



Michigan Alcohol Policy Promoting Health & Safety

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Alcohol Energy Drinks – One Kind of Alcopop

Alcopops Definition – Also known as flavored malt beverages or ready to drinks. These are sweet, sugary, carbonated alcoholic beverages that due to their taste and marketing appeal to younger drinkers. There are three subtypes of alcopops.

Flavored Malt Beverages with Distilled Spirit Additives – Popular brands include Mike’s Hard Lemonade, Smirnoff Ice, Bacardi Breezer. Traditionally alcohol by volume has been around 4-5% and been packaged in bottles. Recently Mike’s Hard Lemonade has come out in a can called Mike’s Harder Lemonade with 8% alcohol/volume.

Flavored Malt Beverages With Stimulants – Also known as alcohol energy drinks (AEDs). Popular brands include, Core, Four/Four Loko, and Joose. These prepackaged beverages combine alcohol with caffeine, guarana, ginseng, taurine, and other ingredients commonly associated with non-alcoholic energy drinks. Alcohol by volume tends to be higher than other flavored malt beverages typically 6-12% and are primarily packaged in cans.

Flavored Malt Beverages Without Stimulants – Popular brands include Sparks and Tilt. MillerCoors and Anheuser-Busch, brewers of Sparks and Tilt respectively, under threat of a lawsuit agreed to remove stimulants from their alcoholic beverages.

Marketing – These beverages have been marketed in ways that mimic the marketing of non-alcoholic energy drinks. They use non-traditional media and “grassroots” one-to-one communications including internet sites, chat rooms, social media such as Facebook and Twitter.

History of Actions (Actions in Michigan are in bold print.)

- In August 2007, thirty Attorneys General of 28 states, Guam, and the District of Columbia including Michigan’s Mike Cox wrote to the U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB) requesting that they review the formulation and marketing of alcoholic beverages that contain caffeine and other stimulants. They said, “We believe that alcoholic energy drinks constitute a serious health and safety risk for America’s youth.”
- In June 2008, the Center for Science in the Public Interest (www.cspinet.org) threatened to file a lawsuit and Anheuser-Busch said that they would no longer add caffeine and other energy supplements to Tilt (a look-alike) and Bud Extra.
- A study published in 2008 by Dr. Mary Claire O-Brien of Wake Forest University found that college students who mix alcohol and energy drinks were more likely to be hurt, sexually assaulted, or drive drunk than those who drank only alcohol. In addition, college students who reported drinking energy drinks premixed with alcohol engage in heavy episodic drinking and have twice as many episodes of weekly drunkenness.
- **In November 2008, Jim Mosher from Alcohol Policy Consultations was the featured speaker on alcopops including AEDs at the Michigan Prevention Association’s (MPA) annual conference in Lansing, Michigan.**

- **In December 2008, MADD, along with the Michigan Coalition to Reduce Underage Drinking (MCRUD), MPA, Michigan Alcohol Policy Promoting Health and Safety (MAP), Michigan Council on Alcohol Problems (MI-CAP), and others attended the Michigan Liquor Control Commission’s semi-annual public comment hearing and asked commissioners to work together with other groups to end the sale and distribution of alcohol energy drinks and to properly classify flavored malt beverages with distilled spirit additives as a mixed spirit drink.**
- Shortly after the December 2008 MLCC meeting it was announced that Miller-Coors also agreed to remove energy additives from Sparks brand products.
- With the elimination of Tilt (with additives) and Sparks (with additives) from the market, nearly 85% of all caffeinated alcoholic beverages that were available at the start of 2008 were eliminated from the market.

The decisions of Anheuser-Busch and MillerCoors to stop manufacturing these products gave way to other smaller brewers to gain market share. Two of these were United Brands (manufacturer of Joose) and Phusion Projects, Inc. (manufacturer of FOURLoko).

An August 2009 article from Join Together indicated that “over a 12-month period, Joose’s unit sales more than tripled to 1.3 million cases sold in convenience and drug stores in the U.S. (according to Nielsen Company Unit, a market-research company). Four Loko and Four Maxed also experienced an increase in their unit sales over a 12-month span.

Phusion Projects, founded in 2005, rapidly expanded distribution and sales with a grass-roots marketing campaign directed toward college students. Four years later, the company had 90 employees, and annual sales of \$144 million in the year that ended on Oct. 31, 2010 according to the Symphony IRI Group, a market research firm based in Chicago. Those totals do not include sales at liquor stores or retailers that require memberships like Sam’s Club.

- **On March 4, 2009, representatives of MAP, MADD, MPA, and a local area high school student attended the MLCC quarterly meeting to request the reclassification of alcopops to “mixed spirit drinks” as provided for under Michigan law and to end the sale of AEDs in Michigan.**
- **The Director of MAP continued to communicate with staff from MLCC inquiring about the status of their researching of the issue. Specifically, MAP was told that MLCC would not report on the issue at their semi-annual hearing in June of 2009.**
- On November 13, 2009 the Food and Drug Administration (FDA) notified nearly 30 manufacturers of caffeinated alcoholic beverages that it intends to look into the safety and legality of their products.
- **On December 2, 2009, leaders from several community coalitions and statewide organizations again attended the semi-annual public comment hearing and asked the MLCC to end the sale and distribution of AEDs in the state of Michigan and to properly classify alcopops as “mixed spirit drinks.” Chairwoman Samona, addressed the prevention organizations and told them among other things, “I think we are left with the fact that this probably requires legislative changes.”**
- **In spite of the statements by Chairwoman Samona suggesting that this needed a legislative solution representatives from MAP held a conference call on December 4, 2009**

with Jim Mosher and staff representatives from MLCC and attorneys from the Michigan Office of the Attorney General who work with MLCC.

- **In February 2010, Jim Mosher issued a Special Report on the "STATUS OF STATE CAMPAIGNS TO RESTRICT THE AVAILABILITY OF ALCOPOPS."**
- **During January and February of 2010 there were a series of phone calls between MLCC staff and the Director of MAP with MLCC asking that MAP come back to the Commission and request that flavored malt beverages with Distilled Spirit Additives be de-registered (banned). MAP's responses focused on seeking clarification about which products MLCC might be willing to ban? Finally, MAP made the decision to focus on the banning of AEDs.**
- **On March 11, 2010 representatives of MAP, MPA, coalition and community leaders attended the MLCC Quarterly meeting and asked the Commission to de-register alcohol energy drinks in the State of Michigan. Some media were present for this meeting and two college students spoke on the issue.**
- **On April 21, 2010 MLCC scheduled a special meeting to discuss alcohol energy drinks. Founder and President of Phusion Products (manufacturer of FourLoko) attended the meeting and defended his product. Several organizations and coalitions were present and spoke at this meeting including high school youth from Washtenaw County. A local television station was at the meeting who eventually produced a two part special for the evening news.**

MLCC Chairwoman Samona suggested that MAP and Phusion work together to seek a solution agreeable to both. An exchange of e-mails resulted in a conference call on July 21, 2010 during which parties agreed that they do not share the same goals so will not agree to the same solution.

- **On June 9, 2010 MLCC held a semi-annual public comment hearing in Farmington. Representatives of MAP and other organizations from Southeast Michigan testified. For the fifth time a request was presented to MLCC asking them to de-register alcohol energy drinks.**
- **On August 24, 2010 representatives of MAP meet with two commissioners and the MLCC Department Directors. At this meeting MLCC Commissioner Pat Gagliardi expressed that the Commission owed MAP and the other supporting prevention organizations a decision on the de-registration of AEDS.**
- **At the September 8, 2010 MLCC Quarterly Meeting in Farmington the three administrative commissioners and the two hearing commissioners unanimously passed a motion to require better labeling of prepackaged AEDs.**
- **On November 3, 2010 at an administrative meeting of the MLCC, the three MLCC administrative commissioners met and considered a motion presented by Chairwoman Nida Samona to ban alcohol energy drinks in Michigan. The motion was approved 2 to 1 with Commissioner Pat Gagliardi supporting Chairwoman Samona. The ban goes into effect thirty days from November 4, 2010.**
- **On November 17, 2010 the FDA issued their ruling stating that they had issued warning letters to four manufacturers of alcohol energy drinks, saying the caffeine added to their beverages is an "unsafe food additive."**
- **FDA Deputy Commissioner Joshua Sharfstein said that the agency has decided the combinations of caffeine and alcohol in the drinks is a public health concern after a yearlong review of the**

beverages. The FDA said the government could seize the products if the companies continue to make them. The experts have raised concerns that the caffeine in the drinks can mask a person's feeling of intoxication, leading to risky behavior.

Michigan Alcohol Policy appreciates and thanks everyone that emailed the commissioners, educated others, attended the numerous hearings, and testified at the hearings. Without these efforts this would not have happened. The following groups were signers of the first resolution supporting banning alcohol energy drinks:

- Barry County Substance Abuse Task Force – Barry County
- Black Caucus Foundation of Michigan
- Bureau of Substance Abuse Prevention – City of Detroit
- Cristo Rey Community Center – Ingham County
- Detroit Rescue Mission Ministries – Wayne County
- Family Service Inc. – Wayne County
- Ingham Substance Abuse Prevention Coalition
- Lenawee Substance Abuse Prevention Council
- Michigan Council on Alcohol Problems
- Michigan Prevention Association
- North Oakland Community Coalition
- Parenting Awareness Michigan
- Shiawassee Task Force on Prevention
- South East Michigan Coordinating Agency – Wayne County
- Tri County Alcohol Awareness Committee – Clinton, Eaton, and Ingham Counties
- Troy Community Coalition
- Washtenaw County Community Partnership/Clean Teens
- Yes Center, Inc. – Eaton County
- Youth on the Edge of Greatness, Inc. – Wayne County

MAP also thanks several national partners: Jim Mosher from Alcohol Policy Consultations, Michele Simon from Marin Institute, Dr. Mary O'Brien from Wake Forest University, Diane Riibe from Project Extra Mile, and George Hacker from the Center for Science in the Public Interest. These people were sounding boards and consultants off/on since the start of these initiatives in December 2008. They reviewed documents, participated in conference calls and overall were supportive and helpful to the cause.

Where Do We Go From Here?

Aggressive marketing to Michigan's youth continues by manufacturers of other flavored malt beverages (alcopops). While these do not contain stimulants many have higher percentages of alcohol than adults commonly associate with "beer". The types of flavorings being added are becoming more varied.

The packaging of these beverages often causes them to be mistaken for energy drinks without alcohol. Alcopops with distilled spirit additives seem to be increasing their alcohol content and re-packaging their products in cans – like Mike's Hard Lemonade producing Mike's Harder Lemonade.

Sparks and Tilt – the original alcohol energy drinks from which MillerCoors and Anheuser-Busch voluntarily removed the stimulant additives are back without stimulants but with a higher alcohol content. The cans are getting larger – 16 to 24 ounces causing further confusion to definition of "responsible use."

In Michigan, managing these changes will require legislation. Michigan's current limit on the alcohol content in a malt beverage is 20 percent. These are taxed as beer and most are sold by the can in convenience stores across the state. MAP will propose taxing all malt beverages either by alcohol content or shifting malt beverages over a lower alcohol content to be taxed as spirits.