

ASSEMBLY, No. 3402

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED OCTOBER 18, 2010

Sponsored by:

**Assemblywoman MARY PAT ANGELINI
District 11 (Monmouth)**

Co-Sponsored by:

Assemblyman Giblin

SYNOPSIS

Prohibits sale of alcoholic energy drinks.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2010)

1 AN ACT concerning alcoholic energy drinks, amending R.S.33:1-1
2 and supplementing Title 33 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. R.S.33:1-1 is amended to read as follows:

8 33:1-1. For the purpose of this chapter, the following words and
9 terms shall be deemed to have the meanings herein given to them:

10 a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral
11 spirits from whatever source or by whatever process produced.

12 b. "Alcoholic beverage." Any fluid or solid capable of being
13 converted into a fluid, suitable for human consumption, and having
14 an alcohol content of more than one-half of one per centum (1/2 of
15 1%) by volume, including alcohol, beer, lager beer, ale, porter,
16 naturally fermented wine, treated wine, blended wine, fortified
17 wine, sparkling wine, distilled liquors, blended distilled liquors and
18 any brewed, fermented or distilled liquors fit for use for beverage
19 purposes or any mixture of the same, and fruit juices.

20 c. "Building." A structure of which licensed premises are or
21 may be a part, including all rooms, cellars, outbuildings,
22 passageways, closets, vaults, yards, attics, and every part of the
23 structure of which the licensed premises are a part, and of any other
24 structure to which there is a common means of access, and any
25 other appurtenances.

26 d. "Commissioner." The Director of the Division of Alcoholic
27 Beverage Control.

28 e. "Container." Any glass, can, bottle, vessel or receptacle of
29 any material whatsoever used for holding alcoholic beverages,
30 which container is covered, corked or sealed in any manner
31 whatsoever.

32 f. "Eligible." The status of a person who is a citizen of the
33 United States, a resident of this State, of good moral character and
34 repute, and of legal age.

35 g. "Governing board or body." The board or body which
36 governs a municipality, including a board of aldermen in
37 municipalities so governed; but in every municipality having a
38 board of public works which exercises general licensing powers
39 such board shall be considered as the governing board or body.

40 h. "Importing." The act of bringing or causing to be brought
41 any alcoholic beverage into this State.

42 i. "Illicit beverage." Any alcoholic beverage manufactured,
43 distributed, bought, sold, bottled, rectified, blended, treated,
44 fortified, mixed, processed, warehoused, possessed or transported in
45 violation of this chapter, or on which any federal tax or tax imposed

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 by the laws of this State has not been paid; and any alcoholic
2 beverage possessed, kept, stored, owned or imported with intent to
3 manufacture, sell, distribute, bottle, rectify, blend, treat, fortify,
4 mix, process, warehouse or transport in violation of the provisions
5 of this chapter.

6 j. "Licensed building." Any building containing licensed
7 premises.

8 k. "Licensed premises." Any premises for which a license
9 under this chapter is in force and effect.

10 l. "Magistrate." The Superior Court or municipal court.

11 m. "Manufacturer." Any person who, directly or indirectly,
12 personally or through any agency whatsoever, engages in the
13 making or other processing whatsoever of alcoholic beverages.

14 n. "Municipality." Any city, town, township, village, or
15 borough, including a municipality governed by a board of
16 commissioners or improvement commission, but excluding a
17 county.

18 o. "Municipal board." The municipal board of alcoholic
19 beverage control as established by this chapter.

20 p. "Officer." Any sheriff, deputy sheriff, constable, police
21 officer, member of the Division of State Police, or any other person
22 having the power to execute a warrant for arrest, or any inspector or
23 investigator of the Division of Alcoholic Beverage Control.

24 q. "Original container." Any container in which an alcoholic
25 beverage has been delivered to a retail licensee.

26 r. "Person." Any natural person or association of natural
27 persons, association, trust company, partnership, corporation,
28 organization, or the manager, agent, servant, officer, or employee of
29 any of them.

30 s. "Premises." The physical place at which a licensee is or may
31 be licensed to conduct and carry on the manufacture, distribution or
32 sale of alcoholic beverages, but not including vehicular
33 transportation.

34 t. "Restaurant." An establishment regularly and principally
35 used for the purpose of providing meals to the public, having an
36 adequate kitchen and dining room equipped for the preparing,
37 cooking and serving of food for its customers and in which no other
38 business, except such as is incidental to such establishment, is
39 conducted.

40 u. "Retailer." Any person who sells alcoholic beverages to
41 consumers.

42 v. "Rules and regulations." The rules and regulations
43 established from time to time by the director.

44 w. "Sale." Every delivery of an alcoholic beverage otherwise
45 than by purely gratuitous title, including deliveries from without
46 this State and deliveries by any person without this State intended
47 for shipment by carrier or otherwise into this State and brought
48 within this State, or the solicitation or acceptance of an order for an

A3402 ANGELINI

1 alcoholic beverage, and including exchange, barter, traffic in,
2 keeping and exposing for sale, serving with meals, delivering for
3 value, peddling, possessing with intent to sell, and the gratuitous
4 delivery or gift of any alcoholic beverage by any licensee.

5 x. "Unlawful alcoholic beverage activity." The manufacture,
6 sale, distribution, bottling, rectifying, blending, treating, fortifying,
7 mixing, processing, warehousing or transportation of any alcoholic
8 beverage in violation of this chapter, or the importing, owning,
9 possessing, keeping or storing in this State of alcoholic beverages
10 with intent to manufacture, sell, distribute, bottle, rectify, blend,
11 treat, fortify, mix, process, warehouse or transport alcoholic
12 beverages in violation of this chapter, or the owning, possessing,
13 keeping or storing in this State of any implement or paraphernalia
14 for the manufacture, sale, distribution, bottling, rectifying, blending,
15 treating, fortifying, mixing, processing, warehousing or
16 transportation of alcoholic beverages with intent to use the same in
17 the manufacture, sale, distribution, bottling, rectifying, blending,
18 treating, fortifying, mixing, processing, warehousing or
19 transportation of alcoholic beverages in violation of this chapter, or
20 to aid or abet another in the manufacture, sale, distribution, bottling,
21 rectifying, blending, treating, fortifying, mixing, processing,
22 warehousing or transportation of alcoholic beverages in violation of
23 this chapter, or the aiding or abetting of another in any of the
24 foregoing activities.

25 y. "Unlawful property." All illicit beverages and all
26 implements, vehicles, vessels, airplanes, and paraphernalia for the
27 manufacture, sale, distribution, bottling, rectifying, blending,
28 treating, fortifying, mixing, processing, warehousing or
29 transportation of illicit beverages used in the manufacture, sale,
30 distribution, bottling, rectifying, blending, treating, fortifying,
31 mixing, processing, warehousing or transportation of illicit
32 beverages or owned, possessed, kept or stored with intent to use the
33 same in the manufacture, sale, distribution, bottling, rectifying,
34 blending, treating, fortifying, mixing, processing, warehousing or
35 transportation of illicit beverages, whether such use be by the
36 person owning, possessing, keeping, or storing the same, or by
37 another with the consent of such person; and all alcoholic
38 beverages, fixtures and personal property located in or upon any
39 premises, building, yard or inclosure connected with a building, in
40 which an illicit beverage is found, possessed, stored or kept.

41 z. "Wholesaler." Any person who sells an alcoholic beverage
42 for the purpose of resale either to a licensed wholesaler or to a
43 licensed retailer, or both.

44 aa. "Limousine." A motor vehicle used in the business of
45 carrying passengers for hire to provide prearranged passenger
46 transportation at a premium fare on a dedicated, nonscheduled,
47 charter basis that is not conducted on a regular route, or is furnished
48 without fare as an accommodation for a patron in connection with

1 other business purposes, and with a seating capacity in no event of
2 more than 14 passengers, not including the driver, provided, that
3 such a motor vehicle shall not have a seating capacity in excess of
4 four passengers, not including the driver, beyond the maximum
5 passenger seating capacity of the vehicle, not including the driver,
6 at the time of manufacture. This shall not include taxicabs, hotel or
7 airport shuttles and buses, buses employed solely in transporting
8 school children or teachers to and from school, vehicles owned and
9 operated directly or indirectly by businesses engaged in the practice
10 of mortuary science when those vehicles are used exclusively for
11 providing transportation related to the provision of funeral services
12 or vehicles owned and operated without charge or remuneration by
13 a business entity for its own purposes.

14 bb. "Entertainment facility" is a privately-owned facility in
15 which athletic, commercial, cultural, or artistic events are featured.

16 cc. "Alcoholic energy drink" is any prepackaged alcoholic
17 beverage that has been intentionally supplemented by the
18 manufacturer with caffeine.

19 Any definition herein contained shall apply to the same word in
20 any form. Thus "sell" means to make a "sale" as above defined.

21 (cf: P.L.2001, c.416, s.1)

22

23 2. (New section) No holder of a license issued pursuant to
24 R.S.33:1-11 or R.S.33:1-12 shall knowingly sell, or offer for sale
25 any alcoholic energy drink. A person who violates the provisions of
26 this section shall be liable to a civil penalty of not less than \$250 for
27 the first violation, not less than \$500 for the second violation, and
28 not less than \$1,000 for the third and each subsequent violation.
29 The civil penalty shall be collected pursuant to the "Penalty
30 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
31 in a summary proceeding before the municipal court having
32 jurisdiction.

33

34 3. This act shall take effect on the first day of the fourth month
35 following enactment.

36

37

38

STATEMENT

39

40 This bill would prohibit holders of liquor licenses in this State
41 from selling alcoholic energy drinks. An alcoholic energy drink is
42 defined in the bill as any prepackaged alcoholic beverage that has
43 been intentionally supplemented by the manufacturer with caffeine.

44 Recently, there has been an increase in the prevalence of these
45 drinks. Because the caffeine makes a person feel more alert, they
46 may be less aware of the effects of the alcohol and may be more
47 likely to engage in dangerous behavior.

A3402 ANGELINI

6

1 The penalty for selling an alcoholic energy drink under the bill
2 would be not less than \$250 for the first violation, not less than
3 \$500 for the second violation, and not less than \$1,000 for the third
4 and any subsequent violation.