



The Washington State Liquor Control Board (WSLCB) today filed an emergency rule to prohibit the sale and distribution of alcoholic energy drinks in the state of Washington. The emergency rules will be in effect for 120 days, during which time the WSLCB will seek to make the rules permanent.

**Why is the WSLCB banning the sale and distribution of alcoholic energy drinks in Washington?**

The WSLCB is concerned that consuming alcoholic energy drinks may negatively impact the health, safety and wellbeing of Washington's citizens, and felt it was imperative to take immediate action to remove these products from store shelves in order to prevent harm to consumers.

**What products are banned under the emergency rule making?**

Products that combine beer, strong beer, or malt liquor with caffeine, guarana, taurine, or other similar substances may not be imported into the state, produced, manufactured, distributed, sold or offered for sale by a licensed retailer in Washington after November 17, 2010. Such products are commonly known as alcoholic energy drinks.

**Is this ban permanent?**

The emergency rules are in effect for 120 days, during which time the WSLCB will seek to make the rules permanent. The emergency rules expire on March 10, 2011.

The regular rule making process will allow for public comment and stakeholder feedback. Based on the current rule making schedule, the Board will be asked to adopt the permanent rules on March 2, 2011. The rules would go into effect April 2, 2011.

**Why is the WSLCB taking this action now?**

The WSLCB is concerned by the growing body of medical and scientific research the suggests that alcoholic energy drinks are a dangerous mix and can cause health and safety issues, as well as recent public safety incidents linked to alcoholic energy drinks that have occurred in Washington and around the nation.

**What risks do these products pose?**

These products combine alcohol – a sedative – with stimulants such as caffeine, guarana and taurine.

A leading study by the Wake Forest University School of Medicine found students who consumed alcohol with energy drinks were "twice as likely to be injured, twice as likely to require medical attention and twice as likely to ride with an intoxicated driver." The study also found that people who mix alcohol and energy drinks feel less drunk, but they are still intoxicated.

Researchers at the University of Florida surveyed about 800 randomly selected, college-age bar patrons and found those who consumed alcohol and caffeine were more intoxicated than those who only had alcohol and were four times more likely to say they wanted to drive home.

Most alcoholic energy drinks are categorized as a “malt beverage” even though their alcohol by volume may be as high as 12 percent, compared to an alcohol by volume of 3.5 to 6 percent for mainstream beers. These products are widely available and are relatively inexpensive.

The WSLCB is also concerned with how these products are marketed in a way that implies the consumption of these beverages has a stimulating or energizing effect. Companies who make these drinks appear to target young people with their marketing methods, such as using social networking sites, interactive fan websites that encourage users to send in photos, and product giveaways at events.

The products are often sweet and available in fruit flavors, with bright packaging. They can easily be confused by consumers with their energy drink and soft drink counterparts.

**Does the ban apply to mixing liquor and energy drinks?**

No. While the WSLCB is concerned about the health dangers of mixing any alcohol with a stimulant such as caffeine, the ban applies only to pre-mixed, malt-based products.

Liquor and energy drink mixed drinks or shots are the combination of two legal products. Drinkers likely know how much alcohol they are getting when they order a shot or drink. The pre-mixed cans of alcoholic energy drinks are high alcohol (up to 12 percent alcohol), high volume (up to 24 ounces) and have high levels of stimulant. While contents vary, a single can may be the equivalent of four-five beers and three or more shots of espresso.

**Does state law allow this type of emergency rule making?**

Yes, the WSLCB has the authority under RCW 34.05.350, which allows the WSLCB to create an emergency rule if the agency for good cause finds that the immediate adoption, amendment, or repeal of a rule is necessary for the preservation of public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

**Has Washington taken any other actions regarding alcoholic energy drinks?**

Yes, the WSLCB in 2010 requested legislation that would have prohibited the sale of alcoholic energy drinks in Washington. House Bill 2804 did not pass.

In 2009, the WSLCB issued a policy banning in state liquor stores any marketing or promotional material that encourages customers to mix alcohol and energy drinks. In addition, products that contain caffeine, guarana, or any other stimulant, and imply stimulating or energizing effects in its packaging or marketing, are not sold in Washington liquor stores.

Central Washington University has banned the products on campus.

Rob McKenna, Washington Attorney General, joined 24 other state attorneys general in requesting that the Food and Drug Administration (FDA) examine whether the use of caffeine in alcoholic beverages is considered safe under FDA regulations.

### **Have other states taken action regarding alcoholic energy drinks?**

Yes, several states and universities around the country have banned or restricted alcoholic energy drinks.

- The University of Rhode Island and New Jersey's Ramapo University have banned alcoholic energy drinks on campus
- Michigan, Utah and Oklahoma have banned alcoholic energy drinks
- Montana has restricted the sale of alcoholic energy drinks to state liquor stores
- Pennsylvania issued a resolution encouraging licensees to stop selling and marketing alcoholic energy drinks

### **What is the projected timeline for the regular rule making?**

- **Nov. 10:** Board approves filing the pre-proposal statement of inquiry (CR 101)
- **Dec. 1:** Code Reviser publishes notice; WSLCB sends notice to rules distribution list
- **Jan. 3:** End of written comment period
- **Jan. 12:** Board is asked to approve filing the proposed rules (CR 102 filing)
- **Feb. 2:** Code Reviser publishes notice; WSLCB sends notice to rules distribution list
- **Feb. 23:** Public hearing held
- **Feb. 23:** End of written comment period
- **March 2:** Board asked to adopt rules
- **April 2:** Rules are effective

### **Additional Resources**

To learn more about alcoholic energy drinks, please visit the Liquor Control Board website at [www.liq.wa.gov](http://www.liq.wa.gov)

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