

4221

2011-2012 Regular Sessions

I N S E N A T E

March 23, 2011

Introduced by Sen. KLEIN -- 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 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 description manufactured from malt, wholly or in part, or from any substitute therefor AND SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL NATURALLY FERMENTED OR TRADITIONALLY BREWED BEERS, SUCH AS ALES, BITTERS, BROWNS, LAGERS, PORTERS, STOUTS, SEASONAL BEERS, WHEAT BEERS OR OTHER SPECIALTY BEERS. SUCH TERM SHALL NOT INCLUDE FLAVORED MALT BEVERAGES.
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10 19. "Liquor" means and includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing; PROVIDED, FURTHER, THAT, SOLELY FOR THE PURPOSES OF THE DISTRIBUTION, AND WHOLESALE AND RETAIL SALE THEREOF, SHALL INCLUDE FLAVORED MALT BEVERAGES.
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16 S 2. Subdivision 12-c of section 3 of the alcoholic beverage control law, as renumbered by chapter 366 of the laws of 1992, is renumbered subdivision 12-d and a new subdivision 12-c is added to read as follows:
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19 12-C. "FLAVORED MALT 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, SPIRIT OR WINE; AND CONTAINING MORE THAN SIX PER CENTUM ALCOHOL BY VOLUME AND MORE THAN ONE PER CENTUM SUGAR BY VOLUME WHICH IS MANUFACTURED

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

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TURED WITH THE ADDITION OF FLAVORINGS OR OTHER INGREDIENTS INCLUDING, BUT NOT NOT LIMITED TO, FRUIT, FRUIT JUICE OR FRUIT FLAVOR, OR HERBS, NUTS OR SPICES (INCLUDING, BUT NOT LIMITED TO, CHOCOLATE, LICORICE OR VANILLA, OR STIMULANTS (INCLUDING, BUT NOT LIMITED TO, CAFFEINE, GUARANA, GINSING, TAURINE OR WORMWOOD OIL). THE AUTHORITY MAY, PURSUANT TO SUBDIVISION FIFTEEN OF SECTION SEVENTEEN OF THIS CHAPTER, FURTHER DEFINE THOSE ALCOHOLIC BEVERAGES THAT SHALL BE INCLUDED WITHIN SUCH TERM. PROVIDED THAT, FLAVORED MALT BEVERAGES SHALL NOT BE DEEMED TO BE BEER, CIDER OR A WINE PRODUCT.

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

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

S 4. 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 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.