
14 adding a new subdivision 15 to read as follows:

15 15. TO ESTABLISH RULES AND REGULATIONS FURTHER DEFINING THE TERM  
16 "FLAVORED MALT BEVERAGE" IN ACCORDANCE WITH SUBDIVISION TWELVE-C OF  
17 SECTION THREE OF THIS CHAPTER. SUCH RULES AND REGULATIONS SHALL EXCLUDE  
18 FROM SUCH TERM THOSE TRADITIONALLY BREWED BEERS AND MALT LIQUORS WHICH  
19 HAVE SMALL AMOUNTS OF FRUIT, FRUIT JUICE, FRUIT FLAVOR OR OTHER NATURAL  
20 HERBS OR SPICES ADDED DURING THE FERMENTATION PROCESS. HOWEVER, THE  
21 AUTHORITY SHALL INCLUDE WITHIN SUCH TERM THOSE ALCOHOLIC BEVERAGES WHICH  
22 CONTAIN FLAVORS OR CONSIST OF COLORS OR SWEETNESS LEVELS THAT WOULD  
23 APPEAL TO PERSONS UNDER THE AGE OF TWENTY-ONE YEARS.

24 S 4. This act shall take effect on the one hundred eightieth day after  
25 it shall have become a law; provided that the provisions of this act  
26 shall not apply to any retail sale of an alcoholic beverage which is  
27 received by a person licensed to sell alcoholic beverages for on-premis-  
28 es or off-premises consumption, within sixty days of the date this act  
29 shall have become a law. Effective immediately, the state liquor author-  
30 ity is authorized to amend, add and/or repeal any rules and regulations  
31 necessary to implement the provisions of this act on or before its  
32 effective date.