

AMENDED IN ASSEMBLY MARCH 2, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1598

Introduced by Assembly Member Beall
(Coauthor: Assembly Member Saldana)
(Coauthors: Senators Alquist and DeSaulnier)

January 4, 2010

An act to add Section 25622 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1598, as amended, Beall. Alcoholic beverages: caffeinated malt beverages.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control.

This bill would prohibit the import, production, manufacture, distribution, or sale of caffeinated malt beverages, as defined, at retail locations within the state. This bill would ~~also provide that a person that violates this prohibition is guilty of an infraction and would provide~~ for either the imposition of a monetary fine or suspension of the licensee's license for first and 2nd violations of this prohibition and for revocation of the licensee's license for a 3rd violation.

~~By creating a new crime, this bill 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.~~

This bill would delay the operative date of this prohibition until 6 months from the bill’s effective date.

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

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) The 21st Amendment to the United States Constitution grants
4 states the authority to regulate the sale and distribution of alcoholic
5 beverages.

6 (b) Alcohol is a leading cause of death and injury, from impaired
7 driving to violence, sexual assault, and suicide, and contributes to
8 family and community disruption and poor school performance,
9 among other things.

10 (c) Combining alcohol with caffeine and other stimulants does
11 not ameliorate alcohol’s negative effects on one’s motor
12 coordination and visual reaction times.

13 (d) Adding caffeine and other stimulants to alcohol is potentially
14 harmful because these additives may impair one’s ability to judge
15 his or her own level of intoxication as well as the ability to judge
16 the level of intoxication in someone else. This may result in
17 increased alcohol consumption and can lead drinkers to wrongly
18 conclude that they are capable of engaging in risky and potentially
19 dangerous activities, like operating a motor vehicle or engaging
20 in risky sexual behavior.

21 (e) Young people are particularly vulnerable to increased
22 problems associated with the use of these products as they are
23 more likely to misjudge their own intoxication level, more likely
24 to take risks than adults, and more likely to suffer from high rates
25 of alcohol problems, including alcohol-related traffic accidents,
26 violence, sexual assault, and suicide.

27 (f) The marketing of malt beverage products containing caffeine
28 and other stimulants associates the products with nonalcoholic
29 energy drinks and other soft drinks through the use of containers
30 with similar sizes, shapes, and graphics. These similarities create
31 the potential for confusion among adult and youth consumers,

1 retailers, parents, law enforcement officers, and others regarding
2 the alcohol content of a particular product.

3 (g) The marketing of malt beverage products containing caffeine
4 and other stimulants appears to be directed primarily at young
5 people through the use of nontraditional marketing campaigns,
6 including interacting with consumers through social networking
7 sites like MySpace and Facebook and product giveaways at events
8 during spring break or extreme sports venues.

9 (h) The combination of stimulants and depressants may place
10 undue strain on the heart and central nervous system.

11 (i) The overuse of caffeine can result in acute overdoses that
12 can cause health problems including anxiety, heart palpitation,
13 mania, depression, lapses of judgment, and, in extreme cases,
14 death.

15 (j) The marketing messages of malt beverage products
16 containing caffeine and other stimulants imply that they have
17 energizing effects and fail to disclose to consumers the adverse
18 effects and consequences associated with their consumption.

19 SEC. 2. Section 25622 is added to the Business and Professions
20 Code, to read:

21 25622. (a) Beginning on and after six months from the
22 effective date of this section, caffeinated malt beverages shall not
23 be imported into this state, produced, manufactured, or distributed
24 within this state, or sold by a licensed retailer within this state.

25 (b) For purposes of this section, “caffeinated malt beverage”
26 means a beverage for which the producer is required to file a
27 formula for approval with the United States Alcohol and Tobacco
28 Trade and Tax Bureau pursuant to Section 25.55 of Title 27 of the
29 Code of Federal Regulations, that is not exempt under subdivision
30 (f) thereof, and is either of the following:

31 (1) A beverage containing at least 0.5 percent alcohol by volume
32 that is produced by a brewer, as defined in Section 5092 of Title
33 26 of the United States Code, to which is added or infused caffeine
34 or other stimulants, alone or in combination, including, but not
35 limited to, guarana, ginseng, and taurine.

36 (2) A beverage containing at least 0.5 percent alcohol by volume
37 that is treated by processing, filtration, or another method of
38 manufacture that is not generally recognized as a traditional process
39 in the production of beer, as described in Section 25.55 of Title
40 27 of the Code of Federal Regulations, to which is added a flavor

1 or other ingredient containing alcohol, except for a hop extract,
2 and caffeine or other stimulants, alone or in combination, including,
3 but not limited to, guarana, ginseng, and taurine.

4 ~~(e) Any person that violates this section is guilty of an infraction.~~

5 (c) (1) The department shall, for a first violation of subdivision
6 (a), either impose a monetary penalty of not more than one
7 thousand dollars (\$1,000) or suspend the license of the licensee.
8 The department shall, for a second violation of subdivision (a),
9 either impose a monetary penalty of not more than five thousand
10 dollars (\$5,000) or suspend the license of a licensee. The
11 department shall, for a third violation of subdivision (a), revoke
12 the license of the licensee. Any monetary penalty imposed under
13 this section shall be deposited in the Alcoholic Beverage Control
14 Fund, for allocation as set forth in subdivision (d) of Section 25761.

15 (2) *The penalties imposed by this subdivision for a violation of*
16 *subdivision (a) preclude prosecution under any other provision of*
17 *law.*

18 (d) The department may promulgate rules and regulations to
19 effectuate the purposes of this law.

20 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
21 ~~Section 6 of Article XIII B of the California Constitution because~~
22 ~~the only costs that may be incurred by a local agency or school~~
23 ~~district will be incurred because this act creates a new crime or~~
24 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
25 ~~for a crime or infraction, within the meaning of Section 17556 of~~
26 ~~the Government Code, or changes the definition of a crime within~~
27 ~~the meaning of Section 6 of Article XIII B of the California~~
28 ~~Constitution.~~