

**Testimony of Sandra Grance
American Beverage Association**

Testimony In Opposition to H.B. 5360

March 6, 2012

Mr. Chairmen and members of the Committee, thank you for letting me speak before you today. My name is Sandra Grance and I'm with the American Beverage Association (ABA). We represent the broad spectrum of companies that manufacture and distribute non-alcoholic beverages including regular and diet soft drinks, teas, juices, water, sports drinks and energy drinks. I'm here today on behalf of our local distributors. This includes Coca-Cola Refreshments, Coca-Cola Northern New England, Pepsi and Red Bull. These companies employ more than 1,700 people in Connecticut. I'm testifying in opposition to H.B. 5360 proposal to ban the sale of energy drinks to minors.

This legislation, while well intentioned, does not have any scientific basis and lacks substance. Energy drinks, and ALL of their ingredients, are regulated by the U.S. Food and Drug Administration. They also meet all government labeling requirements. When compared on a per ounce basis, most energy drinks contain less than or equal to the amount of caffeine in an average cup of coffeehouse coffee. Specifically, energy drinks typically contain between 60 and 100 mg of caffeine in an 8-ounce serving, while an 8-ounce cup of drip coffee contains between 104-192 mg.

Caffeine is a naturally occurring ingredient that can be found in more than 60 species of plants or their seeds or fruits, and most commonly in coffee beans, tea leaves, cocoa beans, kola nuts and guarana. It is an ingredient in a number of beverages – including energy drinks – and has been a part of our diet for more than a century.

Caffeine has been studied and restudied by researchers in the U.S. and around the world. It has been examined for its affects on both the adult and adolescent human body. The vast majority of these studies have concluded that, in moderate amounts, caffeine can be part of a balanced and healthy lifestyle.

The U.S. Food and Drug Administration (FDA) considers caffeine safe for all consumers, including children. In 1959, it designated caffeine in cola drinks as "Generally Recognized As Safe." In 1987, following extensive review, the FDA "found no evidence to show that the use of caffeine in carbonated beverages would render these products injurious to health."

Here are the typical caffeine levels in popular products:

- Coffee, 8 oz. drip 104-192 mg
- Tea, 8 oz. brewed 20-90 mg
- Iced Tea, 8 oz. 9-50 mg
- Soft drinks, 8 oz. 20-40 mg
- Dark Chocolate, 1 oz. 5-35 mg
- Cocoa Beverage, 8 oz. 3-32 mg
- Milk Chocolate, 1 oz. 1-15 mg

You should also know that members of the American Beverage Association do not sell energy drinks to students in schools.

Companies market their energy drink products responsibly and meet all government labeling regulations. In addition, some of our member companies voluntarily list the amount of caffeine directly on a product's label. Consumers can also easily find out how much caffeine is in a beverage by calling a company's 1-800 number or visiting its website.

Further, our member companies have followed the principles set forth by the Children's Advertising Review Unit (CARU) since its inception in the early 1970s. CARU is part of the advertising industry's self-regulation program and its purpose is to review and evaluate child-directed advertising and promotional material in all media. (Several former Federal Trade Commission Chairmen have noted this to be one of the best examples of self-regulation in American history.) CARU has developed an extensive set of guidelines, among them that advertisers take into account the limited knowledge, experience, sophistication and maturity of the audience to which any message is directed.

Every year, CARU scrutinizes thousands of television commercials and reviews advertisements in print, radio and online media to ensure that the messages are not misleading, inaccurate or inconsistent with the guidelines for children's advertising. A number of food and beverage companies, including Coca Cola, PepsiCo and Dr Pepper Snapple Group, recently endorsed an expansion of CARU's oversight authority that establishes criteria for the presentation of healthy lifestyle choices, snacks and nutritionally balanced meals in all advertising.

To move beyond these existing policies, we developed the ABA Guidance for the Responsible Labeling and Marketing of Energy Drinks. Under this policy ABA members have come together to voluntarily label their products with the caffeine amount, place a voluntary advisory statement, and to not promote the mixing of these beverages with alcohol or make any claims that the consumption of alcohol together with energy drinks counteracts the effects of alcohol.

This voluntary guidance document, which is enclosed, enables consumers to enjoy energy drinks moderately and responsibly.

ABA and its members encourage all those who produce and market energy drinks to implement this voluntary Guidance and to incorporate it into their business practices as appropriate. The Coca-Cola Company, Dr Pepper Snapple Group, PepsiCo and Red Bull have all adopted this policy.

With due respect to the sponsors and those who testified in favor this legislation, we are unsure of the nature and extent of the problem that this bill purports to solve. The Legislature should be aware of the slippery slope such a ban would create. To be consistent, you would need to ban coffee, tea or even some chocolate from minors, because they too contain caffeine. Furthermore, contrary to how this bill lumps things together, non-alcoholic energy drinks are nothing like tobacco or controlled substances."

Making products off-limits can have the unintended effect of making them more desirable to minors. Our goal should be teaching young people about balance and moderation.

Thank you for the opportunity to testify. I'd be happy to answer any questions that you may have.



ABA Guidance for the Responsible Labeling and Marketing of Energy Drinks

BACKGROUND AND OBJECTIVE

The American Beverage Association (ABA) is the trade association representing the broad spectrum of companies that manufacture and distribute non-alcoholic beverages in the United States.

This Guidance relates to the labeling and marketing of energy drinks. Energy drinks are non-alcoholic beverages that are specifically marketed with an energizing effect and a unique combination of characterizing ingredients which may include caffeine, taurine, vitamins and other substances. Their ingredients and labeling comply with all US FDA safety requirements.

In the US, energy drinks have been marketed for 15 years, and consumed and enjoyed by consumers worldwide for more than 20 years. They represent about 1% of the total US non-alcoholic beverages market.ⁱ

ABA and its members recognize public discussions about the marketing of energy drinks and their appropriate consumption and recognize their responsibility to play a positive role in addressing these discussions. Therefore, ABA and its members have developed this voluntary Guidance for the Responsible Labeling and Marketing of Energy Drinks which complements ABA's School Beverage Guidelines,ⁱⁱ and will enable consumers to enjoy energy drinks moderately and responsibly.

ABA and its members encourage all those who produce and market energy drinks to implement this voluntary Guidance and to incorporate it into their business practices as appropriate.

GUIDELINES FOR THE LABELING OF ENERGY DRINKS

In addition to compliance with applicable labeling laws and regulations, ABA members should follow these guidelines related to the labeling of energy drinks:

1. Labels of energy drinks should follow ABA's established voluntary format for the labeling of caffeine and identify the quantity of caffeine from all sources contained in the beverage, for example, "caffeine content: xx mg / 8 fl. oz.". This quantitative caffeine information should be separate and apart from the ingredient statement and the Nutrition Facts Panel.
2. Labels of energy drinks should not promote the mixing with alcohol or make any claims that the consumption of alcohol together with energy drinks counteracts the effects of alcohol.

3. Labels of energy drinks should include the advisory statement “Not (intended / recommended) for children, pregnant or nursing women (and/or persons/those) sensitive to caffeine”.
4. The labeling of energy drinks should also follow the guidelines for the sales and marketing of energy drinks as outlined below.

GUIDELINES FOR THE SALE AND MARKETING OF ENERGY DRINKS

5. Energy drink producers should not promote energy drinks for mixing with alcohol nor should they market energy drinks to counter the effects of alcohol consumption.
6. Energy drinks are functional beverages which differ from sports drinks and therefore should not be marketed as sport drinks.
7. Energy drinks should not be sold nor marketed in schools (K-12), as set forth in ABA’s School Beverage Guidelines and in its statement regarding the Sale of Energy Drinks in Schools.
8. Energy drinks should not be marketed to children, as set forth in ABA’s commitment to the Global Policy on Marketing to Children.

ⁱ Canadean statistics

ⁱⁱ <http://www.ameribev.org/nutrition--science/school-beverage-guidelines/the-guidelines/>