



Announcement

Advertising, Labeling & Formulation Division

Advertising Malt Beverages Containing Ingredients Associated with Non-Alcohol Energy Drinks

This notice is being included with the Certificate of Label Approval (COLA) for your product to remind you of your responsibilities under the Federal Alcohol Administration Act (FAA Act) and its implementing regulations. Advertisers of malt beverages are responsible for complying with the advertising provisions of the FAA Act, codified at 27 U.S.C. § 205(f), and the malt beverage advertising regulations found at 27 CFR 7.50 through 7.55.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) has approved several labels for malt beverages that contain extra ingredients that are generally associated with non-alcohol energy drinks. Examples of these ingredients include caffeine, ginseng, guarana and taurine, among others.

TTB is concerned about advertisements that imply that such products have a stimulating or energizing effect. The marketing of these products may imply that the physical effects of ingesting the extra ingredients in the malt beverages will allow the consumer to drink more of the product without experiencing the negative effects of consuming similar quantities of traditional alcohol beverages.

Current information regarding the effects of consuming alcohol combined with these extra ingredients is inconsistent and not conclusive as to whether or not these extra ingredients offset the depressant effects of the alcohol itself. It should be noted that the Alcoholic Beverage Labeling Act requires a health warning statement on containers of alcohol beverages, warning consumers that, among other things, alcohol consumption impairs one's ability to drive a car or operate machinery. See 27 U.S.C. § 215. It is TTB's policy that the use of advertising statements that imply that consumption of certain alcohol beverages will have a stimulating or energizing effect, or will enable consumers to drink more of a product without feeling the effects of the alcohol, are misleading health-related statements that are in violation of the regulations appearing at 27 CFR 7.54(a)(1) and 7.54(e)(2). Pursuant to our Alcohol Beverage Advertising Program, TTB will take appropriate enforcement action when we determine that there have been violations of the advertising provisions of the FAA Act or its implementing regulations.

While alcohol beverage labels must generally be submitted to TTB for approval prior to use, the same is not true of advertisements. However, TTB offers an advertising pre-clearance service for industry members. Pre-clearing advertising material may avoid additional expenditures on the part of industry members that might otherwise be incurred by having to revise a noncompliant advertisement after its use.

If you have any questions about advertising requirements for malt beverages, please contact the TTB Market Compliance Office at **(202) 927-8140**, toll free at **(866) 927-ALFD (2533)**, by fax at **(202) 927-8605** or by E-mail: alfd@ttb.gov.