



STATE OF MICHIGAN

DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
LIQUOR CONTROL COMMISSION

11/04/11  
Alco Energy Drink Ban

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ADMINISTRATIVE ORDER

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The Michigan Liquor Control Commission (hereinafter Commission) has before it a certain matter involving the sale and distribution of Alcohol Energy Drinks in the State of Michigan.

The Commission has a reasonable belief that Alcohol Energy Drinks present a threat to the public health and safety and twenty-nine (29) Attorneys General from across the nation are of the opinion that Alcohol Energy Drinks pose serious health and safety risks to American youth. The popularity of Alcohol Energy Drinks is increasing among college students and underage drinkers and the safety of ingesting a mixture of stimulants and beer, e.g. Alcohol Energy Drinks, has not been established.

The safety of these intentionally infused stimulants, i.e. Caffeine, Taurine, Guarana, Ginkgo Biloba, Ginseng, or other herbal or chemical substances, at uncontrolled levels – mixed with alcohol, has not been established by scientific evidence or the FDA as "generally recognized as safe" additives to alcoholic beverages (GRAS).

The Commission exercises complete control of the State's alcoholic beverage traffic through the Constitution 1963, Article 4, §40, and has the sole right, power and duty to control the State's alcoholic beverage traffic pursuant to MCL 436.1201(2).

The Commission may disapprove any beer label submitted for registration that is deemed to promote intemperance, or intoxication, or to be detrimental to the health, safety, or welfare of the general public. [Commission Rule 436.1611(1)(d)]

The administrative process allows the Commission, upon discovery, to correct any errors that might have occurred in its approval of Alcohol Energy Drinks. See, L & L Wine v Liquor Control Commission, 274 Mich App 354, 558 (2007)-courts assume that the administrative process will properly correct alleged errors. Huron Valley Schools v Secretary of State, 266 Mich App 638, 649 (2005)-the administrative process will, if given a chance, discover and correct its own errors.

In light of the several public hearings and studies regarding Alcohol Energy Drinks, the widespread community concerns aired by substance abuse prevention groups, parent groups and various members of the public, as well as the FDA's decision to further investigate these products, the Commission believes the packaging is often misleading, and the products themselves can pose problems by directly appealing to a younger customer, encouraging excessive consumption, while mixing alcohol with various other chemical and herbal stimulants. The recent events regarding minors in Washington State and other concerns from emergency room doctors quoted throughout the country have prompted the Commission to take action.

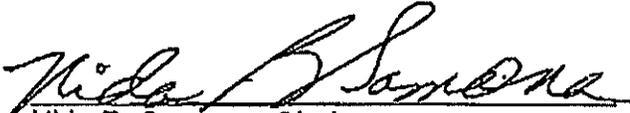
THEREFORE, in order to protect the public health, safety and welfare of the citizens of the State of Michigan, it is the Order of the Commission that all prior approvals and registrations for Alcohol Energy Drinks as listed on the *Products with Stimulants* listing attached as a part of this Order BE RESCINDED.

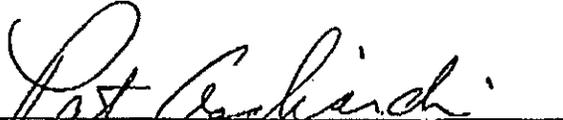
FURTHER, that effective 30 days from the date of this Order, Alcohol Energy Drinks shall not be sold or offered for sale in the State of Michigan and these products are banned from sale and distribution in this State unless otherwise approved through Order of the Commission.

FURTHER, all Manufacturers of Alcohol Energy Drinks have thirty (30) days from the date of this Order to remove the Alcohol Energy Drink products from all marketplaces in the State of Michigan in which they are sold.

FURTHER, this Order supersedes the Motion of September 8, 2010 adopted by the Commission.

Dated: November 4, 2010

  
Nida R. Samona, Chairperson

  
Pat Gagliardi, Commissioner