

AMENDED IN ASSEMBLY JUNE 6, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

AMENDED IN ASSEMBLY APRIL 18, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 346**

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**Introduced by Assembly Members Beall and Saldana**

February 14, 2007

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An act to add Section 25205 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 346, as amended, Beall. Alcoholic beverages: labels.

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for specified labeling requirements for containers of alcoholic beverages sold within this state, as provided.

This bill would require the Department of Alcoholic Beverage Control to promulgate regulations, on or before July 1, 2008, to require that any alcoholic beverage container, *represented by the manufacturer to be a malt beverage, sold for consumption* within this state to bear a label *or a firmly affixed sticker, under specified circumstances*, that includes specified information regarding its alcohol content and its status as an alcoholic beverage, if the department determines that the *malt beverage container can be visually confused with a container may be mistaken by a reasonable person, using objective evidence*, for a beverage that

does not contain alcohol. This bill also makes findings and declarations with regard to the need for these labeling requirements.

The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified. This bill, by creating a new crime, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Many alcoholic beverages currently available in California
- 4 are packaged and labeled in a manner that is similar to packaging
- 5 and labels used for nonalcoholic beverages and products like energy
- 6 drinks, colas, sodas, fruit drinks, and gelatins.
- 7 (b) This packaging and labeling practice has the potential for
- 8 confusing underage youth, parents, teachers, law enforcement
- 9 personnel, retail employers that sell alcoholic beverages, and other
- 10 members of the public regarding the alcoholic content of these
- 11 beverages.
- 12 (c) Ensuring that underage youth, parents, teachers, law
- 13 enforcement personnel, retail employees that sell alcoholic
- 14 beverages, and other members of the public are able to readily
- 15 discern the fact that a particular product contains alcohol and the
- 16 amount of alcohol the beverage contains is a high priority for
- 17 California. California currently regulates information, including
- 18 information regarding the contents of the container, located on
- 19 containers of alcoholic beverages sold within the state.
- 20 (d) The purpose of Section 25205 of the Business and
- 21 Professions Code is to provide additional consumer information
- 22 regarding the alcohol content on the container of specified alcoholic
- 23 beverages as a means to reduce potential consumer confusion and
- 24 is not intended to provide health information or a warning.

1 SEC. 2. Section 25205 is added to the Business and Professions  
2 Code, to read:

3 25205. (a) On or before July 1, 2008, the department shall  
4 promulgate regulations requiring the container of any beverage,  
5 represented by the manufacturer to be ~~beer or~~ a malt beverage,  
6 that is sold *for consumption* within this state to bear a distinctive,  
7 uniform, and prominently displayed label, as specified in  
8 subdivision (c), if the department determines that the container  
9 ~~design results in visual confusion between beverages that contain~~  
10 ~~alcohol and those that do not.~~ *may be mistaken by a reasonable*  
11 *person using objective evidence to be nonalcoholic beverage*  
12 *products like energy drinks, colas, sodas, fruit drinks, and gelatins.*

13 (b) *A beverage product that is represented by the manufacturer*  
14 *to be a traditionally brewed beer like an ale, porter, pilsner, brown,*  
15 *stout, or lager is exempt from this section.*

16 ~~(b)~~

17 (c) If the department determines that the container is designed  
18 in such a way that results in visual confusion ~~between beverages~~  
19 ~~that contain alcohol and those that do not contain alcohol~~ *pursuant*  
20 *to subdivision (a), the department shall allow the manufacturer the*  
21 *opportunity to redesign the container in a way that is not visually*  
22 *confusing rather than using the label or firmly affixed sticker*  
23 *required by subdivision ~~(e)~~ (d).*

24 ~~(e)~~

25 (d) (1) If the manufacturer chooses not to redesign the container  
26 in a way that ~~is not visually confusing~~ *may not be mistaken by a*  
27 *reasonable person using objective evidence, the container shall*  
28 *bear a distinctive label or a firmly affixed sticker to be applied by*  
29 *the manufacturer prior to delivery to the wholesaler, unless the*  
30 *product is already in the wholesaler's possession containing the*  
31 *following information:*

32 (A) The alcohol content of the product.

33 (B) The phrase "Attention: Contains Alcohol."

34 (2) The size, format, form, and placement of the label or labels  
35 shall be determined by the department.

36 ~~(d)~~

37 (e) Nothing in this section shall be construed to permit the  
38 classification of any product in a manner that is inconsistent with  
39 the definitions of beer, wine, and distilled spirits set forth in  
40 Chapter 1 (commencing with Section 23000) of this division.

1     SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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