

## MillerCoors Agrees to Stop Selling Alcoholic Energy Drinks

An editorial taken from the Wall Street Journal - December 18, 2008.

A settlement between MillerCoors and a group of state attorney generals will spell the end of the brewer's foray into marketing alcoholic energy drinks.

The [Wall Street Journal](#) reported Dec. 18 that MillerCoors announced it will stop producing and selling caffeinated alcoholic beverages, including those sold under its popular Sparks brand. At the same time, company officials maintained the AGs allegations that the drinks were marketed to young drinkers were "inaccurate."

"Attorney generals from around the country are gravely concerned about premixed alcoholic energy drinks because these products are dangerous and look and taste like popular nonalcoholic energy drinks," said Maine Attorney General Steve Rowe. "They're popular with young people who wrongly believe that the caffeine will counteract the intoxicating effects of the alcohol."

Critics condemn youth-oriented Sparks marketing materials implying that alcoholic energy drinks allow users to stay awake longer and drink more. "We're thrilled that MillerCoors finally got the message that they were dealing with a public-health hazard," said Pete Schulberg, communications director for the [Oregon Partnership](#), a community-based antidrug coalition. "High caffeine with high alcohol content and the fact that these products are marketing to young people makes for a dangerous combination."

Sparks has emerged as the leading brand in the alcoholic energy drink niche market; MillerCoors said it will continue to sell a reformulated version of Sparks that does not include caffeine, taurine, guarana and ginseng.

The company also agreed to end some marketing strategies that the AGs said appeared to be aimed at underage audiences, including content on the Sparks website, the use of "plus and minus" symbols signifying energy, and an affiliation with an "air guitar" performer. David Rosenbloom, director of Join Together, said the settlement's marketing reforms are just as important as the product's reformulation.

"Removing caffeine and other stimulants from Sparks is an important step for public health because it removes a significant risk associated with the product," said Rosenbloom. "We hope that this settlement will really lead to the end of the company's efforts to sell alcopops to underage audiences with youth-oriented marketing strategies."

Steve Gardner, director of litigation for the [Center for Science in the Public Interest \(CSPI\)](#) -- which [sued MillerCoors](#) earlier this year over Sparks -- said that today's settlement nearly finishes off the product category. "Now that Anheuser-Busch and MillerCoors have each agreed separately to discontinue caffeinated alcoholic drinks, this entire niche of products is all but shut down," he said.

Gardner called on the remaining, smaller companies producing caffeinated alcohol beverages to quickly follow suit. "It was a bad idea that never should have gotten as far as it did -- adding caffeine to sweetened, high-alcohol-content malt beverages and marketing them to young people via word-of-mouth and infantile web sites," said Gardner.

Previously, Anheuser-Busch reached a settlement with CSPI and state attorneys general in which it agreed to [stop producing and marketing alcoholic energy drinks](#).

# ESC-20 hosts its first Texans Standing Tall Forum!!

Regional Forums are opportunities to learn about current trends in youth substance abuse, evidence based prevention strategies, and to collaborate with others to create healthier and safer communities for our youth. This year, Texans Standing Tall will give particular attention to youth alcohol and tobacco use, which are the two most used substances by youth in Texas, and proven community based strategies to prevent and reduce youth access and availability to these substances.

Join us for our premier annual prevention event as we build momentum to create a healthier and safer Texas community.

**February 26, 2009**  
**Education Service Center, Region 20 Conference Center**  
**1314 Hines Avenue, San Antonio, Texas 78208**

Lunch is provided. Attendance is \$25. Register at [www.texansstandingtall.org](http://www.texansstandingtall.org)

Regional Partners include...

San Antonio Fighting Back, Inc.

San Antonio Council on Alcohol and Drug Abuse

University of the Incarnate Word

Education Service Center, Region 20

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Do not forget about the

## 2009 Texas Safe School and Healthy Students Summit

February 11-13, 2009

Arlington Convention Center in Arlington, Texas

For more Information go to <http://sdfsc.esc6.net/>

**This is a partnership among:**  
**The Safe and Drug Free Schools and Communities Statewide Initiative**  
**Texas Education Agency – Division of Health and Safety**  
**Texas School Safety Center**

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**Mark your calendars for the**  
**Upcoming Safe and Drug-Free Quarterly Meeting**  
**For Title IV: Safe and Drug-Free Coordinators**

**February 25<sup>th</sup> 2:00pm until 4:00pm**  
**Education Service Center, Region 20 Conference Center**

## Does a necktie qualify as a weapons offense under IDEA?

An article from the Maintaining Safe Schools newsletter, an LRP Production company. January 2009.

A Massachusetts sixth-grader grabbed his principal's necktie, yanked it as hard as he could, and hung on after being told he couldn't leave school early. The principal pushed the student away, causing the student to lose his grip on the tie. The administrator testified that he couldn't breathe and his neck "hurt a lot." Marks appeared on his neck for the next several days, but he didn't receive medical treatment.

District officials decided they had the authority to remove the student to an alternative educational setting for up to 45 days because the incident involved a weapon. They determined they could remove the student regardless of whether his conduct was a manifestation of his disability.

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### Did the district act correctly in removing the student?

- A. No. The necktie wasn't really a weapon.
  - B. Yes. Since the incident wasn't a manifestation of the student's disability, the district had the authority to remove him.
  - C. No. The student didn't have a history of violence toward classmates.
  - D. Yes. The student could endanger himself or others if he returned to school.
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You agreed with the IHO if you chose A. The IHO concluded the student didn't possess a weapon or carry one to school as defined by statutory law in the case of Scituate Pub. Schs., 47 IDELR 113 (SEA MA 2007). As this case shows, language in IDEA such as "carries or possesses a weapon" is intended to limit when district authorities can unilaterally remove a student with a disability from his current placement.

Hearing officers are unlikely to broaden that scope to include objects that could potentially cause harm because that would give school officials nearly unfettered removal authority. Here, the district was unable to show the student carried or possessed the principal's necktie as a weapon, or demonstrate that the necktie qualified as a weapon under federal law.

Under Section 930(g)(2) of Title 18 of the *United States Code*, the term dangerous weapon means:

1. A weapon, device, instrument, material or substance, animate or inanimate.
2. An item that's used for, or is readily capable of, causing death or serious bodily injury.
3. The above excludes a pocket knife with a blade of less than 2.5 inches in length.

Although the parents agreed the student was too dangerous to remain at his elementary school, they disputed the terms of removal and claimed the student's disabilities caused his conduct. The student has been diagnosed with Asperger syndrome, which can cause social and communication difficulties. Also, he had Attention Deficit Hyperactivity Syndrome and multiple learning disorders.

An Independent Hearing Officer agreed with the conclusion of the Individualized Education Program team that the district had implemented stating the student's conduct was not a manifestation of his disability, and he deliberately chose to act the way he did.

The Individuals with Disabilities Education Act allows administrators to remove a student to an alternative education setting for up to 45 days for a weapons offense, in the interest of protecting school safety. The tie meets the first criteria and part of the second, since it was readily capable of causing death or serious bodily injury. A gun, knife with a blade longer than 2.5 inches, or a baseball bat might be used to cause serious bodily injury. The student held the tie for a few seconds, but didn't cause serious bodily harm.

Additionally, the student did not carry the tie to school. IDEA wording such as "carries or possesses a weapon" limits school authority for removals to students who bring a weapon to school, not try to use a weapon, the IHO said.

You are also correct if you chose D. The IHO agree with parents and school officials that the student was too dangerous to return to his elementary school. However, during oral arguments at the conclusion of hearing testimony, school officials and parents agreed to work together to place the student in a day psychiatric hospital or a similarly intensive and comprehensive therapeutic setting. So, while the IHO determined the tie was not a weapon in this case, the issue of exactly where to place the student was withdrawn from his consideration.

*Editor's note: This feature is not intended as instructional material or to replace legal advice.*

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## Upcoming Events and Trainings

### January

#### **Critical Incident Response Management**

January 14, 2009

8:30 a.m. – 4:00 p.m.; ESC-20

Workshop# CA90114-K11

Fee: \$75; REMS Consortium: No Cost

#### **Is My School/District Ready for Traumatic Events?**

January 15, 2009

8:30 a.m. – 12:00 p.m.; ESC-20

Workshop# CA90115-K11

Fee: \$35; REMS Consortium: No Cost

#### **Family Violence & Sexual Assault Part II: Investigative Techniques, Stalking, & Issues in Immigrant Communities**

8 hrs. TCLEOSE Certification

January 15, 2009

8:00 a.m.-5:00 p.m.; ESC-20

Workshop # CF90115-K01

Fee: No Cost

#### **Parenting and Paternity Awareness (P.A.P.A.) Training**

January 20, 2009

8:30 a.m.-4:00 p.m.; ESC-20

Workshop #: CF90121-K01

Fee: No Cost

#### **Critical Response from Beginning to End & Best Practices Using N.O.V.A.**

January 21 & 22, 2009

8:30 a.m. – 4:00 p.m.; ESC-20

Workshop # CC90121-K21

Fee: \$100; SDFSC Co-op: None

#### **Family and Community Involvement Symposium**

January 27, 2009

8:30 a.m. – 4:00 p.m.; ESC-20

Workshop # SD90127-D52

Fee: No Cost

### February

#### **Legal Ethics Training Using Scenarios for Counselors, Social Workers and School Leaders**

February 3, 2009

1:00 p.m. – 4:00 p.m.; ESC-20

Workshop # CS90203-K21

Fee: \$60; SDFSC Co-op: None

#### **Providing Teachers Tools for Safe Classrooms**

February 9, 2009

8:30 a.m. –11:30 a.m.; ESC-20

Workshop# CA90209-K11

Fee: \$35; REMS Consortium: No Cost

#### **Creating and Maintaining Safe Schools**

February 10, 2009

8:30 a.m. –4:00 p.m.; ESC-20

Workshop# CA90210-K11

Fee: \$75; REMS Consortium: No Cost

#### **Providing Teachers Tools for Safe Classrooms**

February 11, 2009

8:30 a.m. –11:30 a.m.; ESC-20

Workshop# CA90211-K11

Fee: \$35; REMS Consortium: No Cost

#### **Providing Safety and Security in Non-Traditional Classrooms**

February 11, 2009

1:00 p.m. –4:00 p.m.; ESC-20

Workshop# CA90211-K12

Fee: \$35; REMS Consortium: No Cost

#### **Intermediate Use of Force for Law Enforcement (2 days)**

16 hrs. TCLEOSE Certification

February 11-12, 2009

8:00 a.m. – 5:00 p.m.

Workshop# CA90211-K11

Fee: \$35; SDFSC Coop and REMS Consortium: No Cost

#### **Creating and Maintaining Safe Schools**

February 12, 2009

8:30 a.m. –4:00 p.m.; ESC-20

Workshop# CA90212-K11

Fee: \$75; REMS Consortium: No Cost

#### **Bully-proofing our Schools**

February 17, 2009

8:30 a.m. – 4:00 p.m.; ESC-20

Workshop# CA90217-K11

Fee: \$55; SDFSC Co-op: None

**NIMS 700 for Administrators**

February 24, 2009

8:30 a.m. – 11:30 a.m.; ESC-20

Workshop# CA90224-K11

Fee: \$35; SDFSC Co-op: None

**Emergency Preparation for School Administrators**

February 24, 2009

1:00 p.m. – 4:00 p.m.; ESC-20

Workshop# CA90224-K12

Fee: \$35; REMS Consortium: No Cost

**SDFSC Co-op:**

If your school is located within the following district areas, then eligibility is granted unto the Office of Safe and Drug-Free Schools and Communities Cooperative for the 2008-2009 school year. Specific course offerings are listed at no cost.

Brackett ISD, Crystal City ISD, Devine ISD, D'Hanis ISD, Dilley ISD, Ft. Sam Houston ISD, Hondo ISD, Ingram ISD, Knippa ISD, Lackland ISD, La Vernia ISD, Lytle ISD, Natalia ISD, Pleasanton ISD, Poth ISD, Randolph Field ISD, Southside ISD, Stockdale ISD, School of Excellence, Guardian Angel Academy, Por Vida Academy, Southwest Preparatory, Gabriel Tafolla, John H. Wood, Jubilee Academy, Positive Solution, George I. Sanchez

**Office of Safe and Drug- Free Schools and Communities  
Education Service Center, Region 20**

**For more information, please contact**

Lucien Robert Costley  
Educational Specialist  
210-370-5493

Manuel Garcia  
Report Writer  
210-370-5624

Stephen Enriquez  
Safety Technician  
210-370-5343

Denise Miranda  
Office Assistant  
210-370-5659

