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Santa Clara County v. Board of Equalization
*Alcopops Mischaracterization leads to millions lost
in excise tax revenue, encourages underage drinking*

SAN JOSE, CALIF.—The County of Santa Clara announced today that it is filing a lawsuit against the Board of Equalization for the mischaracterization of alcopops alcoholic beverages as malt beverages instead of distilled spirits. The current classification of alcopops as beer or malt beverages results in a lower excise tax, cheaper retail prices, and easier access for minors.

In *Santa Clara County v. Board of Equalization*, the County is stating that alcopops contain distilled spirits and should be classified accordingly. Beer is taxed at a rate of \$.20 per gallon while distilled spirits are taxed at a rate of \$3.30 per gallon. The improper characterization has caused a significant loss in excise tax revenue to the State and to the County. The mischaracterization hits the community two fold—loss in tax revenue, and lower prices and more locations for minors to access alcopops beverages.

“The County of Santa Clara is committed to doing whatever it can to reduce or eliminate the consequences of underage drinking; and we are also committed to doing what we can to increase the revenues the State is lawfully entitled to collect,” said County Counsel Ann Miller Ravel, County of Santa Clara. “The Board of Equalization has admitted it loses more than \$40 million a year because of the improper classification of alcopops as malt beverages.”

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Because alcopops are taxed as beer instead of distilled spirits, they are sold at a significantly lower price, making them more appealing and more accessible to minors. Labeled as “entry-level” beverages by the alcohol industry, they are popular among teenagers, particularly young teenage girls. Marketing strategies encourage youth consumption. According to the Center on Alcohol Marketing and Youth (CAMY), alcopops are promoted in media programming and Internet sets popular with underage youth.

Alcopops, known as Flavored Alcoholic Beverages (FABs), can be found under brand names such as Smirnoff Ice, Bacardi Silver, Mike’s Hard Lemonade, and Skyy Blue. FABs are also called “alcopops” because of their similarity to soda pop in flavor and sweetness – soda pop laced with hard liquor. The alcohol taste in FABs is concealed by sweet, fruity flavors that serve as a bridge between nonalcoholic beverages such as soft drinks and the harsher tastes of traditional alcohol products.

Manufacturers use a process that starts with a malt beverage base, then strip out the malt character such as the bitterness, color and taste normally associated with beer. This leaves a base product to which brewers add various flavors, which typically contain distilled spirits, to achieve the desired taste and alcohol content.

According to the National Institute on Drug Abuse, FABs are popular with junior and senior high school students: in a 2005 survey, 12.9 percent of 8th graders, 23.1 percent of 10th graders, and 30.5 percent of 12th graders report consuming alcopops within the last 30 days. Girls are much more likely to consume FABs than boys.

If characterized as distilled spirits, alcopops could not be sold by retailers with only beer-and-wine licenses, such as convenience stores, and would be taxed at a much higher rate making it more expensive to purchase. The cost would increase as much as \$2 per six pack.

“We are calling on the Board of Equalization to do the right thing and properly categorize alcopops alcoholic beverages as distilled spirits,” said Jim Mosher, Center Director, Pacific Institute for Research and Evaluation. “Alcopops can be marketed on mainstream television and target youth because of the misclassification as beer. It jeopardizes the health and safety of teens.”

Santa Clara County v. Board of Equalization – Page 3

According to the American Medical Association, more than 60 percent of teen girls who have seen TV, print or in-store ads have also tried alcopops. And more than one in six teen girls drink alcopops every six months or more often.

“The Board of Equalization needs to be held accountable to protect the youth in our community,” Ravel said. “If alcopops were to be properly classified as distilled spirits, restrictions on where and how they could be sold would make them less available to minors and ultimately reduce underage drinking.”

The firm of Renne, Sloan, Holtzman & Sakai will represent the County in the legal action.

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