

SECOND REGULAR SESSION

HOUSE BILL NO. 1185

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BERRY.

4163H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 311, RSMo, by adding thereto one new section relating to caffeinated malt beverages, with an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 311, RSMo, is amended by adding thereto one new section, to be known as section 311.900, to read as follows:

311.900. 1. As used in this section, "caffeinated malt beverage" means:

(1) A beverage:

(a) Containing at least one-half percent alcohol by volume;

(b) Produced by a brewer as defined in 26 U.S.C. Section 5052;

(c) To which is added or infused with caffeine or other stimulants, including, but not limited to, guarana, ginseng, and taurine;

(d) Sold in a pre-mixed container, including bottles, cans, or other receptacles; or

(2) A beverage:

(a) Containing at least one-half percent alcohol by volume;

(b) That is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 CFR 25.55;

(c) To which is added a flavor or other ingredient containing alcohol, except for a hop extract;

(d) To which is added caffeine or other stimulants, including, but not limited to, guarana, ginseng, and taurine; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (e) Either for which the producer is required to file a formula for approval with the
18 United States Alcohol and Tobacco Trade and Tax Bureau under 27 CFR 25.55 or that is
19 not exempt under 27 CFR 25.55(f).

20 2. No caffeinated malt beverage shall be imported, produced, manufactured,
21 distributed, or sold at any retail outlet in this state.

22 3. (1) The division of alcohol and tobacco control shall administer and enforce the
23 provisions of this section and shall promulgate regulations as necessary to ensure effective
24 administration and enforcement.

25 (2) Any rule or portion of a rule, as that term is defined in section 536.010, that is
26 created under the authority delegated in this section shall become effective only if it
27 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
28 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
29 vested with the general assembly under chapter 536 to review, to delay the effective date,
30 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
31 of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be
32 invalid and void.

33 4. Any person or business entity that violates any provisions of this section shall be
34 guilty of an infraction and, upon a finding of such violation by the division of alcohol and
35 tobacco control, shall be subject to administrative assessment of civil penalties.

36 5. Any licensee or person upon whom a penalty is imposed under subsection 4 of
37 this section shall have the right to appeal the imposition of such penalty.

38 6. This section does not prohibit local cities and counties from enacting any
39 regulation of the sale of alcoholic beverages containing stimulants or mixed with energy
40 drinks that is more restrictive than those contained in the provisions of this section. No city
41 or county may permit the sale of beverages prohibited in subsection 2 of this section.

 Section B. The provisions of section A of this act shall become effective on January 1,
2 2015.

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