



NEW YORK STATE SENATOR

Jeffrey D. Klein

Senate Passes Klein's Legislation to Ban Caffeinated Alcoholic Beverages

JEFFREY D. KLEIN March 2, 2012

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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 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 has deemed the addition of caffeine to high alcohol flavored malt beverages as “unsafe.” As a result, the four companies that manufactured these caffeinated alcoholic beverages agreed to stop selling them in New York.

However, during the last year, reports emerged that these products were still being sold in some New York City convenience stores. Additionally, the recent death of a 13-year-old Maryland teen who has reportedly consumed Four Loko, highlights the danger that this type of caffeinated alcopop poses.

Additionally, 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.

“It's clear that we need more than a simple gentlemen's agreement to keep these dangerous beverage off the shelves and out of the reach of minors in New York,” Senator Klein said. “My legislation will accomplish this goal and, once on for all shut the door to these products in this state.”

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 2011 committee hearing that Senator Klein, as Chairman of the Senate Alcoholism & Drug Abuse, held 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.\

A link to the report can be found here:

<http://www.nysenate.gov/files/pdfs/FMB%20Plelim%20Report%20Final.pdf>.

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.

