

4221--A

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 -- 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 description manufactured from malt, wholly or in part, or from any substitute therefor AND SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL
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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
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12-C. "FLAVORED MALT BEVERAGE" MEANS AND INCLUDES ANY ALCOHOLIC BEVERAGE 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.