
¹ The Federal Trade Commission enforces the Federal Trade Commission Act, which, among other things, prohibits unfair or deceptive acts or practices in or affecting commerce, *id.*, and the false advertising of food, drugs, devices, services, or cosmetics, 15 U.S.C. § 52. The Food and Drug Administration is responsible, among other things, for ensuring that any food, drug, device, or cosmetic is not adulterated, misbranded, or otherwise improperly labeled. *See generally* Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 321

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<http://www.ftc.gov/os/caselist/0923035/index.shtm>; *Beck's North America, Inc.*, 127 F.T.C. 379 (1999) (unfair depiction of drinking while engaged in dangerous activity); *Canandaigua Wine Co.*, 114 F.T.C. 349 (1991) (deceptive alcohol content claim).

Over the past several months, consumers in at least four states have been

⁵ See, e.g., *FTC v. Elec. Prods. Distrib., L.L.C.*, No. 02CV888H (AJB) (S.D. Cal. Apr. 22, 2005) (challenging safety claims, noting FDA warnings); *FTC v. Western Botanicals, Inc.*, No. S-01-1332 DFL GGH (E.D. Cal. July 11, 2001) (banning the marketing of products containing comfrey following issuance of an FDA letter to industry); *FTC v. Christopher Enter., Inc.*, No. 2:01 CV-0505ST (D. Utah Nov. 29, 2001) (same); *Formor, Inc.*, 132 F.T.C. 72 (2001) (challenging advertising for products containing St. John's Wort; accompanying Analysis to Aid Public Comment, available at <http://www.ftc.gov/os/2001/06/formoranalysis.htm>, noting discussions with FDA); *Robert C. Spencer*, 132 F.T.C. 174 (2001) (challenging advertisement

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