



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

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November 19, 2010

MARKETING PRACTICES BULLETIN – MPB040

TABC Seeks Voluntary Removal of All Caffeinated Malt Beverages from the Texas Marketplace

To: Alcoholic Beverage Industry

On November 17th, 2010, the Food and Drug Administration (FDA) concluded, after a year-long scientific review that caffeinated malt beverages are unsafe and pose a public health concern. The FDA sent warning letters to four manufacturers of these products including Phusion, maker of *Four Loko*, and United Brands Co., maker of *Joose*, giving them 15 days to respond as to how they will remedy the violation.

As a result of the FDA's findings and in an effort to proactively address public safety, TABC is initiating progressive action in partnership with Texas distributors, wholesalers and retailers to remove these unsafe products from the Texas market place.

Effective immediately, TABC is seeking voluntary compliance from Retailers, Wholesalers and Distributors to immediately cease sales and remove all caffeinated malt beverages from the Texas Marketplace. In addition to the list identified by the FDA which includes Four Loko, Joose, Max, Moonshot, Core High Gravity HG, Core High Gravity HG Orange and Lemon Lime Core Spiked, the following brands have been identified by the TABC and are included in the removal request: 3Sum, Crunk Juice, Evil Eye, Liquid Charge, Riccochet and Rize.

We are allowing distributors and wholesalers to voluntarily visit retail accounts and, in cooperation with retailers, to remove these products from retail floors for destruction. Additionally, retailers may remove and destroy the products themselves in compliance with any applicable environmental laws.

TABC will not authorize Texas retailers to receive a credit from distributors or wholesalers, nor distributors/wholesalers to receive credit from manufacturers, for products removed from its beverage inventory. We are asking members of the three-tier system to work together for the good of the people of the State of Texas to safeguard the public's health and safety.

Because of the information that we are able to obtain from distributors/wholesalers, we have already identified over 12,000 retailers who are selling the products. We will adjust our inspection priority list and follow up to ensure that these products have been removed from the Texas marketplace. Anyone who is aware that this product is being sold in Texas may contact TABC via e-mail at complaints@tabc.state.tx.us or by phone at 1-888-THE-TABC. TABC will pursue voluntary compliance with such retailers on a case by case basis.

In the future, TABC will make recommendations to the Commission for Administrative Rule changes to strengthen the agency's ability to restrict or remove products from the market when they have been determined to be contrary to public health and safety.

The Commission will continue to monitor this issue and make necessary regulatory changes as applicable. We hope this opinion will assist you in your endeavors. If you would like additional information or have questions regarding this bulletin, you may contact me in writing at P.O. Box 13127, Austin, TX 78711, by email at marketing.practices@tabc.state.tx.us, by phone at 512-206-3411 or by fax at 512-206-3349.

Sincerely,



Dexter K. Jones
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cc: Alan Steen, Administrator
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