

CHAPTER 372
FORMERLY
HOUSE BILL NO. 372
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO CONCENTRATED ALCOHOLIC BEVERAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

WHEREAS, with the increase in binge drinking and overconsumption of alcohol, both nationally and in Delaware, new forms of alcohol consumption have occurred; and

WHEREAS, nationally, states have seen the creation of powdered alcohol, which is a powder that when reconstituted with a liquid forms an alcoholic drink; and

WHEREAS, public health professionals and state government officials have raised concerns about powdered alcohol, stating that the convenience of the packets could intentionally or unintentionally result in stronger than standard drinks and harmful overconsumption; and

WHEREAS, the American Medical Association released a June 14, 2016, press release calling for the nationwide ban of powdered alcohol; and

WHEREAS, Delaware would become the 37th state to ban powdered alcohol consumption, possession, and distribution if this Act is enacted; and

WHEREAS, banning powdered alcohol ensures a proper response to a potential public health crisis.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 101, Title 4 of the Delaware Code as follows:

§ 101. Definitions.

As used in this title, in addition to their usual meaning:

(2) "Alcoholic liquor" or "alcoholic liquors" include the 5 varieties of liquor defined in this section (alcohol, spirits, wine, beer and alcoholic cider) as well as every liquid or solid, patented or not, containing alcohol, spirits, wine, beer or alcoholic cider and capable of being consumed by a human being, and any liquid or solid containing more than 1 of the 5 varieties defined in this section is considered as belonging to that

variety which usually has the higher percentage of alcohol. "Alcoholic liquor" or "alcoholic liquors" does not include a powdered alcoholic beverage. Notwithstanding any other definition in this chapter, "alcoholic liquor" does not include solids and confections that contain 2% or less alcohol by weight, so long as the package which contains the product or any menu or other medium noticing the product for sale, if the product contains between 1/2 of 1% alcohol by volume and 2% alcohol by weight, is labeled with the word "alcoholic", the phrase "contains alcohol", or some other indication that the product contains alcohol.

(13) "Powdered alcoholic beverage" means any powders or crystals that, after being mixed with sugar, water, or any other nonalcoholic materials, ferments or otherwise becomes a wine, beer, or other alcoholic beverage.

Section 2. Amend § 903, Title 4 of the Delaware Code as follows:

§ 903. Offenses carrying penalty of fine of not more than \$100 or imprisonment for 1 month on failure to pay fine.

Whoever:

(16) Being the holder of a license to sell alcoholic liquor, fails to post in a conspicuous place a sign which clearly reads, "According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects"; or

(17) Manufactures, distributes, sells, offers for sale, possesses, purchases, or uses a powdered alcoholic beverage, shall, in addition to the payment of costs, be fined not more than \$100, and, on failure to pay such fine and costs, shall be imprisoned for 30 days. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

Approved August 10, 2018