

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: March 16, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and
Neighborhoods Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst Council File No.: 15-0002-S123
Assignment No.: 16-02-0148

SUBJECT: Resolution (Ryu – Bonin) to SUPPORT and/or SPONSOR Legislation to Prohibit
Powdered Alcohol

CLA RECOMMENDATION: Adopt Resolution (Ryu – Bonin) to include in the City's 2015-16 State Legislative Program SPONSORSHIP and SUPPORT of any legislation which would ban the manufacture, sale, transport, possession and consumption of powdered alcohol.

SUMMARY

Resolution (Ryu – Bonin), introduced on February 2, 2016, states that excessive alcohol consumption by California youths results in a variety of costs and impacts to the State and the County of Los Angeles. The Resolution states that a variety of youth-oriented flavored malt beverages, also known as alchopops, already exist on the market, and are often the first drink consumed by underage youth. The Resolution further states that powdered alcohol has a high potential to attract with its convenience, fruity flavors, and portability. According to the Resolution, this type of product will encourage excessive drinking. Since the State has the authority to ban dangerous alcoholic products, the Resolution requests the sponsorship and support of any legislation which would prohibit the manufacture, sale, transport, possession and consumption of powdered alcohol.

BACKGROUND

Powdered alcohol is a freeze-dried alcohol that comes in a small pouch and, when mixed with water, is equal to a small serving. The federal Alcohol and Tobacco Tax Trade Bureau approved the sale of the product in April 2014, unless otherwise prohibited by states. As of 2015, the following twenty-one states implemented prohibitions on powdered alcohol: Alabama, Alaska, Connecticut, Georgia, Kansas, Indiana, Louisiana, Maine, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oregon, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington and New York.

The Centers for Disease Control and Prevention (CDC) states that alcohol is the most commonly used and abused drug among youth in the United States. Excessive drinking is responsible for more than 4,300 deaths among underage youth each year. The 2013 Youth Risk Behavior Survey determined that 35 percent of all high school students drink alcohol, 21 percent binge drink, 10 percent drove after drinking alcohol, and 22 percent rode with a driver who had been drinking. In 2011, the Los Angeles County Department of Public Health reported that attitudes toward drinking and drinking behaviors are formed during youth, and that underage drinking is a major cause of death from injuries among persons under the age of 21.

Various drug and alcohol policy advocates have expressed concerns that the portable form of powdered alcohol is appealing to youth and poses a danger to underage drinkers. The Los Angeles Drug and Alcohol Policy Alliance states that California suffers more alcohol-related harm than any other state and that the sale of powdered and crystalline alcohol products should be prohibited in California before these products become a greater danger to young people.

The Legislature is currently considering a bill which would prohibit powdered alcohol. SB 819 (Huff), introduced on January 5, 2016, would prohibit the California Department of Alcoholic Beverage Control from issuing a license to manufacture, distribute, or sell powdered alcohol. Any licensee who manufactures, distributes, or sells powdered alcohol would suffer revocation of their license. In addition, the bill would prohibit the possession, purchase, sale, and offer for sale, distribution, manufacture, or use of powdered alcohol. Violations of these provisions would be punishable as an infraction.

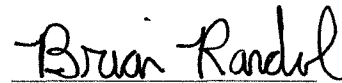
Support of legislation which would prohibit powdered alcohol is consistent with existing City policies and programs which safeguard the health and safety of City residents, including youth.

DEPARTMENT NOTIFIED

Police Department

BILL STATUS

January 5 Introduced



Brian Randol

Analyst

- Attachments:
1. Resolution
 2. Text of SB 819

WHEREAS, over twenty-five states have taken action to ban powdered alcohol in the last two years; and

WHEREAS, new packaging, labels and federal tax rates for "Palcohol" have been approved and Palcohol is a new product which has been prepared for marketing throughout the United States; and

WHEREAS, California state regulations section 2557, passed in 1978, allows powdered alcohol to be taxed as a distilled spirit, and is thus legal for sale in California; and

WHEREAS, powdered alcohol could be readily used to spike other alcoholic beverages making them more dangerous for youth consumption, or added to sodas, energy drinks, juices or punch very easily, much more easily than adding liquid alcohol; and

WHEREAS, powdered alcohol could be easily and deceitfully added to food products, especially to sweet products like whipped cream or other desserts; and

WHEREAS, powdered alcohol in current packaging looks much like a juice squeeze container, and could be easily mistaken for candy or dry juice mix, thus confusing both parents and children; and

WHEREAS, powdered alcohol is easy to conceal, and could be snuck into schools, libraries, social functions, coliseums, stadiums, concert venues or airplanes without notice; and

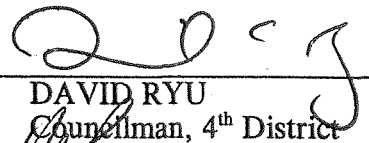
WHEREAS, powdered alcohol could be snuck into on-site licensed venues by customers to avoid the costs of high alcohol content cocktails, simultaneously putting dram shops at legal risk as they are supposed to control inebriation; and

WHEREAS, youth is a time of risk-taking and experimentation, and this type of product will encourage heavier drinking, excessive drinking and binge drinking; and

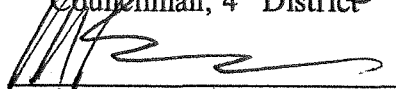
WHEREAS, the State has the authority to ban dangerous alcoholic products, especially those which have simply not been proven to be safe;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-2016 State Legislative Program sponsorship and support of any legislation which would ban the manufacture, sale, transport, possession and consumption of powdered alcohol.

PRESENTED BY:


DAVID RYU
Councilman, 4th District

SECONDED BY:



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WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, 503 underage youth die annually from alcohol related causes in California according to calculations by the Centers for Disease Control and Prevention (CDC) averages of 2006-2010; and

WHEREAS, according to the CDC, excessive alcohol consumption by California youth leads to 30,236 years of potential life lost each year; and

WHEREAS, in California the leading cause of death related to alcohol consumption for youth under 21 is homicide and the second such cause is motor vehicle crashes; and

WHEREAS, youth violence related to drinking costs California \$3.5 billion annually and 216 deaths; and

WHEREAS, youth traffic crashes related to drinking costs \$1.2 billion annually and 148 deaths; and

WHEREAS, the total cost to California of underage drinking is estimated at over \$6.7 billion annually; and

WHEREAS, among teen mothers alone fetal alcohol syndrome costs California \$190 million; and

WHEREAS, additionally 44 youth commit suicide and 7 youth die from alcohol poisoning and 28 from other poisoning each year from underage drinking; and

WHEREAS, in 2012, 5,192 youth aged 12 to 20 years were admitted for alcohol treatment in California; and

WHEREAS, one-fourth to one-third of all these statewide impacts and costs occur in the County of Los Angeles, with tremendous costs to our public health safety net and to our law enforcement burden and cost; and

WHEREAS, young people who begin drinking before age 15 are four times more likely to develop alcohol dependence and are two and a half times more likely to become abusers of alcohol than those who begin drinking at age 21; and

WHEREAS, it is estimated that 9.9 % of all alcohol sold in California is consumed by underage youth; and

WHEREAS, underage consumers of alcohol binge drink an average of 4.4 drinks per day, in contrast to legal customers who consume only 1.7 drinks; and

WHEREAS, a plethora of youth-oriented flavored malt beverages, also known as alcopops, already exist on the market, available wherever beer is sold, and they are sweet, bubbly, colorful, high alcohol content drinks that are often the first drink consumed by underage youth; and

WHEREAS, powdered alcohol also has a very high potential to attract youth with its convenience, fruity flavors and portability; and

Introduced by Senator Huff

(Principal coauthor: Assembly Member Irwin)

(Coauthors: Assembly Members Chávez and Lackey)

January 5, 2016

An act to amend Sections 23004 and 23005 of, and to add Sections 23003.1, 23794, 24200.7, and 25623 to, the Business and Professions Code, relating to powdered alcohol.

LEGISLATIVE COUNSEL'S DIGEST

SB 819, as introduced, Huff. Powdered alcohol.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon alcoholic beverage licenses by the Department of Alcoholic Beverage Control. That act imposes additional regulations on the sale of alcoholic beverages and creates penalties for violations of those regulations.

This bill would prohibit the department from issuing a license to manufacture, distribute, or sell powdered alcohol, as defined, and would require the department to revoke the license of any licensee who manufactures, distributes, or sells powdered alcohol, as provided. This bill would prohibit the possession, purchase, sale, offer for sale, distribution, manufacture, or use of powdered alcohol and would make the violation of these provisions punishable as an infraction.

This bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23003.1 is added to the Business and
2 Professions Code, to read:

3 23003.1. "Powdered alcohol" means a powdered or crystalline
4 substance that contains any amount of alcohol for either direct use
5 or reconstitution. "Powdered alcohol," does not include "vaporized
6 alcohol" as defined in Section 25621.

7 SEC. 2. Section 23004 of the Business and Professions Code
8 is amended to read:

9 23004. "Alcoholic beverage" includes alcohol, spirits, liquor,
10 wine, beer, and every liquid or solid containing alcohol, spirits,
11 wine, or beer, and which contains one-half of 1 percent or more
12 of alcohol by volume and which is fit for beverage purposes either
13 alone or when diluted, mixed, or combined with other substances.
14 "*Alcoholic beverage*" does not include "*powdered alcohol*," as
15 defined in Section 23003.1.

16 SEC. 3. Section 23005 of the Business and Professions Code
17 is amended to read:

18 23005. "Distilled spirits" means an alcoholic beverage obtained
19 by the distillation of fermented agricultural products, and includes
20 alcohol for beverage use, spirits of wine, whiskey, rum, brandy,
21 and gin, including all dilutions and mixtures thereof. "*Distilled*
22 *spirits*" does not include "*powdered alcohol*," as defined in Section
23 23003.1.

24 SEC. 4. Section 23794 is added to the Business and Professions
25 Code, to read:

26 23794. A license shall not be issued to any applicant to
27 authorize the manufacture, distribution, or retail sale of powdered
28 alcohol.

29 SEC. 5. Section 24200.7 is added to the Business and
30 Professions Code, to read:

31 24200.7. The department shall revoke or suspend any license
32 if the licensee or the agent or employee of the licensee
33 manufactures, distributes, or offers for retail sale powdered alcohol.

1 SEC. 6. Section 25623 is added to the Business and Professions
2 Code, to read:

3 25623. (a) A person shall not possess, purchase, sell, offer for
4 sale, manufacture, distribute, or use powdered alcohol.

5 (b) (1) Any person who sells, offers for sale, manufactures, or
6 distributes powdered alcohol is guilty of an infraction that shall
7 be punishable by a fine of not more than five hundred dollars
8 (\$500).

9 (2) Any person who possesses, purchases, or uses powdered
10 alcohol is guilty of an infraction and subject to a fine of one
11 hundred twenty-five dollars (\$125).

12 SEC. 7. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.