



NEW YORK STATE SENATOR

Jeffrey D. Klein

Senate Passes Klein's Legislation to Ban Caffeinated Alcoholic Beverages

JEFFREY D. KLEIN June 5, 2011

| COMMITTEE: **ALCOHOLISM AND SUBSTANCE USE DISORDERS**



The State Senate today passed legislation by Senator Jeffrey D. Klein, (Bronx/ Westchester), that would have New York formally ban the sale of caffeinated alcoholic beverages.

The legislation, (S.3889A), was introduced last year as a response to the public health danger posed by Four Loko and similar super-sweetened beverages that mixed high levels of alcohol with caffeine and other stimulants. Under this measure, selling this product would be an E felony punishable by 1 to 3 years in prison.

The FDA last November warned that the addition of caffeine to high alcohol flavored malt beverages was an “unsafe food additive.” As a result, the four companies that manufactured these caffeinated alcoholic beverages agreed to stop selling them in New York. However, Phusion Projects, the makers of Four Loko, said it would seek to resume these sales if “emerging science, regulatory developments or other relevant changes in circumstances arise,” or if other companies start to sell similar caffeinated alcoholic beverages.

“Once and for all we need to shut the door on this dangerous project in New York,” said Senator Klein. “While this agreement succeeded in getting these caffeinated alcopops off the shelves, we need to make sure this ban is permanent, binding, and continues to keep these products out of the reach of minors.”

Senator Klein, who is chairman of the Senate Standing Committee on Alcoholism and Drug Abuse, has an active inquiry into alcopops (both the caffeinated flavored malt beverages and the caffeine-less high alcohol versions that replaced them) and their availability to minors.

Research has shown that these high alcohol flavored malt beverages (FMBs), are most popular with underage drinkers. According to the Johns Hopkins Center on Alcohol Marketing and Youth, which submitted testimony to an April committee hearing on this topic:

- 78% of current 8th grade drinkers drank FMBs in the past 30 days;
- 71% of current 10th grade drinkers drank FMBs in the past 30 days;
- 65% of current 12th grade drinkers drank FMBs in the past 30 days;
- 42% of current drinkers, age 19 to 30, drank FMBs in the past 30 days.

Also, a series of March undercover sting operations by the New York Police Department, in consultation with Senator Klein's office, showed the easy availability of these products. Out of the 27 stores they surveyed, 17 of them sold an alcopop to a minor working with police.

Last week, Senator Klein announced that he was issuing a legislative subpoena to Phusion Projects, seeking information on the manufacture, distribution and marketing of Four Loko.

If made law, New York would join five other states with an outright ban of caffeinated malt beverages. The bill is pending in the Assembly.