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

3889

2011-2012 Regular Sessions

I N S E N A T E

March 8, 2011

Introduced by Sens. KLEIN, ESPAILLAT -- 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 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. Subdivision 3 of section 3 of the alcoholic beverage control law is amended and a new subdivision 7-c is added to read as follows:

3. "Beer" means and includes any fermented beverages of any name or description manufactured from malt, wholly or in part, or from any substitute therefor; PROVIDED, HOWEVER, THAT SUCH TERM SHALL NOT INCLUDE ANY CAFFEINATED OR STIMULANT-ENHANCED ALCOHOLIC BEVERAGE THAT CONTAINS MORE THAN FIVE PER CENTUM OF ALCOHOL BY VOLUME, IN COMBINATION WITH MORE THAN SIX MILLIGRAMS PER OUNCE OF CAFFEINE OR ANY OTHER STIMULANT, INCLUDING, BUT NOT LIMITED TO, GUARANA, GINSENG, TAURINE OR WORMWOOD OIL, THAT HAS AN EQUIVALENT EFFECT AS SUCH QUANTITY OF CAFFEINE.

7-C. "CAFFEINATED OR STIMULANT-ENHANCED ALCOHOLIC BEVERAGE" MEANS AND INCLUDES ANY ALCOHOLIC BEVERAGE OF ANY NAME OR DESCRIPTION THAT IS MANUFACTURED FROM MALT, WHOLLY OR IN PART, OR FROM ANY SUBSTITUTE THEREFOR INCLUDING, BUT NOT LIMITED TO, LIQUOR, SPIRITS OR WINE; AND CONTAINING MORE THAN FIVE PER CENTUM AND NOT MORE THAN FIFTEEN PER CENTUM ALCOHOL BY VOLUME, IN COMBINATION WITH MORE THAN SIX MILLIGRAMS PER OUNCE OF CAFFEINE OR ANY OTHER STIMULANT, INCLUDING, BUT NOT LIMITED TO GUARANA, GINSENG, TAURINE OR WORMWOOD OIL, THAT HAS AN EQUIVALENT EFFECT AS SUCH QUANTITY OF CAFFEINE. FOR THE PURPOSES OF THIS CHAPTER, CAFFEINATED OR STIMULANT-ENHANCED BEVERAGES SHALL NOT BE CONSIDERED BEER OR WINE PRODUCT.

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

LBD05014-01-1

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

8. NO 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 TO ANY OTHER PERSON.

S 3. This act shall take effect on the two hundred seventieth day after it shall have become a law; provided that the provisions of this act shall not apply to any retail sale of an alcoholic beverage which is received by a person licensed to sell alcoholic beverages for on-premises or off-premises consumption within sixty days of the date this act shall have become a law. 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.