



F R O M	Name & Title	Oxiris Barbot, MD Commissioner 	Health Department MEMO	
	Agency Name & Address	Health Department 1001 E. Fayette Street Baltimore, Maryland 21201		
	Subject	City Council Resolution 10-0236R Informational Hearing – Baltimore City Liquor License Board – Federal Recall of Certain Caffeinated Alcoholic Beverages		

December 15, 2010

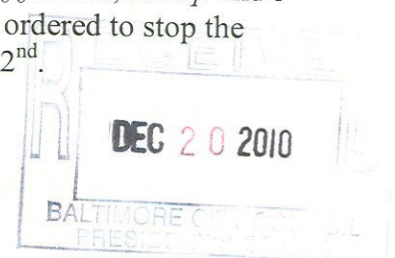
To: President and Members of the Baltimore City Council
409 City Hall

The Baltimore City Health Department (BCHD) has reviewed City Council Resolution 10-0236R Informational Hearing – Baltimore City Liquor License Board – Federal Recall of Certain Caffeinated Alcoholic Beverages. This resolution calls for the Baltimore City Board of Liquor License Commissioners and the Baltimore City Health Commissioner (Commissioner) to report to the City Council on measures in place to ensure that certain caffeinated alcohol drinks are not sold in bars, are removed from inventory in package good stores and other liquor retailers, and are generally unavailable throughout Baltimore City. BCHD welcomes the opportunity to respond to this resolution and provide the requested information.

The Commissioner determined that certain alcoholic beverages containing caffeine sold within Baltimore City pose an immediate health and safety hazard to City residents and visitors. An order barring the sale of certain alcoholic beverages containing caffeine in the city was issued on December 2, 2010. The public health consequences of the masking effects of caffeine in alcoholic beverages are real and include increased risk for unsafe sex practices, driving while under the influence and increased risks for blackouts.

The U.S. Food and Drug Administration (FDA) has declared that caffeine added to alcoholic beverages is an unsafe food additive, thus making caffeinated alcoholic beverages adulterated and in violation of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §342(a)(2)(c). The federal directive applies only to the following products: “Core High Gravity HG Green,” “Core High Gravity HG Orange,” “Lemon Lime Core Spiked,” “Moonshot,” “Four Loko,” “Joose,” and “Max.”

The Commissioner has determined that these products are a health hazard and a nuisance pursuant to Title 2 and 5 of the Baltimore City Health Code. Health Code §§ 2-101, *et seq.* and 5-101, *et seq.* On November 30th, Baltimore City retail establishments were ordered to stop the sale and/or distribution of these beverages. The ban took effect December 2nd.



Official notice was sent to 566 licensed facilities ordering the removal of these products and informing them that violators will be subject to a fine of up to \$1,000 for each offense upon conviction. If any retail establishment fails to comply with the notice within the time frame allotted criminal prosecution or other legal enforcement proceedings may be initiated.

Additionally, the Commissioner may secure personnel to remove the nuisance items from the shelves of retail establishments. The person in charge of the property will be liable for the expenses incurred by such corrective action, and those found in violation will have the right to request an administrative review within ten days.

On Dec. 1st, the day prior to the effective date of the ban, BCHD's Bureau of Environmental Health assigned 14 sanitarians to survey approximately 10% to determine whether these products were available for sale in the City, despite the FDA's request that the product be pulled from shelves. Fifty-seven locations were surveyed. Of those, approximately 2/3 were found selling caffeinated alcoholic beverages in a variety of flavors. Following the effective date of the ban, unannounced follow-up inspections of the same 37 locations were conducted and no caffeinated alcoholic beverages were found on the shelves at that time. BCHD will continue to inspect for these products during regular inspections. However, BCHD recommends that complaints relating to the sale of these drinks be forwarded directly to the Liquor Board for investigation. A business will be more likely to immediately comply with the ban if failing to do so could result in the revoking of their liquor license. In addition, not all businesses that sell liquor have food licenses, nor are they required to be licensed by BCHD. Therefore, there are entire classes of businesses that could sell these products unbeknownst to BCHD inspectors.

The Commissioner supports the efforts of the newly-formed Health Committee and the Baltimore City Council to protect the health and well-being of Baltimore City's residents. BCHD welcomes the opportunity to participate in the upcoming informational hearing for City Council Resolution 10-0236R and will provide the information requested.

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