

SENATE BILL REPORT

SHB 2804

As of February 24, 2010

Title: An act relating to beer and caffeinated or stimulant-enhanced malt beverages.

Brief Description: Concerning beer and caffeinated or stimulant-enhanced malt beverages.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Green, Hudgins, Goodman, Conway, Chandler, Crouse, Condotta, Moeller, Miloscia, Darneille, Hunt, Kagi and McCune; by request of Liquor Control Board).

Brief History: Passed House: 2/11/10, 55-42.

Committee Activity: Labor, Commerce & Consumer Protection: 2/22/10.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Ingrid Mungia (786-7423)

Background: Several liquor licenses permit the sale of beer. Beer is any malt beverage and malt beverage is a beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than 8 percent and not less than 0.5 percent of alcohol by volume.

In September 2009 a number of state Attorneys General sent a letter to the Food and Drug Administration (FDA) expressing concerns about caffeinated alcoholic beverages. In November the FDA notified approximately 30 manufacturers of caffeinated alcoholic beverages that it intended to look into the safety and legality of their products. Under the Federal Food, Drug, and Cosmetic Act, a substance added to food is deemed unsafe and is unlawful unless: its particular use has been approved by FDA regulation, the substance is subject to a prior sanction, or the substance is generally recognized as safe.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Amendments): The sale of caffeinated or stimulant-enhanced malt beverages in the state is prohibited. Caffeinated or stimulant-enhanced malt beverage is a beverage to which is added caffeine or other stimulants including guarana, ginseng, and taurine, and contains at least 0.5 percent alcohol by volume.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The blood level of students seeking treatment from Pullman Regional Hospital that have consumed these kinds of drink is staggering. Someone is going to die because of the mixture of caffeine with these alcoholic beverages. We are concerned about these products with caffeine and alcohol because they are being marketed to students, mostly through the Internet so they can party longer. There is a distinction between what is being banned and those that are not being banned. Those with natural ingredients that are being added to give them the flavor, like chocolate, are not being banned. We are wanting to ban spirit products that have stimulants added.

Three of these beverages are equivalent to 16 Pepsi's and five shots of whisky. These products are packaged similar to soft drinks.

CON: Some alcoholic beverages on the market are less expensive than alcoholic energy drinks. Companies are complying with all state and federal laws and we do not market to minors. There are no studies that show that caffeinated alcoholic beverages are harmful to you. The ingredients are approved by the Alcohol and Tobacco Tax and Trade Bureau. The FDA study is underway and it is imperative to let them complete their analysis. We are very concerned with underage drinking. If the State Liquor Board is concerned about underage drinking and mixing energy drinks and spirits they can go after the bars because people can mix those together. A company complies with all state and federal laws and does not market to minors. This bill is unfair and arbitrary. Currently, 200 parts per million can be legally added to beer. Our industry is a beer industry, not a spirit industry. Therefore the price point is completely different from spirits or soda pop. We are in support of regulation and the responsible sale of products, but it should be done in a different manner. We should look at banning this product in Alcohol Impact Areas. If there are problems in packaging and marketing that should be taken care of. Microbreweries would like to be exempt from the bill.

OTHER: The definition of stimulant included taurine and ginseng; however, the House floor amendment took care of this concern.

Persons Testifying: PRO: Rick Garza, Liquor Control Board; William Weatherly, Pullman Police Department; Jim Cooper, Washington Association for Substance Abuse and Violence Prevention; Janelle Guthrie, AGO.

CON: Jim Halstrom, Phusion Projects; Jason Freeman, Phusion Project, LLC; Matt Dornauer, Phusion Project; Cliff Webster, Michael Michail, United Brands; John Guadnola, Washington Beer & Wine Wholesalers; TK Bentler, Washington Brewers Guild; Tim Baggs, Charge Beverage CEO.

OTHER: Jeff Gombosky, Anheuser Busch.