



CITY AND COUNTY OF SAN FRANCISCO

Office of the City Attorney

Dennis J. Herrera, City Attorney

Department of Public Health

Environmental Health Section

Gavin Newsom, Mayor

Mitchell H. Katz, MD, Director of Health

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November 18, 2010

Re: Alcoholic Energy Drinks

Dear Retailer:

We are writing to alert you to recent developments regarding the sale of alcoholic energy drinks (AEDs) in California. Last year, the San Francisco City Attorney's Office worked with 18 state attorneys general in calling on the federal Food and Drug Administration (FDA) to review the safety and legality of AEDs. Yesterday, the FDA announced that it had completed its review and issued warning letters to four manufacturers of AEDs stating that the caffeine in their alcoholic beverages are "unsafe food additives," making these products adulterated under federal law. The FDA sent letters to the following four AED manufacturers: (1) Phusion Projects, LLC ("Four Loko"), (2) United Brands ("Joose," "Max"), (3) Charge Beverages ("Core High Gravity," "Core Spiked"), and (4) New Century Brewing Company ("Moonshot").

Following the FDA's announcement yesterday, the California Department of Public Health (CDPH) issued letters to the manufacturers and distributors of these beverages in the state informing them that these products are adulterated under the California Sherman Food, Drug and Cosmetic Act. (See attached letter dated 11/17/10.) CDPH stated, "the manufacturing, sale, delivery, holding or offering for sale of adulterated food is a crime." Accordingly, CDPH informed these manufacturers and distributors that they must discontinue manufacturing, distributing and selling these adulterated beverages in California, effective immediately.

In accordance with CDPH's announcement, San Francisco retailers should not receive or accept any new shipments or deliveries of the following alcoholic energy drinks: "Four Loko," "Joose," "Max," "Core High Gravity HG Green," "Core High Gravity HG Orange," "Lemon Lime Core Spiked," and "Moonshot." In addition, given the evidence that these products pose a significant threat to the health of all San Franciscans, we are urging San Francisco retailers to stop selling these beverages and remove any existing products from their shelves immediately.

We hope you will work with us to protect all San Franciscans from the significant potential dangers these products present. Thank you for your cooperation.

Sincerely,

Handwritten signature of Dennis J. Herrera in black ink.

Dennis J. Herrera
City Attorney

Handwritten signature of Rajiv Bhatia in black ink.

Rajiv Bhatia, M.D., Medical Director
Environmental Health Division
Department of Public Health

Encl. CDPH Letter 11/17/10