ENERGY DRINKS AND THEIR AVAILABILITY TO CHILDREN AND YOUTH

SUBMISSION TO THE STANDING COMMITTEE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY BILL S-228

James Shepherd

June 5, 2107

Contact: jjshepherd101@yahoo.ca
INTRODUCTION

Red Bull was the original energy drink which was introduced in Austria, in 1987. Red Bull was introduced to the United States in 1997 and to Canada in 2004. Since then, hundreds of brands of energy drinks and concentrated energy shots have flooded the marketplace worldwide. They are one of the fastest growing segments of the beverage market. Energy drink ingredients include caffeine, taurine, vitamins and in most cases sugar. The caffeine concentration permitted in energy drinks in Canada is 200-400 mg/litre which on the store shelf amounts to 80mg in a small can, up to a maximum of 180mg in larger container sizes.

Energy drinks are often confused with other beverages, including sports drinks. While sports drinks such as Gatorade are formulated to hydrate the body, and do not contain caffeine or other stimulants, energy drinks can lead to dehydration. There are a number of cafffeinated cross-over products on store shelves, which add to the confusion between the products.

MY SON’S TRAGIC STORY

On January 6, 2008, my 15-year-old son Brian was competing in a day-long paintball tournament. Around noon, Red Bull representatives came into the venue, where many individuals under the age of 18 were engaged in sport. They handed out free samples of energy drinks and according to police; Brian was witnessed drinking one of these samples. At about 7:20 p.m. Brian collapsed, and later died in hospital.

In the autopsy, the coroner ascribes Brian’s death clinically as Sudden Arrhythmic Death Syndrome (SADS). This means that he died of an acute arrhythmic event, but the coroner’s findings offered no plausible explanation for the cause of the arrhythmia. In Brian’s short fifteen years, he never exhibited any symptoms that would suggest any type of heart disorder. The medical history of this healthy and athletic teenager, offers no explanation either. Brian always excelled as an athlete, playing competitive sports from a young age. Further, there is no family history that would suggest a pre-disposition to an arrhythmic event.

I strongly suspect that the energy drink was contributory in his death, if not the whole cause. The combination of being fatigued, playing a competitive adrenaline rushing sport, not being a regular consumer of caffeine, combined with not consuming lunch that day, may have created the conditions of a perfect storm that affected an otherwise healthy individual.

Since learning of the abusive marketing, and the lack of appropriate regulatory oversight, regarding these products, I continue to advocate for change. My desire was that no other family in the future would have to live with the questions that my family does, but sadly there continue to be reports of deaths where energy drinks are suspect.
UNDER-REPORTING OF ADVERSE REACTIONS IS AN UNDERSTATEMENT

- At my request, the Ontario Poison Centre conducted a manual search of energy drink related calls for the year 2014. There were 42 such calls. 25 calls, or 60%, involved those 18 years or younger. Please note, Canada does not have a system in place to track emergency room visits or poison control calls.
- In the U.S.A., there were 20,783 reported emergency room visits in 2011, in which an energy drink was cited as the primary cause of - or a contributing factor to - a health problem, compared with 10,068 in 2007.\(^1\)
- In a 2016 study, Australian researchers surveyed patients aged 13-40 attending an emergency department with heart palpitations and found 36% had consumed at least one energy drink in the 24 hours prior to presenting at the hospital and 70% had consumed some sort of energy drink in their lifetime.\(^2\)
- As of August 2013, Health Canada’s adverse reaction database includes 3 teenage deaths where energy drinks were suspect, 5 listed as life threatening and 19 required hospitalization. 32% of the adverse reactions reported were youth and children, (a total of 21% of all adverse reports did not have their age listed) Health Canada estimates that for every adverse report, up to 10 go unreported. My research suggests the unreported number may be much higher.
- The Medical Journal of Australia found the number of calls to the NSW poisons information line increased from 12 calls related to the drinks in 2004 to 65 in 2010. Consumers had a median age of 17 and often drank more than one in a session.\(^3\)

ENERGY DRINKS ARE MARKETED TO CHILDREN AND YOUTH

Contrary to industry claims, adolescents and children are frequent targets of product promotion; including child-friendly product designs, viral marketing via social media and in television commercials. In a 2014 study, the Rudd Center for Food Policy and Obesity released statistics demonstrating an increase in children and youth’s exposure to energy drink TV advertising, as well as to event and social media marketing.\(^4\)\(^5\)

A 2017 Heart and Stroke report titled “The Kids Are Not Alright”\(^6\) provides an overview of a study conducted by a food and beverage marketing expert, Dr. Monique Potvin Kent. The study reviewed the top ten most popular websites visited by children as well as those visited by adolescents. Red Bull energy drink appeared in the top five most frequently advertised products for each age segment in her report.

Examples of marketing to children and youth include a 2016 Red Bull Stratos exhibit featured at the Ontario Science Centre,\(^7\) as well as Science World, Vancouver, and a Red Bull decorated car on a ride in the kiddie section of Canada’s Wonderland.\(^8\)

I have personally encountered a number of examples of marketing to youth and children. In February 2010, I witnessed a teen receive a sample of Red Bull, in the parking lot of a municipal arena. On October 10, 2009, the soccer ball juggling
competition “Red Bull Street Style” took place at the entrance to the BMO Field in Toronto’s CNE grounds. The event took place in the afternoon before a soccer game, just yards away from children engaged in a soccer kicking competition. Pictures of these and other recent examples can be found on pages 9-12 of this submission.

THE CANADIAN BEVERAGE ASSOCIATION MARKETING CODE, DE-CODED

I appeared before the Standing Committee on Health in Ottawa, on June 8, 2010. Dr. Andreas Kadi, then Chief Science officer of Red Bull, responded to a question regarding their marketing practices by stating, “When you look at universities, for example, starting with 18 years, yes, this is where we are. When you look at high schools, which are younger, then this is where we are not.” Red Bull was a member of Refreshments Canada at that time. (Before the name change to the Canadian Beverage Association - CBA) I found that claim difficult to believe, as according to police, my son received a sample in a facility where it is common to find those under 18 years engaged in sport.

If you review the Canadian Beverage Association Energy Drinks Marketing Code of practice, it does make a number of claims regarding their members not sampling near elementary, middle or secondary schools, or during extracurricular activities where adults are not present. But in the end, they only promise not to sample to “children.” Although no link is offered in the document to define children, a reference is made to the Advertising Standards Canada code, which upon inspection states that a child is considered 12 and under.

It is important to note that the CBA represents –but a few – of the many – grass roots energy drink marketers in Canada. It is also interesting to note, that the British Soft Drink association marketing code states that they will not market to those under 16-years of age.

CHILDREN AND YOUTH ARE CONSUMING ENERGY DRINKS

A 2016 Canadian study, Consumption of Caffeinated Energy Drinks Among Youth and Young Adults in Canada, highlighted the following figures: 73.6% of Canadian youth and young adults (age 12–24) surveyed had consumed CEDs. Past-week CED prevalence was 15.6%, highest among males, Aboriginals, BC residents. Most concerning was the statistic that 16.0% of ever-consumers reported exceeding two CEDs in a day (above the guidance for maximum for an adult).

A European study revealed that energy drinks were mostly consumed by teenagers, who were responsible for almost 70% of the sales in Europe. Data from the August 2016 Monitoring the Future Study in the U.S.A., reported approximately 30% of high school students surveyed consumed energy drinks.
Recent Canadian student surveys tell a similar story. Since the question was asked in Ontario student surveys, energy drinks rank in second place only to alcohol, as the most common used substance by students overall. Here is a sampling of the results:

2015 Ontario Drug Use Survey: Energy drinks rank in first place as the most common drug used by grades 7&8 and in second place at 40% overall, for grades 9-12, (Males 41%, females 29%, significant increases with grade from 19% in grade 7 to 46% in grade12)\(^\text{15}\)

2010-2011 Quebec Health Survey of secondary school students: 43% of young people have consumed energy drinks.\(^\text{16}\)

2012 Nova Scotia Student Drug Use Survey: more than six in ten students (64.3%) used an energy drink at least once in the 12 months prior to the survey. (Average of grades 7, 9, 10 & 12)\(^\text{17}\)

2012 Newfoundland and Labrador Student Drug Use Survey: 61.6% overall reported using energy drinks in the past year.\(^\text{18}\)

**RESEARCHERS AND HEALTH PROFESSIONALS ARE CALLING FOR REGULATION**

My concerns are not in isolation. Many health professionals have spoken out about the need for regulation of energy drinks. I have attached a letter from the Canadian Medical Association highlighting their policy position and yearly adopted resolutions on energy drinks. Here are several other recent examples:

- On March 20, 2017, the Toronto Board of Health tabled the evidence on the topic of *Caffeinated Energy Drinks: Feasibility of Restricting Sales and Marketing to Youth in Toronto*. The submissions on the communications board on their website\(^\text{19}\) offered strong support for a ban of sale to minors. Organizations and researcher’s writing in support of a ban included; The Australian Medical Association; Dr. John Higgins, University of Texas; Dr. Kathleen Miller, University of Buffalo; Suffolk County, NY Board of Health; Quebec Coalition on Weight-Related Problems; Dr. Michael Rieder, Western University; Dietitians of Canada; and the Centre for Health Science and Law.
- World Health Organization researchers call for a restriction of labelling and sales of energy drinks to children and adolescents. (2014)\(^\text{20}\)
- 18 doctors, researchers and health experts jointly urged the FDA to take action on energy drinks to protect children and adolescents. (2013)\(^\text{21}\)
- The Rudd Center for Food Policy & Obesity stated that energy drinks are emerging as a public health threat and are increasingly consumed by youth internationally. (2013)\(^\text{22}\)
- New Brunswick’s chief medical officer of health expressed concern about a survey that showed many teens are consuming energy drinks. (2013)\(^\text{23}\)
• The Canadian Medical Association called on provincial and federal governments to ban the sale of energy drinks to people under 19. (2013)²⁴
• The American Medical Association supports a ban on the marketing of energy drinks to children under 18. (2013)²⁵
• The American Academy of Family Physicians will push the federal government to ban the sale of energy drinks to those less than 18 years old. (2013)²⁶
• Doctors Nova Scotia asked the province to bring in a law banning the sale of caffeinated energy drinks to those under 19. (2012)²⁷
• The Eastern Ontario Health Unit has asked that the drinks not be available to people less than 18 years old, further, impose rules on the marketing of the drinks, and make it mandatory to advertise possible side effects. (2012)²⁸
• The American Academy of Paediatrics states that “Caffeine and other stimulant substances contained in energy drinks have no place in the diet of children and adolescents.” (2011)²⁹

WHAT ARE OTHER JURISDICTIONS DOING?

Over the past few years, a number of jurisdictions have imposed age restrictions on the sale of energy drinks, including: Lithuania³⁰, Mexico³¹, Kuwait³², United Arab Emirates³³ and Latvia.³⁴ Stiff regulations are in effect in Saudi Arabia, where drinks have to display specific warning signage and be separate from other beverages. Further, no marketing or advertising is permitted, including sampling³⁵. In Long Island, New York, recent legislation protects minors by banning the sale/distribution of energy drinks at county parks, prohibiting direct mail advertising and samples to minors and establishing a public education campaign.³⁶

WHAT HAS BEEN DONE IN CANADA?

Recognizing the growing concerns expressed by critics over the questionable nature of energy drinks, and the reports of abusive marketing to youth, Health Canada convened an energy drink expert panel, in the fall of 2010. The expert panel came back with some very strong recommendations.³⁷

The Panel’s recommendations included:

1. Changing the name to “stimulant drug containing drinks”
2. Maintaining them as NHP’s or moving them to the drug category
3. Ensure that the products are not marketed to those less than 18 years
4. Limit caffeine concentration to 80 mg/serving
5. Create stiff penalties to ensure compliance
6. Licence these drinks for use by those over the age of 18 years only

In the fall of 2011, Health Canada ignored most of the panel’s recommendations when they announced the new management of energy drinks.³⁸
**Highlights of Health Canada’s new management (fully transitioned December 31, 2013):**

1. Added “Caution High Caffeine Content” warning requirement. Found in small print on cans inspected. Labeling is required to meet the food standards and display specific warnings.
2. They left energy shot regulation unaffected in the Natural Health Product’s category, and moved energy drinks to the food category.
3. Industry was directed to create a code of practice regarding marketing and advertising to children. To date, there has been no change in the marketing code. Industry continues to “claim” not to sample to children under 12-years of age.
4. Limit caffeine to 180mg/serving.
5. No penalties. Energy drinks are under a Temporary Marketing Authorization (T.M.A.), which could result in future regulatory changes.
6. No stipulation in effect.

The expert panel noted that there is little information regarding the potential long-term health effects of energy drinks and the lack of documented consumption patterns by children and youth. Critics of the changes have concern that a caffeine limit of 180 mg is far above the daily limit for children, as well as many developing teenagers. Further, there have been countless allegations that industry has marketed to minors/children. There is fear that leaving it as an industry developed code of practice without stiff consequences, will leave children vulnerable to continued marketing exposure.

**MARKETING TO OUR CHILDREN HAS TO STOP!**

Children and teenagers are bombarded with all the adventurous and trendy marketing associated with energy drinks. Energy drinks require special consideration when implementing any marketing and advertising regulations to protect children and youth.

The evidence is clear that the time has come to stop the abusive marketing to our young and BILL S-228, the Child Health Protection Act, offers that protection. Both children and teenagers should be protected by these new regulations, not just those 12 and under. The mind of a teenager is still developing leaving them very impressionable. Further, due to the risk-taking nature of youth, as well as the prevalence of spillover marketing, raising the age is necessary to mitigate the influence of industries marketing.

There are no long-term studies to prove the safety of energy drinks. On the contrary, what is emerging strongly suggests a public health threat. Energy drinks are the worst case example of the marketing of an unhealthy and potentially dangerous product, to children and youth.
My major goals include:

1) Protect children and youth from these products, by treating these products like tobacco, alcohol, and fireworks, through a ban of sale to minors. Further, ensure that the continued marketing and advertising of these products to our children and youth stops.

2) Foster awareness to the potential dangers of these drinks e.g. government education programs, point of sale signage, separate shelf placement.

3) Encourage more research; many recent studies have recognized this need.

Currently there is nothing to stop industry from marketing to another young member of my family. Industries voluntary code of practice regarding the marketing of energy drinks to children has done little if anything to curb the abusive marketing. The vast majority of reports of the marketing of energy drinks to children that I am aware of have involved Canadian Beverage Association members. We need regulations, with stiff penalties, to mitigate the risk energy drinks and their abusive marketing, pose to children and youth.

Our children deserve a precautionary approach
June 2010, marketing material reportedly handed out at Winnipeg high school graduations along with energy drink samples. (Courtesy of Winnipeg Free Press)\textsuperscript{39}

"Congratulations on finishing school! Now you are ready to spread your wings with Red Bull", reads a thick, diploma-like certificate given to at least 1,000 Winnipeg teens, some whom were under 18.

The certificate was rolled into a silver canister that contained two cans of Red Bull, a beverage that's laced with vitamins and caffeine. According to the product label, children should not consume Red Bull.

The Red Bull marketing material handed out to Winnipeg grads however uses language that clearly appeals to youths.

"School's out forever!" says the large faux certificate, decorated with an image of a flying bull "... After all of the stress of these past weeks, the first thing you should do is take a flight up to party heaven. "And Red Bull will give you the wings you need to get there."
Red Bull Street Style - Soccer juggling competition, Canadian National Exhibition grounds, fall 2010. The event took place adjacent to a children’s soccer kicking competition in the afternoon before a professional soccer game at BMO Field.
Local Toronto store, children’s toy, finger board ramp (skateboard), by tech-dek advertising Red Bull energy drink and their website link. This was a 2010 Christmas gift, to my 6-year-old nephew.

Toronto International Auto Show, March 2017. In the background the lineup of young children can be seen waiting their turn on the ride.
Red Bull Stratos Exhibit at the Ontario Science Centre October 9, 2015 – January 11, 2016. (Lower picture of exhibit is from Science World Vancouver, the next stop for the exhibit after the Ontario Science Centre) This exhibit exposed thousands of children to the Red Bull name and logo, associating Red Bull with extreme human achievement.
Local Durham newspaper, February 2016.

Ottawa Red Bull Crashed Ice, March 2017
7. Science Centre website: http://www.onotariosciencecentre.ca/