



# Alcopops: Dispelling the Myths

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## **Myth 1 Alcopops have similar alcohol by volume as beer and, thus, should be classified as beer.**

- Nebraska regulates and taxes alcohol based on the process used to derive the alcohol. *Beer*: brewing process; *Distilled Spirit*: distillation; *Wine*: fermentation.
- No matter the alcohol per volume, alcopops contain distilled spirits derived by distillation and according to Nebraska state law, 53-103 (2), should be classified as distilled spirits, a tax rate 12x higher than beer (.31 cents/gal for beer vs. \$3.75/gal for distilled spirits).
- Nebraska taxpayers lose approximately \$2 million in tax revenue annually based on the illegal classification.

## **Myth 2 Federal guidelines mandate each state classify alcopops as beer.**

- In announcing the federal standard, the January 2005 Federal Register, Vol. 70, No. 1, states that "it is up to the States to decide whether they want to follow Federal standards or not." The federal standard serves merely as a guideline for states that lack a clear law. Nebraska's law is clear.
- In an October 2003 letter to wholesalers, the Liquor Control Commission states that the commission ". . . has determined that under Nebraska's statutory definitions, a "Flavored Malt Beverage" should be classified as a "spirits" and not "beer" for tax and distribution purposes . . ."
- According to a Nebraska Attorney General's opinion issued July 2006, ". . . flavored malt beverages could be considered distilled spirits because they are 'any beverage which contains alcohol obtained by distillation.'"

## **Myth 3 The majority of states currently follow the federal standard.**

- 25 states have laws where alcopops should be classified as distilled spirits; however, their laws are currently being ignored, according to the Marin Institute, an industry watchdog.
- The states of AR, CA, CT, IL, ME, OR and UT have already taken positive action to address the taxation, labeling and availability of alcopops.