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February 4, 2011

To: Representative Ryan Yamane, Chair, House Committee on Health; Representative Dee Morikawa, Vice Chair; and members of the Committee

From: Arkie Koehl, Council Chairman – MADD Hawaii

Re: House Bill 904 – Relating to Intoxicating Liquor

I am Arkie Koehl, speaking in support of House Bill 904 on behalf of the membership of MADD Hawaii.

Although there are no hard data at this time to support the widely-accepted contention that the new caffeine-laden alcohol drinks appeal strongly, if not primarily, to young people, we would support any measure designed to reinforce consumer awareness of the danger of impairment from such beverages. It is reasonable to assume that young people are especially susceptible to these beverages' apparent "attraction" — the caffeine doesn't delay impairment, but it does delay the user's sense of being impaired. The result is that an individual consumes higher amounts of alcohol because he or she does not feel the "clues" of becoming intoxicated. This is a lethal dynamic.

Accordingly, we request the Committee consider an amendment. In the place of ...the potential harmful effects of consuming a caffeinated alcoholic beverage may be similar to potential harmful effects of consuming an intoxicating liquor. ...we propose this wording: ..."the potential harmful effects of consuming a caffeinated alcoholic beverage may **increase** the potential harmful effects of consuming an intoxicating liquor."

Thank you for the opportunity to testify.

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TO: Representative Ryan Yamane
Chair, Committee on Health
Via Email: HLTtestimony@Capitol.hawaii.gov

FROM: Mihoko E. Ito

DATE: February 3, 2011

RE: **H.B. 904 – Relating to Intoxicating Liquor**
Hearing: Friday, February 4, 2011 at 9:00 a.m.

Dear Chair Yamane and Members of the Committee on Health:

I am Mihoko Ito, appearing on behalf of the Distilled Spirits Council of the United States (“DISCUS”). DISCUS is a national trade association representing producers and marketers of distilled spirits sold in the United States.

DISCUS supports the intent of H.B. 904, which prohibits the sale or distribution of caffeinated alcoholic beverages unless labeled as an “intoxicating liquor” and accompanied by a warning about potential harmful effects of consumption. This measure is intended to regulate alcoholic beverages where caffeine has intentionally been added by the manufacturer.

DISCUS generally supports including standard drink information, including how much alcohol is in a serving, because it believes that adequate labeling that is an aspect of responsible drinking. In November 2010, the FDA issued rulings warning that beverages such as “Four Loko” or “Joose,” are unsafe. This determination has resulted in an influx of legislation and regulation aimed at banning these caffeinated malt beverage products. Six other states besides Hawaii (Iowa, Illinois, Oregon, South Carolina, Texas, and Virginia) have introduced legislation to address this issue.

The FDA has clarified that its interest was restricted to regulating this new breed of alcoholic energy drinks, not coffee-flavored liqueurs (for example, Kahlua Coffee Liqueur or Mudslides). As such, DISCUS believes that the language of the bill needs to be carefully crafted in order to avoid the unintentional inclusion of other spirit products

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that are mixed with coffee, tea or cola – these were not the intended target of the FDA ruling.

As presently drafted, the definition of “caffeinated alcoholic beverage” in H.B. 904 is overly broad in scope, and does not reflect the intent of the FDA’s ruling. DISCUS respectfully requests that this definition be amended to the following definition of “*caffeinated beer beverage*”:

“Caffeinated beer beverage” means a beverage defined as beer pursuant to Section [] in which caffeine has been intentionally added as a food additive to the beverage. For purposes of this Section, the term “food additive” shall have the same meaning as defined in Section 201(s) of the Federal Food, Drug, and Cosmetic Act. This Section does not apply to alcohol beverages made with ingredients that contain naturally occurring caffeine, including, but not limited to, coffee, cola, tea, cacao, or extracts derived from these foods.

DISCUS asks for your favorable consideration of this language, so that the measure proscribes only the intentional and direct addition of caffeine by the manufacturer, as a separate ingredient to beer.

Thank you very much for the opportunity to testify.