

**DEPARTMENT OF FINANCE BILL ANALYSIS**

**AMENDMENT DATE:** June 7, 2011  
**POSITION:** Neutral

**BILL NUMBER:** SB 39  
**AUTHOR:** A. Padilla

**BILL SUMMARY: Alcoholic Beverages: Caffeinated Beer Beverages**

Under current federal law, the Treasury Department's Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for implementing and enforcing a broad range of statutory and compliance provisions and ensuring that alcohol products are created, labeled, and marketed in accordance with the Federal Alcohol Administration (FAA) Act. While TTB regulates the labeling of alcoholic beverages, the Food and Drug Administration (FDA) has the responsibility to evaluate the safety of ingredients added to alcoholic beverages, pursuant to FDA's authority under the Federal Food, Drug, and Cosmetic Act.

In November 2010, the FDA notified several manufacturers of caffeinated alcoholic beverages that the addition of caffeine to their alcoholic beverages constituted an "unsafe food additive", making those products subject to seizure under federal law.

Citing the FDA action, the California Department of Public Health (DPH) notified retailers and manufacturers that, based on the FDA findings, caffeinated alcoholic beverages are considered "adulterated food products", whose manufacture, distribution and sale is illegal under current California law.

This bill would prohibit the import, production, manufacture, distribution, or sale of caffeinated beer beverages at licensed retail locations within California.

**FISCAL SUMMARY**

The Department of Alcoholic Beverage Control (ABC) estimates costs associated with this bill to be minor and absorbable.

**COMMENTS**

Finance notes the following with regard to this bill:

- According to DPH enforcement of the ban on sales based on public health law through civil litigation could be cumbersome and time consuming. This bill would allow ABC to take immediate enforcement action against the liquor licenses of those establishments offering these beverages for sale..

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year)				Fund Code
				2011-2012	2012-2013	2013-2014	FC	
2100/Alcohol Bev	SO	No		See Fiscal Summary				3036
<u>Fund Code</u> 3036	<u>Title</u> Alcohol Beverages Control Fund							

Analyst/Principal (0762) C. Hill	Date	Program Budget Manager Mark Hill	Date
-------------------------------------	------	-------------------------------------	------

Department Deputy Director	Date
----------------------------	------

Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)

