



FOR IMMEDIATE RELEASE

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WLF CALLS FOR DISMISSAL OF LAWSUIT AGAINST FLAVORED MALT BEVERAGE SALES

The Washington Legal Foundation (WLF) today decried a lawsuit filed in California against flavored malt beverage sales as "a neo-prohibitionist assault on the business community." The suit, filed yesterday by the California Council on Alcohol Problems and others, seeks to impose significant restrictions on flavored malt beverage sales by increasing taxes and prohibiting their sale in convenience and grocery stores statewide. WLF said the suit is without merit and ought to be dismissed.

"There is simply no evidence that sales of these beverages are targeted toward those under 21, or that underage drinking of flavored malt beverages is a particular problem," said WLF Chief Counsel Richard Samp in response to the lawsuit. "We take a back seat to no one in supporting legitimate steps to reduce underage drinking, but this lawsuit is not such a step but rather would simply make it much more difficult for adults to purchase an increasingly popular product," Samp said.

The lawsuit seeks to force California to reclassify the beverages (dubbed "alcopops" by backers of the lawsuit) as hard liquor rather than beer. If a reclassification occurs, the tax on the beverages would increase more than 16-fold, and they could no longer be sold in 16,000 convenience and grocery stores statewide -- which generally are only licensed to sell wine and beer, not hard liquor.

WLF noted that all available evidence suggests that flavored malt beverages, which represent only 2.6% of the entire beer market, are no more subject to underage drinking abuse than any other category of alcoholic beverage. WLF called on state officials to concentrate instead on steps that can make a real difference in reducing underage consumption, including increased law enforcement and alcohol education programs directed at youth.

WLF noted that flavored malt beverages have the same alcohol content as beer (5% by volume), underage drinking is lower than when flavored malt beverages first hit the market in 1999, and that recent increases in underage drinking have occurred at a time when advertising for flavored malt beverages has been decreasing. WLF further noted that after being requested by consumer groups to investigate the issue, the Federal Trade Commission concluded that there is no evidence that the flavored malt beverage industry has been targeting underage drinkers.

WLF charged that if the suit is successful, the 35,000 small retailers that now sell flavored malt beverages will be hurt financially by no longer being permitted to carry a popular product. WLF stated that there is no reason to penalize the many adults who prefer the taste of flavored malt beverages over other types of beer, when doing so will do nothing to combat underage drinking.

"State officials have acted correctly in rejecting these neo-prohibitionist efforts to impose significant restrictions on sales of a legitimate product. There is no sound reason for the courts to second-guess that decision," Samp said.

WLF said it plans participate in the pending lawsuit, in support of efforts to seek to dismiss the suit.

WLF is a public interest law and policy center with supporters in all 50 States. WLF devotes a substantial portion of its resources to defending and promoting free enterprise, individual rights, and a limited and accountable government. In particular, WLF has appeared in numerous federal and State courts in cases raising issues related to the right of businesses to market legitimate products without unwarranted government interference.

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For further information, contact WLF Chief Counsel Richard Samp, 202-588-0302.