

ALCOPOPS

Sweet, Cheap, and Dangerous to Youth



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EXECUTIVE SUMMARY

The introduction of alcopops (flavored malt beverages) to the U.S. market in the late 1990s began a transformation within the alcohol industry that still unfolds today. Alcopops bent the rules on beer, defying proper classification while enticing youth with sweet flavors, higher alcohol content, low prices, and widespread availability. Though public health advocates quickly identified the dangers alcopops pose to youth, alcopop producers continue to flood social media and permeate the lives of the younger generations with alcopop marketing. In addition, the popularity of alcopops fueled the production of a never-ending variety of new alcohol products, all of which remain dangerously enticing to youth.

FINDINGS

- Alcopops are popular among youth due to their sweet taste, extensive variety of flavors, low price, high alcohol content, and widespread availability.
- Compared to other types of alcohol, alcopops cause disproportionate harm to youth.
- Alcopop market share has increased since the early 2000s, and is projected to continue climbing over the next five years.
- The alcohol industry insists that Millennials are their target alcopop users, although reputable sources include youth as young as ages 16-20 in definitions of the Millennial demographic.
- The alcohol industry markets alcopops through user engagement on social media, as well as everyday life through event sponsorship.
- Alcopop popularity fueled a wave of unique, youth-oriented alcohol products that blur traditional alcohol boundaries in the United States.

RECOMMENDATIONS

- The most effective evidence-based methods of reducing alcopop-related harm among youth are to increase prices, decrease availability, and limit advertising.
- State attorneys general, community coalitions, and extensive collaboration are important to successful campaigns.
- State or local laws to regulate size and alcohol content and off-sale package sizes, bans on single-serve containers, city resolutions, and Alcopop-Free Zones® are promising policies to decrease harm from alcopops.

BACKGROUND

Dominating store coolers and kiosks, their labels contain an eye-catching cacophony of colors, shapes, and sizes. Abundant flavors include everything from fruity and sweet lemonade and grapefruit, to cocktail-based Long Island iced teas and mojitos, in eye-catching containers plastered with colorful graphics. Packaging ranges from the plain, opaque bottle of Smirnoff Ice (Diageo) to the striking multi-hued Joose (United Brands Co.) and neon camouflage Four Loko (Phusion Projects) in cans, bottles, and pouches of all shapes and sizes. New products constantly appear on store shelves. These stimulating colors and flavors catch the attention of youth in the U.S., where one study found nearly 50% of drinkers age 13-20 reported consuming them within the past month.¹ Despite their associations with binge drinking, injury, and violence, these alcoholic beverages become exponentially more popular all the time: They are alcopops.

The alcohol industry calls them many different names: flavored malt beverages (FMBs), flavored alcoholic beverages (FABs), ready-to-drink beverages (RTDs), progressive adult beverages (PABs), pre-packaged spirits, malt alternatives, and designer drinks. Following the path of sweet, cheap, low alcohol by volume (ABV) wine coolers² of the 1980s and 1990s, Smirnoff Ice (Diageo) and Mike's Hard Lemonade (Mark Anthony Group) came on the market in 1999. These first alcopops quickly gained popularity among youth and remain best sellers today. They tasted sweet and fizzy, came in several enticing flavors, and were sold in 8 to 12-ounce containers with 5-8% ABV, comparable to that of beer. Alcohol producers promoted alcopops as an alternative to beer and distilled spirits, and as a transition beverage that bridged the gap between soft drinks and alcohol for many new young drinkers.³



In response to the rising popularity of energy drinks, alcohol companies began to promote mixing alcohol and energy drinks together, and introduced the first premixed alcoholic energy drinks (AEDs) in 2003. AEDs were essentially alcopops with caffeine and other stimulants added. Alarmed by research exploring the effects of mixing caffeine with alcohol and the popularity of AEDs among youth, public health advocates pushed government officials to halt production and distribution of AEDs. After a lengthy investigation where it received no evidence from the industry that adding caffeine to alcohol was generally recognized as safe, the U.S. Food and Drug Administration (FDA) issued a warning to AED producers to remove caffeine and other potentially harmful stimulants from their alcohol products.⁴



While AEDs garnered media and public focus, producers introduced supersized alcopop containers. This explosion of new (or newly reformulated), non-caffeinated alcopops propelled alcopop market share to 3.5% of total beer brand consumption from 2010-2014. Supersized alcopops are sold in single-serve cans and bottles ranging from 16-25 ounces, with up to 14% ABV. The liquids remained sweet, fizzy, and brightly colored, with increased ABV equating some brands such as Four Loko (Phusion Projects) to as much as 4.7 standard drinks per single-serving can.^{4, 5}

In the last fifteen years alcopop producers such as Diageo, Phusion Projects, and Anheuser-Busch InBev (A-B InBev) continued to up the ante, introducing more youth-oriented product variations and offshoots to the market despite media attention to associated health risks as well as regulatory warnings. While alcopop products have evolved over time, the dangers surrounding them persist.



Since youth drink these brands in far greater proportion than adults, researchers use the term youth-oriented to describe such beverages.⁹

The popularity of alcopops among youth raises warranted concern that alcopops cause disproportionate harm. A recent study

surveying more than 1,000 youth drinkers confirmed that alcopops are associated with alcohol-related harm among youth ages 13-20. Youth drinkers who consumed alcopops:

YOUTH, ALCOPOPS, AND HARM

Youth drinking remains a pervasive public health issue in the United States, where alcohol is the drug of choice among adolescents and young adults. About 70% of high school students have tried alcohol at least once in their lifetime, and about 22% report binge drinking at least once.^{6, 7} Though alcopops comprise a small fraction of total U.S. alcohol market share, a major study found 50% of youth drinkers age 13-20 report drinking alcopops. This included 43% of 13-15 year old drinkers, 49% of 16-18 year old drinkers, and 52% of 19-20 year old drinkers.¹

- Drank more alcohol per day and drank on more days per month.
- Were four times more likely to engage in binge drinking.
- Engaged in more physical fights.
- Received more alcohol-related injuries and obtained more injuries that necessitated medical attention.¹

Supersized alcopops, defined in the study above as those containing at least 16 ounces and 10% ABV, escalated this risk of harm even further. Compared to youth who did not drink alcopops, youth drinkers who reported drinking exclusively supersized alcopops were:

Though the alcohol industry insists that alcopops are made and marketed only for individuals of legal drinking age, research indicates that alcopops are extremely popular among youth age 20 and younger. About half of youth drinkers report drinking alcopops, compared to only 16-20% of adults.⁸ Youth are twice as likely as adults to consume brands such as Smirnoff (Diageo) and Bacardi Malt Beverages (Bacardi).⁷ The most popular alcopop brands among youth age 13-20 in 2012 included Smirnoff Malt Beverages (Diageo), Mike's Hard Beverages (Mark Anthony Group), Jack Daniel's Cocktails (Brown-Forman Corporation), Bacardi Malt Beverages (Bacardi), and Four Loko (Phusion Projects).⁷ Together, these five brands accounted for about half of youth alcopop consumption.

- Twice as likely to engage in a fight.
- Six times more likely to sustain an alcohol-related injury.
- Four times more likely to binge drink.¹



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The tendency of alcopop drinkers to binge drink is dangerous because binge drinking elevates blood alcohol content to a harmful and dangerous level in a very short period of time, and often results in impaired brain function, loss of balance and motor skills, and poor judgment. Binge drinkers are more likely than non-binge drinkers to drive while impaired and to experience motor-vehicle crashes, physical violence, unintentional injuries, alcohol poisoning, sexually transmitted diseases, unplanned pregnancy, and neurological damage.^{10, 11} Binge drinking in adolescence impairs the development of certain adult responses,

Since the first alcopops burst onto the scene, producers pushed relentlessly for these products to be classified and taxed as beer, despite the common use of distilled spirits as a key component.

signifying that binge-drinking alcopops during youth may delay or impede the brain from maturing properly into adulthood.¹² About one-quarter of youth drink alcopops during binge-drinking episodes, putting youth at risk of the excessive harm caused by binge drinking.¹

The nature of alcopop package design suggests that even supersized alcopops are meant to be finished in one sitting, which often

leads to binge drinking. Alcopops are most often sold in single-serving cans or bottles containing up to 25 ounces with up to 14% ABV. They are sold chilled, carbonated, and ready-to-drink. Cans, bottles, and pouches with non-resealable lids encourage rapid, easy, and excessive consumption.⁹ Consuming just one supersized alcopop in a period of two hours or less constitutes an episode of binge drinking. Among youth and researchers alike, supersized alcopops rightfully earned the nicknames “binge-in-a-can” and “blackout-in-a-can.”^{4, 10}

Alcopops pose hazards not only to individual drinkers, but also to their communities. Shelf space for single-serve containers such as alcopops is related to the magnitude of violent crime in the surrounding area. Neighborhoods with stores that assign alcopops and

other single-serving alcoholic beverages large amounts of shelf space see a high propensity to experience violent crime.¹³

Alcopops contribute to the massive amount of revenue lost by the U.S. each year as a result of harmful alcohol use. In 2013, youth drinking cost \$56.9 billion due to medical care, productivity loss, and pain and suffering.¹⁴ Some of the most common and costly results of youth drinking are violence, traffic accidents, high-risk sex, and injury.

CLASSIFICATION AND TAXATION

Since the first alcopops burst onto the scene, producers pushed relentlessly for these products to be classified and taxed as beer, despite the common use of distilled spirits as a key component. Distilled spirits are subject to higher taxes and limited retail availability, which would mean less youth access to alcopops.⁶ To secure the beer classification for alcopop products, producers created a complex and multifaceted production process. The process begins with a fermented malt beer base, filtered to remove all taste, color, smell, carbonation, and alcohol. The base is then drained and other liquids, including flavoring and additives containing distilled spirits, substituted.

The resulting alcopop product displays no resemblance to beer in appearance, taste, or alcohol content, yet is still classified as such under federal law. In 2005, the U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB)¹⁶ required that for alcopops to be considered beer under federal law, the amount of distilled spirits in an alcopop product could not exceed 50% of the total alcohol content. This ruling raised the potential



for conflict with some state laws, specifically in those states where alcohol beverage types were defined in such a way that alcopops were to be classified as distilled spirits rather than beer.¹⁷

Alcopop labels offer little information regarding the content of their products. The most current mandatory labeling guide for malt beverages declared that alcopops incorporating distilled spirits as an ingredient must label their products with the alcohol content. However, there is no mention of including ingredient lists or calorie content on labels.¹⁸ This information is important but practically impossible to locate. Unlike the FDA, the TTB does not require alcohol producers to declare ingredients.

The alcohol industry's success in maintaining beer classification for alcopops despite a lack of beer or malt beverage characteristics illustrates the influence that the alcohol industry has on policymakers and regulators.¹⁵ The elaborate production process and continued presence of distilled spirits in alcopops renders classifying and taxing alcopops as beer under state and federal law a dangerous inaccuracy.

AVAILABILITY & ACCESS

Many states such as California classify alcopops as beer. As such, producers enjoy extensive beer distribution networks and the ability to sell alcopops alongside beer and/or wine in many sales outlets commonly frequented by youth, including grocery stores, gas stations, and convenience stores.⁵ A 2014 survey of 7,000 stores in California determined that 82.4% percent of stores that sold any form of alcohol also sold alcopops.¹⁹



In addition to wide availability, rock-bottom prices strengthen alcopop appeal to youth with limited budgets. Alcopops are federally taxed \$0.05 per 12 ounces, successfully evading the higher distilled spirit tax of \$2.14 per 750 ml.²⁰ These

taxes have remained stagnant for years, decreasing the price of alcohol over time.²¹ A recent survey of 7-Eleven convenience stores in Marin County, California, showed that single-serving alcopops were cheaper per standard drink than beer. Supersized alcopops were the cheapest type of alcopop, priced at 17% less per standard drink than both beer and malt liquor.⁵ Supersized alcopops were priced cheaper per fluid ounce than regular, nonalcoholic energy drinks, and cheaper than soda.



In Australia, tax reform introduced in 2000 resulted in a much lower tax rate for alcopops than distilled spirits. This alcopop price decrease was associated with more alcohol-related emergency department visits among youth and young adult females.

Eight years later, an excise tax increase brought the alcopop price back in line with other distilled spirits. The price increase was associated with less emergency department visits among males and females of all ages, but most significantly youth and young adults.²² Taxing alcopops as beer rather than distilled spirits led to more alcopop-related injuries and emergency department visits among youth – a dangerous result that the U.S. continues to replicate.

ALCOPOPS IN 2015

Alcopop market share was not recorded until 2012, when an explosion of new products flooded the market and alcopops were determined to hold 2.8% market share of total beer consumption. Since then, alcopop consumption has increased to 3.5% of total beer market share in the U.S. and continues to rise.^{23, 24}

Though a market share of 3.5% may seem minimal, the multitudes of new brands introduced annually have generated a consistent year-to-year alcopop volume growth. In 2011 alone, 36 alcopop brands were introduced, comprising 35.6% of the new beer beverages that year.²⁴ Industry reports predict that the alcopop market share will continue its upward



trend, with sales reaching 148 million 2.25-gallon cases in 2019 – a 32% increase over five years.²⁵

A handful of key producers own the majority of, and the most popular, alcopop brands in the U.S. A-B InBev, Mark Anthony Group, Diageo-Guinness, MillerCoors, and Boston Beer control more than 80% of alcopop market share.²⁴ The top-selling alcopop brands are Bud Light Ritas (A-B InBev), Mike’s Hard Beverage (Mark Anthony Group), Twisted Tea (Boston Beer), Four Loko (Phusion Projects), Sparks (MillerCoors), Seagram’s Escapes (N.A. Breweries), Smirnoff Twisted V (Diageo), Tilt (A-B InBev), and Smirnoff Ice (Diageo). Most of these brands gained immediate popularity after they were introduced, and continue to maintain high sales rankings. The Bud Light Rita, for example, was second only to Mike’s Hard Beverage upon its release in 2012. The following year, it was ranked the top-selling alcopop brand.^{23, 24, 26}

MARKETING

As with all types of alcohol, marketing and promotion is crucial to the success of alcopops. In order to promote their brands, alcohol producers aggressively utilize an extensive arsenal of marketing tactics and spend tens of millions of dollars per year to acquire new, and maintain loyal, drinkers for each alcopop brand.¹⁷

While measured media such as television, print, and radio advertisement remains a constant facet of alcohol brand advertising, alcopop advertisers demand more: unlimited, inexpensive, unmeasured media. User engagement is key, and formats including web-based ads, social media, sponsorships, giveaways,

and contests cultivate a base of young users who are continually overexposed to alcopop brands and help increase the exposure of others at no cost to the alcohol industry.

The goal of marketing with unmeasured media such as social media platforms and sponsorship is not only to expose potential users to alcopops, but also to cultivate environments where young people interact and form relationships between the alcopop and their everyday life. Alcohol companies quickly incorporate new digital technologies in order to engage the youth demographic in an easy, cost-effective manner.²⁷⁻²⁹

ADVERTISING SELF-REGULATION

Though ranked the most harmful drug when considering harm to both the user and to society, alcohol is not regulated as such.³⁰ Regulatory oversight for alcopop advertising and promotion is left to the alcohol industry. As a result, regulation of alcopop marketing is virtually nonexistent.

The Beer Institute, a trade association comprised of thousands of beer producers and suppliers, maintains a voluntary set of marketing guidelines³¹ that has thus far succeeded in preventing government involvement



in alcopop regulation. Despite the industry’s inadequacy to address alcopop marketing, the TTB and U.S. Federal Trade Commission continue to defer to the alcohol industry to regulate itself, an arrangement that inherently constitutes a conflict of interest.³² As long as these agencies defer to self-regulation as an acceptable practice, the alcohol industry is able to avoid reasonable and appropriate regulation.³³

USER ENGAGEMENT

The aim of alcopop promotion is not merely to expose the viewer to the product, but to stimulate interaction with the alcopop brand to the extent that young people integrate the alcopop into their lives, also known as user engagement.³⁴

The Smirnoff Experience Secret Party is an example of user engagement in alcopop marketing that blurred alcopop promotion with reality. In 2008, Smirnoff sponsored a party where the sole method of access was to find tickets scattered across Australia in a modern-day treasure hunt. Clues placed on blogs, mobile sites, and Facebook groups led participants to tickets hidden in the real world. Winners gained access to an exclusive party hosted by Smirnoff. This campaign successfully engaged users by incorporating every possible level of digital communication, flawlessly combining new media with real life.³⁵



THE MILLENNIAL EXCUSE

Alcopop marketing overexposes youth to advertisements. Diageo placed more than 1,300 Smirnoff advertisements on television shows with a disproportionate amount of viewers under 21 years old, contradicting the distilled spirits industry's own advertising guidelines.¹⁷

According to alcohol industry representatives, alcopop promotion is aimed at Millennials, not youth.^{36, 37} Industry reports repeatedly confirm that the Millennial generation is the key alcopop consumer.²⁵ However, sources from either end of the political spectrum include underage youth in their definitions of the Millennial demographic. The U.S. Chamber of Commerce defines Millennials as those born from 1980-1999 (currently 16-34 years old).³⁸ Pew Research Center defines Millennials as individuals born between 1981-1996 (currently 18-34 years old).³⁹ Yet alcopop producers continue to use the Millennial age bracket as an excuse for youth-oriented marketing overexposure.

As alcopop producers strive to market to Millennials, they reach out through digital and social media platforms that skew heavily, influence, and appeal to underage youth.⁴⁰ Thus alcopop advertising increases brand exposure and subsequently use of alcopops by youth.⁴¹⁻⁴³



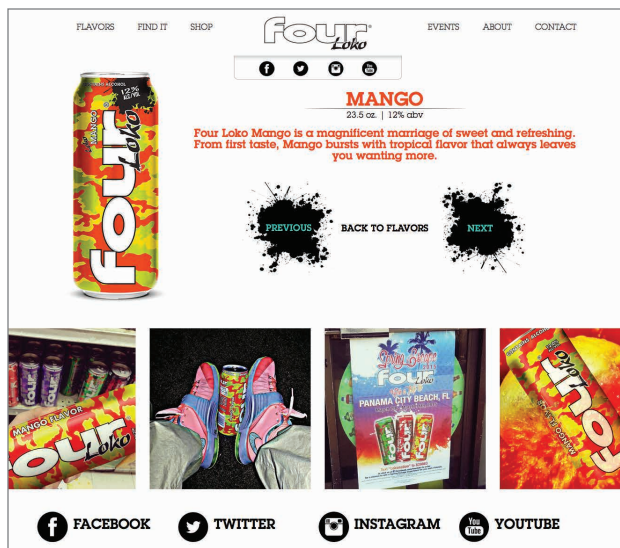
SOCIAL MEDIA

The Mike's Hard Lemonade Facebook page currently boasts more than one million likes.⁴⁴ More than one million Facebook users receive instant alcopop product news and updates, video promotions, notification of local drinking-related events, contests, and giveaways, and the ability to communicate publicly with the Mike's Hard Lemonade brand, as well as other Facebook users, about the product.⁴⁰

Social media platforms including Facebook, Twitter, YouTube, and Instagram are key aspects of alcopop promotion in new media. Social media is an easy, widespread, and cheap advertising option that is also far-reaching and effective. It instantly connects large networks of people and encourages positive relationships between consumers

and brands, all with very little effort from the alcohol industry itself.²⁹ Facebook is one of the most popular social media platforms, with over one billion active user accounts worldwide, primarily consisting of adolescents and young adults.^{41, 45}

Social media popularity reaches its height among youth and young adults, before use declines with adulthood. Of all Internet users, 71% of teens and 87% of young adults use Facebook regularly.^{46,47} Younger groups are most likely to respond to alcohol ads on social media platforms, and positive responses to social media advertisements decrease with age. This trend is so concrete that industry reports suggest the best way to advertise to a target population on social media platforms is to aim advertising at younger groups, who are more likely to respond positively to this form of advertising than the actual target group.⁴⁸



Alcopop-branded social media platforms affect real-life drinking behavior among users. Posting alcohol-related content to social media platforms is associated with higher levels of alcohol consumption, alcohol-related problems, and increased risk for alcohol use disorders. Despite research illustrating this point, alcopop producers continue to build extensive social media brand personas that expose youth to their products. Alcopop marketing demands high-level engagement by youth, and embeds alcopop brands into the lives of young users who connect with others through social media platforms and sponsored events.



These networks of young users are frequently and repeatedly engaged by alcopop companies through promotional activities.⁴⁹

In a prime example of user engagement and youth-oriented advertising, Phusion Projects launched Four Loko Gold, a new 23.5 ounce/14% ABV mystery-flavored supersized alcopop in mid-2015, initially marketed solely through social media. Containing the highest ABV of Four Loko products to date, Four Loko Gold advertised on Facebook, Instagram, and Twitter⁵⁰ for three months before it appeared on the official Four Loko website. Released in a limited number of states, young drinkers flocked to social media sites in attempts to locate retailers selling the new product. During those first three months of social media-only promotion, Phusion sponsored parties that served the elusive Gold flavor. Social media users could only discover the party locations by sending an RSVP through the Four Loko Facebook page.⁵¹

SPONSORSHIP

Sponsorships fuse seamless connections between alcohol and culture to display alcopops as fun and inexpensive fixtures of everyday life. Events sponsored by alcopop brands are more likely to be drinking-related, such as bar crawls and beer festivals, than those sponsored by other types of alcohol. From 2010-2013, alcopop brands sponsored 150 different music and sporting events, festivals, and parties. Alcopop sponsorships are associated with increased consumption of the sponsoring brand among youth drinkers, a major cause for concern.⁴²

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Youth favorite Mike's Hard Beverages sponsored 29 events from 2010-2013. Sponsored events included numerous music festivals, an Extreme Powerboat Racing Team and a racecar in the NASCAR World Truck Series. Smirnoff Malt Beverage and Seagram's Malt Beverage, two other popular alcopop brands, each sponsored a Summer House Party mega-event, a series of 1,000 private events held over one weekend, providing and promoting those alcopop brands.⁵²

OFFSHOOTS AND VARIATIONS

The market welcomes a diverse assortment of new alcopops, as well as non-malt beverages with alcopop characteristics. From the nineties to today, pumpkin beer evolved from a specialty beer brewed by few small breweries, to its own seasonal category with hundreds of different brands.⁵³ Alcoholic cider grew more popular in conjunction with alcopops, resulting in a \$400 million jump in hard cider sales from 2011 to 2015.⁵⁴ Alcoholic root beer is exploding in popularity, with existing brands in high demand and both local breweries and large-scale producers

currently working to brew their own versions.⁵⁶ One alcoholic root beer product, Not Your Father's Root Beer, is billed as a craft product of Small Town Brewing Company, with emerging links to Phusion Projects.⁵⁵

With each new media cycle, more producers utilize alcopops as a jumping off point for new products. MillerCoors recently introduced Redd's Apple Ale, a new high-ABV cider with a whirlwind of new flavors. The alcopop flavors include strawberry, green apple, mango, and black cherry, and containers of 10, 16, and 24 ounces. For the release of its newest flavor, MillerCoors sponsored a series of Redd's events across the country that seamlessly intertwine the new product with music, art, and culture, similar to promotional campaigns for other youth-oriented alcopop brands.⁵⁶



After Redd's, MillerCoors continued to combat its competitors in the alcopop and craft beer markets. In summer 2015 MillerCoors added alcoholic soda products to its portfolio, beginning with Henry's Hard Ginger Ale and Henry's Hard Orange Soda. These new alcopops are intended to appeal to all crowds – men, women, beer drinker, and non-beer drinker alike.⁵⁷ The products' similarities to nonalcoholic soda in taste, appearance, and marketing also raise concerns about their appeal to youth.

Just like original alcopops of decades ago, each new brand is one more entry point into the alcohol market for youth who don't like the taste of traditional beer or spirits. Preference for flavored and novel drinks reaches its height in younger generations, dropping off in older drinkers. With this knowledge, producers set their sights on willing and adventurous younger crowds.⁵⁴

RECOMMENDATIONS

Despite a small market share comparable to other types of alcohol, alcopops are the source of disproportionately serious and adverse health problems, especially for youth. Reducing harm from alcopops is possible on the federal, state, and local level. Along with implementing new strategies to reduce harm, learning from and using past success in decreasing alcohol-related harm and underage consumption, and improving health, is vital.

With each new media cycle, more producers utilize alcopops as a jumping off point for new products.

INCREASE PRICE

Despite producer lobbying and campaigns to keep alcopops classified as beer and to lower federal alcohol excise tax rates,⁶⁰ research shows raising taxes on alcopops is an effective way to reduce related harm.

Raising taxes on alcopops is one of the most effective ways to reduce related harm. Higher alcohol taxes are associated with decreased motor vehicle accidents and fatalities, mortality, violence, sexually transmitted diseases, and alcohol dependence, and provide increased revenue and economic benefits.⁵⁹ This phenomenon was visible in conjunction with Australia's Goods and Service Tax (GST), where higher tax rates for alcopops were associated with less emergency department visits for acute alcohol problems.²²

DECREASE AVAILABILITY

A positive association between alcohol outlet density and excessive alcohol consumption, as well as related harm, indicates that decreasing the availability of alcopops will likely reduce harm. Correct classification of alcopops as spirits rather than beer is key to decreasing alcopop availability, limiting access, and helping youth who currently face alcopops on every corner.⁶⁰ Utah's 2008 Malted Beverage Act illustrated the positive effects of decreasing alcopop availability by classifying alcopops as distilled spirits instead of beer, which limited retail to state liquor stores.⁶² By 2010, two years after restricting alcopop sales to state-controlled liquor stores, sales had dropped more than 90%.⁶⁴

LIMIT ADVERTISING

Coalitions are also crucial to continued monitoring, enforcement, and evaluation of new alcopop policies. Taking steps to limit alcopop advertising aids in the decrease of youth alcopop drinking and related harm.⁶³ Limiting alcohol advertising will aid in decreasing youth consumption and related harm.⁶⁵

Alcohol Justice supports the elimination of out-of-home alcohol advertising (including alcopop ads) starting with ads on public property, and including mass transit that is frequently used by youth and young adults, particularly in urban areas. Some major metropolitan areas still allow or are considering this, including Chicago and New York City.



STATE ATTORNEYS GENERAL

Attorneys general hold powerful positions as the chief legal officers of their respective states. They work to protect the health and safety of state residents, issue formal opinions to state agencies, and propose legislation. Attorneys general led many states in protecting youth and their communities from alcopops, and are integral in movements to prevent egregious products, promotions, and trade practices. For instance, attorneys general from 29 states leveraged their influence by pressuring major producers A-B InBev and MillerCoors to stop adding caffeine to their alcopop products.⁴ Attorneys general should be applauded and encouraged to continue their work to monitor alcopops and protect youth from the products' harmful effects.

COALITIONS

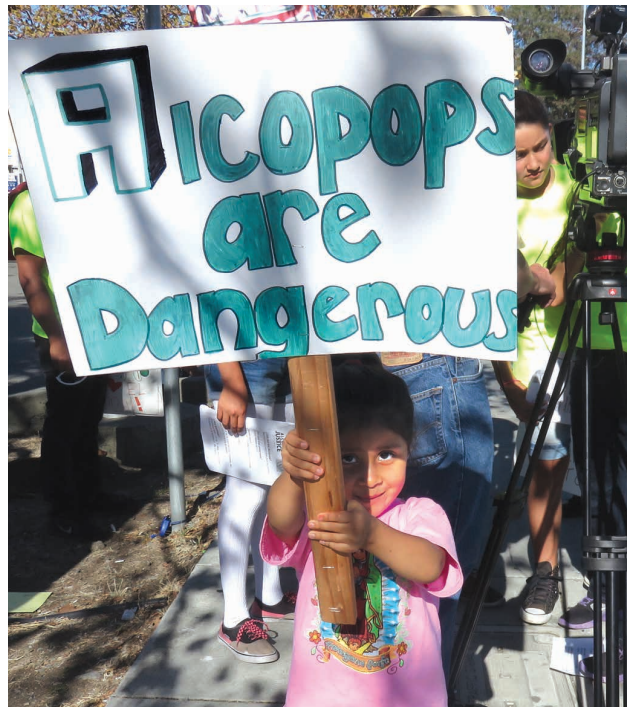
Prevention coalitions comprised of diverse constituencies are statements of empowerment for their citizen members, and for the communities represented. In addition to public health professionals and advocacy groups, successful coalitions include a broad representation of the entire community: youth, parents, students, scientists, policymakers, law enforcement, and individuals of all races, religions, backgrounds, and livelihoods. Coalition members can address alcopop-related concerns and implement best practices in alcohol policy with a variety of strategies: organizing campaigns and town hall meetings, countering alcohol industry lobbying, educating policymakers about the dangers of alcopops, and networking with other groups and alliances. Coalitions are also crucial to continued monitoring, enforcement, and evaluation of new alcopop policies.

STATE LAW

States can pass laws regulating the size and alcohol content of flavored malt beverages. Such a law would control the massive alcohol dosage levels of super-sized “binge-in-a-can” alcopops. In some states, this kind of law can be passed at the local level. For an example of such model legislation, see the Appendix.



Utah is one state that regulates alcopops as distilled spirits rather than beer. Because Utah controls the sale of distilled spirits, alcopops are only sold at state liquor stores, and at a higher price than in other states. Other states should consider regulating all alcopops as distilled spirits, thus reducing availability as a result of only being sold where liquor is available,



and raising the price of alcopops by taxing them at the higher distilled spirits rate. Some states have attempted to reclassify alcopops with limited success to date.

LOCAL RESOLUTIONS & BANS

Passing a city resolution opens avenues to local resources by confirming official city support for alcopop regulation and policy, and is often a step towards passing a new law. Publicly acknowledging the dangers of alcopops makes them more salient to communities, retailers, politicians, and law enforcement officers.

Bans on alcohol sold in single-serve containers (as many alcopops are) can be an effective tool to limit access and increase the price for youth. Local governments may be able to pass ordinances banning single-serve containers under their local police powers or ability to regulate nuisance. Single-serve container bans protect health and safety, reduce crime, and decrease littering nuisance from convenience and liquor store sales. Requiring packages of more than two containers to be sold together increases the price per visit to a store and makes resale price to youth even higher. Requiring packages to be larger and bulkier makes it difficult to conceal, potentially reducing theft.

ALCOPOP-FREE ZONES®

Alcohol Justice encourages community coalitions and youth groups to create Alcopop-Free Zones® (AFZ). With an AFZ, youth and community leaders approach retailers directly and ask them to stop carrying all alcopop products. This type of campaign does not involve lobbying, as it is based on a request to retail licensees for voluntary compliance. However, it does entail community organizing; passing resolutions of support from cities or counties; building leadership with youth and coalitions; surveying retailers; holding press conferences; taking direct action (possibly boycotts); negotiating with retailers; and monitoring and celebrating compliance.

In 2012, the San Rafael City Council (California) passed a resolution that supported the creation of an AFZ and encouraged retailers to publicly commit to

stop selling alcopops. In response, many stores voluntarily agreed.⁶⁴ A similar effort organized by youth in Contra Costa County, California, led to the adoption and implementation of a deemed approved ordinance banning alcopop sales at liquor stores in 2014.⁶⁵

CONCLUSION

Alcopops are a dangerous category of the most widely used drug in the U.S.: alcohol. Alcopops are associated with higher rates of binge drinking and related injuries among youth. The alcohol industry, from niche marketing companies to Big Alcohol's A-B InBev and MillerCoors, continue developing and marketing alcopops and similar products in order to capture the youth market early. Community action and effective policies are needed to stem the tide of alcopop-related harm to young people.



**MODEL STATUTE BY ALCOHOL JUSTICE FOR REGULATING THE SIZE
AND ALCOHOL CONTENT OF FLAVORED MALT BEVERAGES**

STATUTE No. _____

SECTION 1: PURPOSE

The purpose of this statute is to promote the health and safety of the public by limiting persons' access to high-volume flavored malt beverages containing high alcohol content, sold either for on-sale or off-site consumption in the State of [name of State].

Commentary to Section 1:

Section 1 establishes the primary purpose of the statute, the promotion of the "health and safety of the public." Providing the purpose of the law may assist a court or agency with ascertaining the legislative intent when applying or interpreting the law. All findings as described below in Section 2 should support the above purpose.

SECTION 2: FINDINGS

The governing body of [name of state] finds the following:

- a) WHEREAS, the 21st Amendment of the Constitution grants States the authority to regulate the sale and distribution of alcoholic beverages within its borders.
- b) WHEREAS, alcohol is a leading cause of death and injury, from impaired driving to violence, sexual assault, and suicide, and contributes to family and community disruption, poor school performance, among other social problems.
- c) WHEREAS, sweetened alcoholic beverages appeal to underage drinkers.
- d) WHEREAS, sweeteners and flavorings mask the flavor of alcohol.
- e) WHEREAS, inexperienced drinkers are particularly sensitive to alcoholic beverages containing high alcohol contents and may be unaware of the alcohol content due to flavorings and sweeteners.
- f) WHEREAS, the U.S. Dietary Guidelines for Americans defines moderate drinking as "up to 1 drink a day for women and up to 2 drinks for men," for beer, a drink is 12 ounces.
- g) WHEREAS, the National Institute on Alcohol Abuse and Alcoholism defines a standard drink as a beverage that contains about 0.6 fluid ounces of pure alcohol and considers a 12-ounce beer containing 5% alcohol as one standard drink.
- h) WHEREAS, a single container of 23.5 ounces of 12% alcohol (as is typical of some flavored malt beverages currently on the market) contains 2.82 fluid ounces of alcohol, or 4.7 times the amount of alcohol in a standard drink. In other words, consuming one can is the equivalent of consuming of 4.7 standard drinks.

Commentary to Section 2:

The Findings section establishes the basis upon which the bill is predicated. Each finding should provide evidence supporting the bill's purpose and establishing the necessity of the legislation. The Findings section may be useful for a court or agency ascertaining the legislative intent when applying or interpreting the law. When the statute is codified in the state's code the findings may be excluded.

NOW THEREFORE:

BE IT ORDAINED BY THE LEGISLATURE OF THE STATE OF _____ :

SECTION 3: DEFINITIONS

“Beer” means a beverage:

- (a) contains at least .5% alcohol by volume;
- (b) Is referred to as:
 - (1) Beer;
 - (2) Ale;
 - (3) Porter;
 - (4) Stout;
 - (5) Lager
- (c) “Beer” does not include flavored malt beverage

“Container” means any of the following containing an alcoholic beverage:

- (a) A bottle;
- (b) A can; or
- (c) Other receptacle.

“Flavored malt beverage” means a beverage:

- (a) containing at least .5% alcohol by volume;
- (b) that (as described 27 C.F.R. § 25.55) is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a fermented beverage designated as “beer,” “ale,” “porter,” “stout,” “lager,” or “malt liquor.” For purposes of this subsection:
 - (i) Removal of any volume of water from beer, filtration of beer to substantially change the color, flavor, or character, separation of beer into different components, reverse osmosis, concentration of beer, and ion exchange treatments are examples of non-traditional processes for which you must file a formula.
 - (ii) Pasteurization, filtration prior to bottling, filtration in lieu of pasteurization, centrifuging for clarity, lagering, carbonation, and blending are examples of traditional processes for which you do not need to file a formula.
- (c) to which is added a flavor or other ingredient containing alcohol, except for a hop extract.

“Individually packaged” means a single container.

Commentary to Section 3:

Section 3 establishes the scope of the Model Law by providing a definition of the products subject to its terms. The Model Law will prohibit the sale of supersized “malt beverages.” By including definitions for “beer” and “flavored malt beverages” it is possible to create an exception for craft beer products that may be sold in oversized containers and include higher alcohol contents but are not as problematic as the cheap malt beverage products. The alcopops (referred to as “Flavored Malt Beverages” in Federal regulations) definition is drawn from a law in Utah regarding alcopop taxation, labeling and availability (Utah Code: Title 32A, Chapter 1, Part 8, Malted Beverages Act). This ensures that the ban will cover these products regardless of any exceptions focused on beer products.

SECTION 4: SALE OF OVERSIZED FLAVORED MALT BEVERAGES WITH HIGH ALCOHOL CONTENT

(1) No flavored malt beverage may be sold or offered for sale:

- (a) with an alcohol content exceeding 6% alcohol by volume; or
- (b) in a container exceeding 12 fluid ounces.

Commentary to Section 4:

Section 4 describes the prohibited acts.

SECTION 5: ADMINISTRATION AND ENFORCEMENT

The [name of the state agency charged with administering the state's alcohol laws] shall be charged with administering and enforcing the provisions of this statute.

Commentary to Section 5:

Section 5 specifically delegates the administrative and enforcement responsibility of this statute to the state agency that currently oversees the state's alcohol laws. As the state already has such an agency charged with these duties, it is not necessary to create a new body to handle these tasks. If these tasks are handled at the local level, then the state may wish to add language allowing for such a delegation of duties.

SECTION 6: VIOLATIONS, PENALTIES, CIVIL ACTIONS

Any person or business entity that violates any provisions of this statute shall be guilty of an infraction and, upon a finding of such a violation by the [name of the agency charged with administering the state's alcohol laws] shall be subject to administrative assessment of civil penalties.

Commentary to Section 6:

Section 6 delegates the assessment of penalties to the state agency charged with administering the state's alcohol laws. The state can choose to provide specific penalties or reference penalties already established for other violations of the state's alcohol laws.

SECTION 7: APPEALS

Any person upon whom a penalty is imposed pursuant to Section 6 shall have the right to appeal the imposition of such penalty pursuant to the procedures established by [citation to section of state law or administrative code concerning appeals process for violations under the state's alcohol laws].

Commentary to Section 7:

Due process requires some administrative appeal procedure for both impositions of fines and/or penalties. As with Sections 5 and 6, most States have existing mechanisms that address appeals procedures which should be referenced.

SECTION 8: STRICTER LOCAL REGULATION PERMITTED

This statute does not prohibit local cities and counties from enacting any regulation of the sale of alcoholic beverages:

(1) based on the container size, packaging numbers, or alcohol content that are more restrictive than those contained in the provisions of this statute.

Commentary to Section 8:

Section 8 explicitly recognizes the authority of local governments to enact stricter regulations than those contained in the Model Statute. Since the statute restricts the sale of supersized malt beverages, the Section's practical effect is to allow localities to enact ordinance further restricting container sizes or alcohol content. The Section also ensures clarity of the state's purpose by explicitly preempting local ordinances from weakening the bans.

In some states, localities are explicitly preempted by State law from enacting laws that would regulate any type of alcoholic beverage that may be sold by alcohol retailers. In these cases, this provision can either be omitted, maintaining the general grant of exclusive state authority, or a phrase may be advisable that states explicitly that the provision is a specific exception to the general state powers statute.

SECTION 9: EFFECTIVE DATE

The effective date of this statute shall be three months from the date of its enactment.

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VISION

We envision healthy communities free of the alcohol industry's negative impact.

MISSION

We promote evidence-based public health policies and organize campaigns with diverse communities and youth against the alcohol industry's harmful practices.

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