

9633

I N A S S E M B L Y

May 13, 2014

Introduced by M. of A. GLICK -- read once and referred to the Committee
on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to
prohibiting the sale of powdered alcohol and prohibiting the
possession of powdered distilled alcohol by persons under the age of
twenty-one

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

1 Section 1. The alcoholic beverage control law is amended by adding a
2 new section 117-c to read as follows:

3 S 117-C. SALE OF POWDERED DISTILLED ALCOHOL PROHIBITED. 1. NO PERSON,
4 CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY SHALL KNOWINGLY
5 SELL OR OFFER FOR SALE POWDERED DISTILLED ALCOHOL.

6 2. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE AN OFFENSE
7 PUNISHABLE BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS. A VIOLATION
8 OF THE PROVISIONS OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY CONVICTED
9 OF SUCH AN OFFENSE WITHIN THE PREVIOUS FIVE YEARS SHALL BE A CLASS B
10 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS.

11 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE AUTHORI-
12 TY FROM INSTITUTING PROCEEDINGS TO SUSPEND, CANCEL, OR REVOKE A LICENSE
13 AS PROVIDED IN SECTION SEVENTEEN OF THIS CHAPTER.

14 S 2. Section 65-c of the alcoholic beverage control law, as added by
15 chapter 592 of the laws of 1989, subdivision 3 as amended by chapter 137
16 of the laws of 2001, is amended to read as follows:

17 S 65-c. Unlawful possession of an alcoholic beverage OR POWDERED
18 DISTILLED ALCOHOL with the intent to consume by persons under the age of
19 twenty-one years. 1. Except as hereinafter provided, no person under the
20 age of twenty-one years shall possess any alcoholic beverage, as defined
21 in this chapter, OR POWDERED DISTILLED ALCOHOL with the intent to
22 consume such beverage OR POWDERED DISTILLED ALCOHOL.

23 2. A person under the age of twenty-one years may possess any alcohol-
24 ic beverage with intent to consume if the alcoholic beverage is given:

25 (a) to a person who is a student in a curriculum licensed or regis-
26 tered by the state education department and the student is required to

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

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1 taste or imbibe alcoholic beverages in courses which are a part of the
2 required curriculum, provided such alcoholic beverages are used only for
3 instructional purposes during class conducted pursuant to such curric-
4 ulum; or

5 (b) to the person under twenty-one years of age by that person's
6 parent or guardian.

7 3. Any person who unlawfully possesses an alcoholic beverage OR
8 POWDERED DISTILLED ALCOHOL with intent to consume may be summoned before
9 and examined by a court having jurisdiction of that charge; provided,
10 however, that nothing contained herein shall authorize, or be construed
11 to authorize, a peace officer as defined in subdivision thirty-three of
12 section 1.20 of the criminal procedure law or a police officer as
13 defined in subdivision thirty-four of section 1.20 of such law to arrest
14 a person who unlawfully possesses an alcoholic beverage OR POWDERED
15 DISTILLED ALCOHOL with intent to consume. If a determination is made
16 sustaining such charge the court may impose a fine not exceeding fifty
17 dollars and/or completion of an alcohol awareness program established
18 pursuant to section 19.25 of the mental hygiene law and/or an appropri-
19 ate amount of community service not to exceed thirty hours.

20 4. No such determination shall operate as a disqualification of any
21 such person subsequently to hold public office, public employment, or as
22 a forfeiture of any right or privilege or to receive any license granted
23 by public authority; and no such person shall be denominated a criminal
24 by reason of such determination, nor shall such determination be deemed
25 a conviction.

26 5. Whenever a peace officer as defined in subdivision thirty-three of
27 section 1.20 of the criminal procedure law or police officer as defined
28 in subdivision thirty-four of section 1.20 of the criminal procedure law
29 shall observe a person under twenty-one years of age openly in
30 possession of an alcoholic beverage as defined in this chapter, OR
31 POWDERED DISTILLED ALCOHOL with the intent to consume such beverage OR
32 POWDERED DISTILLED ALCOHOL in violation of this section, said officer
33 may seize the beverage OR POWDERED DISTILLED ALCOHOL, and shall deliver
34 it to the custody of his or her department.

35 6. Any alcoholic beverage OR POWDERED DISTILLED ALCOHOL seized in
36 violation of this section is hereby declared a nuisance. The official to
37 whom the beverage OR POWDERED DISTILLED ALCOHOL has been delivered
38 shall, no earlier than three days following the return date for initial
39 appearance on the summons, dispose of or destroy the alcoholic beverage
40 OR POWDERED DISTILLED ALCOHOL seized or cause it to be disposed of or
41 destroyed. Any person claiming ownership of an alcoholic beverage OR
42 POWDERED DISTILLED ALCOHOL seized under this section may, on the initial
43 return date of the summons or earlier on five days notice to the offi-
44 cial or department in possession of the beverage OR POWDERED DISTILLED
45 ALCOHOL, apply to the court for an order preventing the destruction or
46 disposal of the alcoholic beverage OR POWDERED DISTILLED ALCOHOL seized
47 and ordering the return of that beverage OR POWDERED DISTILLED ALCOHOL.
48 The court may order the beverage OR POWDERED DISTILLED ALCOHOL returned
49 if it is determined that return of the beverage OR POWDERED DISTILLED
50 ALCOHOL would be in the interest of justice or that the beverage OR
51 POWDERED DISTILLED ALCOHOL was improperly seized.

52 S 3. This act shall take effect immediately.