



**Retail Council of Canada**  
 1881 Yonge Street, Suite 800  
 Toronto, Ontario M4S 3C4  
 Telephone (416) 922-6678 Fax (416) 922-8011  
[www.retailcouncil.org](http://www.retailcouncil.org)

August 26, 2014

All Members of Council  
 Toronto City Hall  
 100 Queen Street West  
 Toronto, ON M5H 2N2

Dear Members of Council:

**RE: Member Motion MM55.48**

The Retail Council of Canada is writing to express our concerns with Member Motion MM55.48, regarding the promotion and sale of energy drinks, scheduled for consideration by Council at the August 25-26, 2014 meeting.

**Retail Council of Canada (RCC) has been the Voice of Retail in Canada since 1963.** RCC is a not-for-profit, industry-funded association representing more than 45,000 store fronts of all retail formats across Canada, including department, grocery, specialty, discount, and independent stores, and online merchants.

Our misgivings re Member Motion MM55.48 are several. First, we are concerned when one level of government asserts jurisdiction that more properly resides at another level. Regulation of food safety and which products may be purchased by minors is the domain of the Federal and Provincial governments, respectively. Aside from their constitutional competence in these areas, these governments develop policy on an evidence-driven basis, allowing for proper consultation and engaging the full range of expert opinion and analysis.

For a non-expert body to second-guess the judgement of health and food safety experts is problematic. To do so with respect to a legal and commonly available product is worrisome, both as a precedent and also in its potential to make arbitrary distinctions between comparable and/or competing products. If pursued at the municipal level, this practice would tend to create borderline problems, in which neighbouring municipalities are likely to have conflicting rules, thereby distorting the market for product sales and adding to the compliance burden.

To this point, RCC is speaking generally about municipal restrictions on what are otherwise entirely legal products. We are also concerned about the specific targeting of energy drinks. As the following table reveals, the caffeine content of energy drinks is comparable to that typically found in similar serving sizes of many widely-available products that contain caffeine.

	Serving Size (fl. oz.)	Caffeine (mg)
Tim Horton's Brewed Coffee (small)	8	80
Starbucks Earl Grey Tea	8 or 12	65
Red Bull Energy Drink	8.5	80
Häagen-Dazs Coffee Ice Cream	8	58
Monster Energy Drink	16	160
Starbucks Brewed coffee ("grande")	16	330



**Retail Council of Canada**  
1881 Yonge Street, Suite 800  
Toronto, Ontario M4S 3C4  
Telephone (416) 922-6678 Fax (416) 922-8011  
[www.retailcouncil.org](http://www.retailcouncil.org)

Page 2

Short of banning the sale of caffeinated products, or of turning every coffee counter, convenience store and grocery checkout into an ID-checkpoint, it is impractical to prevent any product being consumed by young Canadians. The appropriate approach is to educate young consumers about consumption in moderation, as indeed it is with the vast majority of food and beverage products.

Lastly, in reference to evidence-based discussion, Member Motion MM55.48 is incorrect in its claim about legislative precedent in Maryland. A bill proposing to ban the sale of energy drinks to youth under 18 was before the General Assembly of Maryland but was in fact defeated by a vote of 22-1. The State of Maryland is directly charged with jurisdiction over food safety and as with all other US States, has chosen not to restrict the sale of energy drinks.

RCC hopes that Toronto City Council will respect the expertise and evidence-based processes of Health Canada over matters of food safety and will defeat Member Motion MM55.48. Please feel free to contact me at (416) 467-3783 or by email at [klittler@retailcouncil.org](mailto:klittler@retailcouncil.org) if I can be of assistance as you deliberate on this matter.

Regards,

A handwritten signature in black ink, appearing to read "Karl Littler", written in a cursive style.

Karl Littler  
VP, Provincial Government Relations and Strategic Issues  
[klittler@retailcouncil.org](mailto:klittler@retailcouncil.org)