

# Judge says Nebraska must tax 'alcopops' as liquor

- The Associated Press
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LINCOLN, Neb. — LINCOLN, Neb. (AP) - A judge has decided that Nebraska should be taxing so-called alcopops at a much-higher hard liquor rate, meaning the price could jump for drinks such as Mike's Hard Lemonade, Smirnoff Ice and Bacardi Breezers.

The difference between the beer and hard liquor rates is more than \$3 a gallon, so the price of these beverages is likely to increase if the ruling stands.

The products start out as brewed malt beverages but are flavored with distilled spirits. Lancaster County District Judge John Coburn ruled Monday that state law dictates that a drink containing any distilled alcohol should be taxed as hard liquor.

A mother and three Nebraska groups that fight underage drinking filed the lawsuit in 2009. It challenged the state Liquor Control Commission's decision to let alcopops be classified as beer instead of hard liquor.

The rule that was challenged in the lawsuit requires that the state classify alcoholic beverages the same way as the federal government. The federal government classifies alcopops as beer.

The Nebraska Attorney General's office is still reviewing the ruling and hasn't decided whether to appeal, spokeswoman Shannon Kingery said.

If the ruling is not appealed, the tax on flavored malt beverages in Nebraska will increase from 31 cents per gallon to \$3.75 per gallon. Sales of the drinks could also be banned at beer-only stores, such as some mini-markets.

Project Extra Mile, one of the plaintiffs in the lawsuit, argued that the beer classification helped make the drinks popular with underage drinkers by keeping them on more store shelves and at lower prices. Assuming the higher taxes are passed along to consumers, that would raise the shelf prices considerably.

"Kids and young people are price sensitive," said Diane Riibe, executive director of Project Extra Mile.

The plaintiffs' attorney, Vince Powers, said the change might help raise some much-needed revenue for the state if the higher tax rate is imposed on flavored malt beverages.

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Online:

Project Extra Mile: <http://www.projectextramile.org>

Nebraska Liquor Control Commission: <http://www.lcc.ne.gov>

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Information from: Lincoln Journal Star, <http://www.journalstar.com>

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