

AMENDED IN SENATE JULY 3, 2007
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

Introduced by Assembly Members Beall and Saldana

February 14, 2007

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, *using objective evidence*, that the malt beverage 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 a malt beverage, that is sold
6 for consumption within this state to bear a distinctive, uniform,
7 and prominently displayed label *or firmly affixed sticker*, as
8 specified in subdivision (c), if the department determines, *using*
9 *objective evidence*, that the container design may be mistaken by
10 a reasonable person ~~using objective evidence~~ to be nonalcoholic
11 beverage products like energy drinks, colas, sodas, fruit drinks,
12 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 (c) If the department determines, *using objective evidence*, that
17 the container is designed in such a way that results in visual
18 confusion pursuant to subdivision (a), the department shall allow
19 the manufacturer the opportunity to redesign the container in a
20 way that is not visually confusing rather than using the label or
21 firmly affixed sticker required by subdivision (d).

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

28 (A) The alcohol content of the product.

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

30 (2) The size, format, form, and placement of the label ~~or labels~~,
31 *labels, or stickers* shall be determined by the department.

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

36 SEC. 3. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

- 1 for a crime or infraction, within the meaning of Section 17556 of
- 2 the Government Code, or changes the definition of a crime within
- 3 the meaning of Section 6 of Article XIII B of the California
- 4 Constitution.

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