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ATTORNEY GENERAL OF WASHINGTON
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October 25, 2010

Dr. Margaret A. Hamburg, Commissioner
Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, Maryland 20993

Re: Alcoholic energy drinks

Dear Dr. Hamburg,

As you recall, on Sept. 25, 2009, 25 state attorneys general wrote to request that the FDA examine whether the use of caffeine in alcoholic beverages is considered safe under FDA regulations. We included a letter from scientists and medical professionals who argue that adding caffeine and other stimulants to alcoholic beverages poses serious public health risks.

A month later, we applauded your quick action to contact the manufacturers of alcoholic energy drinks (AEDs) requesting that, within 30 days, the companies produce evidence of their rationale, with supporting data and information, for concluding that the use of caffeine in their products is Generally Recognized As Safe (GRAS) or prior sanctioned under FDA regulations. We remain grateful that your agency takes this public health issue seriously and is investigating the matter thoroughly.

Today I write with an update about some of the negative impacts AEDs are having in my state and around the country. One disturbing episode has particularly commanded our attention.

Investigators in Cle Elum, Washington have linked AEDs to a shocking episode of alcohol poisoning that hospitalized nine college students. On Oct. 9, police were called to the scene of a party in Roslyn, Washington. Their first thought was that someone had spiked drinks with a date-rape drug. That assessment was based, in part, on the varying states of unconsciousness affecting mostly young women at the party. That initial evaluation was mentioned in news reports around the globe.

Once at the hospital, medical staff found the blood-alcohol levels of impacted students ranged from .123 percent (legally drunk) to .35 percent – a lethal level of alcohol poisoning. One young woman was put on a respirator and nearly died.

The investigation concludes that the students – all under 21 years old – combined AEDs with other kinds of alcohol. It is clear from interviews with more than 40 students that these youth did not know what they were getting into, probably because a single 23.5-ounce can of the AED "Four Loko" – cans of which were found on the scene – is 12 percent alcohol. That is

comparable to drinking five or six beers. Four Loko and other AEDs are packaged to look like non-alcoholic energy drinks and often are displayed in convenience stores next to non-alcoholic energy drinks. And as you know, they are flavored in a way that masks the taste of alcohol. Alcoholic drinks with flavors like watermelon, blue raspberry and lemonade particularly appeal to young people. They are so intoxicating that they are called "liquid cocaine" and "blackout in a can" by teens and young adults.

The frightening incident in my state is hardly unique. In fact, AEDs are sweeping college campuses. So, too, are the health and public safety impacts. Twenty-three students at New Jersey's Ramapo College were hospitalized in September after a drinking binge. Some, if not all, had consumed Four Loko. The college subsequently banned AEDs from campus. Earlier this month, at least nine people were admitted to a hospital in Lancaster, Pennsylvania, after drinking the same AED.

These problems aren't limited to college campuses. In August, a 20-year-old drunk driver who killed a St. Petersburg, Florida, father and his three sons admitted to mixing Four Loko with other intoxicants.

In November 2009, in Auburn, Washington, a 19-year-old driver pulled over to call 911. She said she was "very drunk," losing her vision and experiencing numbing in her hands. She had been drinking alcoholic energy drinks at a party and in the car, claiming that she didn't realize it was alcoholic.

The obvious appeal of energy drinks to young people underscores the danger of adding alcohol to the beverages. According to the Marin Institute and other researchers, teenagers and young adults are the core target demographic for non-alcoholic energy drinks. In their report, Alcohol, Energy Drinks, and Youth: A Dangerous Mix, the Marin Institute states that "28 percent of 12- to 14-year-olds report regular consumption of energy drinks. Teen consumption has grown rapidly since 2002. For 12- to 17-year-olds, rates increased from 18 percent in 2002 to 31 percent in 2006."

I trust that you will find this updated information useful as you continue to assess whether or not AED production comports with FDA regulations. I want to reiterate my belief that AEDs do not comport with FDA guidelines and present a serious threat to public health and safety.

Thank you, again, for looking into this matter. If you could have someone in your office update my Attorney General colleagues and me on the status of your review of AEDs, we would appreciate it very much.

Sincerely,

Rob McKenna
Washington State Attorney General