AMENDED

February 9, 2011

**H. 3246**

Introduced by Reps. Funderburk, Viers, Agnew, Gambrell, Barfield, Jefferson, Williams, Alexander, Loftis, Willis and Murphy

S. Printed 2/9/11--H.

Read the first time January 11, 2011.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑4‑280 SO AS TO PROHIBIT THE IMPORTATION, PRODUCTION, MANUFACTURE, DISTRIBUTION, OR SALE OF ALCOHOLIC ENERGY DRINKS AND CAFFEINATED MALT BEVERAGES AND TO PROVIDE PENALTIES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑280. (A) A producer, manufacturer, wholesaler, retailer, licensee, person, firm, corporation, or association may not import, produce, manufacture, distribute, sell, or offer for sale alcoholic energy drinks or caffeinated malt beverages in this State.

(B) For purposes of this section, ‘alcoholic energy drink’ and ‘caffeinated malt beverage’ mean a prepackaged alcoholic or malt beverage in which caffeine or other stimulants including, but not limited to, guarana, ginseng, and taurine have been intentionally added as a food additive to the beverage. For purposes of this section, the term ‘food additive’ has the same meaning as defined in Section 201(s) of the Federal Food, Drug, and Cosmetic Act. This section does not apply to alcoholic or malt beverages made with ingredients that contain naturally occurring caffeine, including but not limited to, coffee, cola, tea, cacao, or extracts derived from these foods.

(C) A person or entity identified in subsection (A) who violates a provision of this section or a rule or regulation promulgated by the department or the division under this section, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both, in the discretion of the court. In addition to the punishment specified in this section, a person must forfeit his permit and is not authorized, for a period of two years after conviction, to engage in a business taxable under the provisions of this chapter.

(D) The department may promulgate rules and regulations to effectuate the purposes of this section.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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