DISTILLED SPIRITS COUNCIL
OF THE UNITED STATES

March 10, 2022

Hon. Guy J. Guzzone, Chair
Hon. James C. Rosapepe, Vice-Chair
Maryland Senate Budget and Taxation Committee
Miller Senate Office Building
3 West Wing
11 Bladen Street
Annapolis, MD 21401 - 1991

Dear Senator Guzzone and Senator Rosapepe:

This letter is submitted on behalf of the Distilled Spirits Council of the United States (DISCUS), a national trade association representing producers and marketers of distilled spirits sold in the United States, in support of SB0793, entitled "Alcoholic Beverage Tax - Ready-to-Drink Cocktails."

As you know, SB0793 seeks to set the state excise tax rate for low alcohol spirits based ready to drink products $0.40 for each gallon or $0.1057 for each liter.

There has been tremendous innovation and transformation in the ready-to-drink (RTD) category over the past several years originating from large and small beer, wine and spirits producers. In today's marketplace, consumers can choose from malt-based hard seltzers, wine-based flavored spritzers or canned/pre-mixed cocktails produced with distilled spirits.

In 2021, there were approximately 37 million cases of spirits-based RTDs sold in the United States. Based on the trajectory from other countries, the U.S. market is expected to grow to more than 200 million cases benefiting consumers and state coffers if there is fair and equitable taxation. The pandemic accelerated the growth of these products as adult consumers look to recreate the cocktail experience at home with convenient, pre-mixed cocktails made with premium spirits, fresh ingredients and low ABV. Some of these can be single serve in a 12 ounce can or can be sold in larger containers and multi-serve.

Unfortunately, Maryland spirits consumers are forced to pay much higher taxes for a spirits-based RTD product even if the product has the exact same or similar ABV as a malt, sugar or wine-based RTD. For example, at 5% ABV, the Maryland tax rate on spirits-based RTDs is 17 times the malt- and sugar-based state tax rate ($0.008 per 12 ounce can for malt-based vs.$0.14 per 12 ounce can for spirits-based).

This excessive tax burden is also a steep hurdle for any Maryland small distiller that may want to enter this growing category. In fact, according to a recent survey of craft distillers, 62 percent of those not currently producing RTD products cited the higher tax rate as a barrier to entering the market.

Maryland is one of many states taking a closer look at the issues that prevent consumers from having equal access to spirits-based RTD products in the marketplace and working to ensure those products are being taxed fairly to support consumers and small businesses in their communities.

You may hear “reasons” why a lower tax rate should not be granted to spirits-based RTD products, none of which hold up under scrutiny.

1) Reducing taxes on spirits-based RTD products to the $0.40/gallon level will not result in negative economic impacts for Maryland. Our economic analysis indicates that the Maryland Treasury would realize more than $8.6 million in new tax revenue from this category within the next 3 to 5 years based on the new excise tax and Maryland’s current 9% sales tax rate. Adjusting the tax on these low alcohol products will only increase jobs in Maryland’s spirits industry, which today supports more than 24,800 Maryland jobs and $743 million in wages.

2) Distilled spirits are not “harder” than beer or wine. The Maryland Department of Health’s definition of alcohol clearly states that a *12-ounce bottle of beer or wine cooler, a 5-ounce glass of wine or 1.5 ounces of 80-proof distilled spirits* all contain the same amount of alcohol. (https://health.maryland.gov/phpa/mch/Pages/Women_Alcohol_Def.aspx).

   It does not matter what beverage alcohol is consumed. There is just as much alcohol in the standard serving of beer or malt-based seltzer as there is in the standard drink of whiskey or wine.

   In addition to the Maryland Department of Health information, the Dietary Guidelines for Americans, 2020-2025, which is the basis for federal nutrition policy in the United States, defines drink equivalents as follows: “One alcoholic drink equivalent is defined as containing 14 grams (0.6 fluid oz) of pure alcohol. The following count as one alcoholic drink equivalent: 12 fluid ounces of regular beer (5% alcohol), 5 fluid ounces of wine (12% alcohol), or 1.5 fluid ounces of 80 proof distilled spirits (40% alcohol).” (See page 49, www.dietaryguidelines.gov) You can also visit the website https://standarddrinks.org/ , which also has more information on drink equivalents.

Put simply, *there is no beverage of moderation, there is only the practice of moderation*.

To suggest by statement or policy that some forms of alcohol are “softer” than others sends a dangerous message when science has recognized for decades that standard servings of distilled spirits, beer and wine contain the same amount of alcohol. This is a critical aspect of responsible consumption.

The spirits industry has been leading beverage alcohol product innovation for nearly two decades. Today, it is a major contributor to the state of Maryland, generating nearly $2.3 billion in economic activity and $292 million to local communities and the state in taxes. Adoption of Senate Bill 0793 will continue to support this growth and expand upon the thousands of industry jobs across the state.

We believe this commonsense legislation. In fact, twenty-four states already have reduced tax rates for spirits-based products with low ABV, as compared to the tax rate applied to distilled spirits products, and twelve more are considering similar changes in the current sessions. This is not unusual policy. This change will create a more level playing field for spirits-based RTDs with other RTDs made from other types of alcohol with the same or similar alcohol content, which is good for consumers and producers alike.

Some others in the beverage alcohol industry do not support greater access for spirits-based RTDs in the marketplace or any reduction in the tax burden on these products, but in our view, there is no public policy rationale for maintaining policies that stifle innovation and prevent competition. In fact, we think policies should foster both innovation and competition, and then let consumers decide. What could be more American than that?

Thank you for your consideration.

Sincerely,

Jay M. Hibbard
Senior Vice President of State Public Policy

Attachment: Tax burden graphic

cc: Members of the Maryland Senate Budget and Taxation Committee