Diageo Testimony HB 867 Favorable.pdf
Uploaded by: Dwayne Kratt
Position: FAV

DIAGEO

February 22, 2022

Dwayne Kratt, Sr. Director State Government Affairs, Diageo

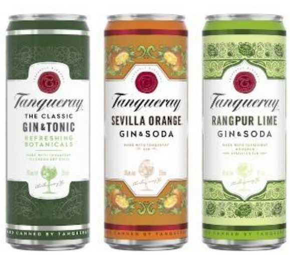
Testimony in support of HB 867 (Alcoholic Beverage Tax – Ready to Drink Cocktails)

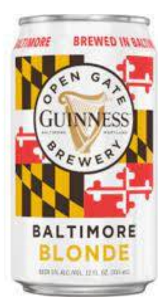
Good afternoon, Madame Chair and Members of the Committee:

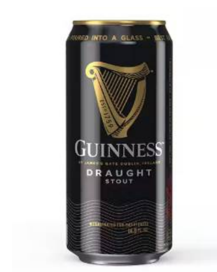
My Name is Dwayne Kratt and I represent Diageo, a distiller and brewer of beer products. I am here today in support of House Bill 867 which would reform the tax rate on low-proof alcohol beverages so that the tax rate is fairer and more equitable when compared to like products with similar levels of alcohol.

Currently, spirits based low-proof, ready-to-drink beverages are taxed at a rate of $1.50 a gallon or almost 17 times higher than malt beverages with similar alcohol by volume or ABV.

To say this in another way, I have three Diageo products:







Tanqueray Gin RTDs	**Guinness Blonde**	**Guinness Draught**
*6% ABV – 12 oz., excise tax is **14 Cents** for this container*	*5% ABV – 12 oz., excise tax is just **< a penny***	*4.2% ABV – 14.9 oz., excise is just **> a penny***

This dramatic tax difference on products with roughly the same amount of alcohol by volume creates an unfair marketplace especially when these products generally compete against malt or sugar-based seltzers that are taxed at the much lower beer rate.

In response, this legislation creates a new low spirit RTD category with a tax rate of 40 cents per gallon for spirit based RTDs at 12% ABV or less. The rate is **still** significantly higher than the beer rate – more than 4 times higher, but it does provide these products with a "fairer opportunity" to compete.

Do we believe this legislation will cost MD tax revenue?

No, we don't. The reason is that these products which compete against lower taxed seltzers will still be taxed higher than beer and they will still be sold at a premium price to these seltzers. The result is that we believe the state may gain revenue via increased excise and sales taxes, although not a significant amount.

Is this proposal outside the norm of what other states are doing?

The answer to this question is also no. In 23 states, these low alcohol spirit-based products are taxed a lower rate than compared to what I will call "full proof spirits" which are generally 40% ABV. We are also seeing several states contemplate similar legislation to this bill.

Bottom line is alcohol is alcohol – it doesn't matter if the alcohol is derived from brewing, fermentation or distilling.

The common metric here is *the alcohol by volume*. When the ABV is roughly the same, it doesn't matter if the product is a beer, a wine, or a spirit. Anyone who suggests otherwise is incorrect.

In conclusion, we are simply asking for more equitable treatment for similar products.

Thank you for your consideration.

HB867

Uploaded by: Hannah Garagiola

Position: FAV

DISTILLED SPIRITS COUNCIL
OF THE UNITED STATES

February 22, 2022

Hon. Vanessa E. Atterbeary, Chair
Hon. Alonzo T. Washington, Vice Chair
Maryland House Ways and Means Committee
Room 131
House Office Building
Annapolis, Maryland 21401

Dear Delegate Atterberary and Delegate Washington:

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 HB 867, entitled “Alcoholic Beverage Tax - Ready-to-Drink Cocktails.”

As you know, Hb 867 seeks to set the state excise tax rate for low alcohol spirits based ready to drink products $0.40 cents for each gallon or $0.1057 cents 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

Distilled Spirits Council of the United States (DISCUS)
1250 Eye Street NW, Suite 400
Washington, DC 20005

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 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)

Put simply, there is no beverage of moderation, 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 long recognized 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 House Bill 867 will continue to support this growth and expand upon the thousands of industry jobs across the state.

We believe this commonsense legislation 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.

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 <u>both</u> innovation and competition, and then let consumers decide. What's more American than that?

Thank you for your consideration.

Sincerely,

Jay M. Hibbard
Senior Vice President of State Public Policy

cc: Members of the Maryland Ways & Means Committee

Maryland RTD Letter 2-18-22 FINAL[25].pdf
Uploaded by: Jim McGreevy
Position: UNF

February 18, 2022

The House Ways and Means Committee
The Honorable Vanessa Atterbeary – Chair
The Honorable Alonzo Washington – Vice-Chair
Members of the House Ways and Means Committee

SENT VIA ELECTRONIC MAIL:

Dear Committee Members:

Today, we write to oppose House Bill 867, a proposal to reduce the alcoholic beverage tax rate on canned cocktails made with hard liquor. We represent brewers and beer importers of all sizes in the State of Maryland and the wholesalers who distribute beer products across the state. The proposal lowers the hard liquor-based excise tax rate in Maryland by 73% and will result in a loss to the state treasury of more than $21 million over the next five years. In addition, beer has long been recognized as the beverage of moderation, and policymakers and the public understand that beer and spirits are very different products. In the United States, these differences have been reflected in the way the two products have been taxed and regulated since Prohibition was repealed in 1933. It is important the tax code accounts for the risks associated with hard liquor and appropriately reflects the best way to classify and treat spirits-based ready-to-drink cocktails.

Maryland ranks 24th in the country in the number of craft breweries, boasting 121 craft breweries. Beer distributors, many of them family-owned businesses, are important economic contributors with distribution companies throughout the state. The beer industry accounts for $4.5 billion in economic contributions to the state and creates more than 31,000 jobs for Maryland families. More than $224 million in state and local taxes are generated from the consumption of beer. In addition, another $327 million in business and personal taxes are paid to the state and local communities because of beer.

Beer and liquor are brought to market in very different ways. Per liter of pure alcohol, beer costs 2.5 times more than that of liquor to produce. Beer also has higher distribution costs than liquor. The brewing process and the quality of the ingredients that go into the process are critical to the finished product. Brewing is a more intense and time-consuming process than distilling. Similarly, beer is bulky, heavy, perishable, and fragile, and needs special protection from light, heat, and oxygen, making it more costly to store and distribute. Because of these differences in production, it makes sense for beer to be taxed at a different rate than hard alcohol.

Further, because beer is fundamentally different from spirits, the tax code appropriately reflects the distinctions between the two products across the country. Beer is significantly lower in alcohol by volume (ABV) than hard liquor, and the aggregate amount of beer sold in the U.S. has an average ABV of 4.62%, while the average ABV of spirits products sold in the U.S. is between 36.9% and 38.3%.

House Bill 867 would send the wrong message by downplaying the risks of hard liquor. The beer industry has spent decades on responsible drinking campaigns, safe ride initiatives, voluntary advertising guidelines, supporting retailer I.D. checks, and the creation and availability of low-to-no alcohol beverages – all to help ensure consumers can enjoy beer products safely and responsibly. The liquor industry, meanwhile, has spent millions of dollars pushing a public policy agenda that makes it easier for consumers to access high-risk, high ABV products. The liquor industry's message to consumers dangerously suggests that all drinks are equal, which does a grave disservice to consumers and flies in the face of public safety.

As Maryland continues to recover from the COVID-19 pandemic, it is hard to justify such a deep tax cut to spirits. These products are nearly exclusively made by companies outside of Maryland. A lowering of the excise tax rate for these products gives an unfair tax advantage to out-of-state companies and undermines the public safety risks associated with liquor and spirits.

We urge the Committee to consider the ramifications of this proposal. We ask that you request a fiscal note certification by the Department of Legislative Services to understand the negative impact of this legislation on the state budget. Finally, we urge careful consideration when deliberating on such a major change to a long-held public policy precedent in Maryland and beyond.

Thank you for the opportunity to express our collective opinion on House Bill 0867. We look forward to further discussions of this proposal.

Respectfully submitted on behalf of:

Anheuser-Busch
Beer Institute
Brewers Association
Constellation Brands, Beer Division
Heineken, USA
Mark Anthony Brands, Inc.
Maryland Beer Wholesalers Association
Molson Coors Beverage Company
National Beer Wholesalers Association

HB867-MdPHA-UNF.pdf
Uploaded by: Raimee Eck
Position: UNF

__Mission:__ To improve public health in Maryland through education and advocacy *__Vision:__ Healthy Marylanders living in Healthy Communities*

HB 867 Alcoholic Beverage Tax – Ready-to-Drink Cocktails
Hearing Date: 2/22/22
Committee: Ways and Means, Economic Matters
Position: Opposed

Thank you, Chair Atterbeary, Vice-chair Washington, and members of the Ways and Means Committee for holding this hearing on HB 867, a bill which lowers the tax on distilled spirits-based ready-to-drink (RTD) cocktails to 40 cents/gallon. The Maryland Public Health Association's Alcohol & Tobacco Network offers testimony in opposition to this bill.

As determined by the Centers for Disease Control and Prevention (CDC), excessive drinking of alcohol costs states $249 billion per year, 40% of which is borne by federal and state governments.[1] In Maryland, excessive alcohol use costs us about $5 billion annually, while we collect about $310 million in taxes. Analyses have found that the combined federal and state average tax per drink here in Maryland is $0.19 a drink, while the cost of excessive drinking is $2.22 a drink.[2] We are already operating at a deficit in terms of costs to society and costs to government from alcohol-related harm, so decreases in any alcohol taxes are not supported or advisable.

Distilled spirits are taxed at a higher rate than wine and beer, and RTDs are specifically made with distilled spirits, placing them in this category. The alcohol by volume (ABV) is the not the only consideration for these categories; it is also the production process and ingredients. There are also broader impacts on access by underage youth; a primary objective for public health is to delay initiation of alcohol by youth as long as possible to reduce the long term risks of addiction and misuse.[3] Importantly, underage youth have different preferences for alcohol products than adults. One major difference appears to be the appeal of alcopops. In 2020, one-half of underage drinkers reported drinking alcopops (AKA "flavored alcoholic beverages") in the past 30 days.[4] Moreover, the sugary flavorings in alcopops mask the bitter taste of alcohol, thereby facilitating youth consumption of alcohol.[5,6]

We also find the max ABV cap and container type and size listed for this beverage problematic. A 12% ABV beverage in a 12oz can (generally considered a single serving size) is equivalent to 2.4 standard servings of alcohol. Bottles of wine and distilled spirits are generally sold in multi-serving containers with corks and screw tops. Without any nutrition labels, a can implies a single serving.

In legislation passed in 2019, the Alcohol and Tobacco Commission was tasked with "the development of a public health impact statement for all changes to the state alcoholic beverages law...". A statewide bill like this should be subject to such a statement to scientifically evaluate the impact on youth access, businesses, communities, and public health and safety.

We urge an unfavorable report on HB867.

The Maryland Public Health Association (MdPHA) is a nonprofit, statewide organization of public health professionals dedicated to improving the lives of all Marylanders through education, advocacy, and collaboration. We support public policies consistent with our vision of healthy Marylanders living in healthy, equitable, communities. MdPHA is the state affiliate of the American Public Health Association, a nearly 145-year-old professional organization dedicated to improving population health and reducing the health disparities that plague our state and our nation.

1. Sacks JJ, Gonzales KR, Bouchery EE, Tomedi LE, Brewer RD. 2010 National and State Costs of Excessive Alcohol Consumption. *Am J Prev Med.* 2015;49(5):e73-79.
2. Blanchette JG, Chaloupka FJ, Naimi TS. The Composition and Magnitude of Alcohol Taxes in States: Do They Cover Alcohol-Related Costs? *J Stud Alcohol Drugs.* 2019;80(4):408-414.
3. Dawson DA, Goldstein RB, Shou SP, Ruan WJ, Grant BF. Age at First Drink and the First Incidence of Adult-Onset DSM-IV Alcohol Use Disorders. *Alcohol Clin Exp Res.* 2008;32(12):1-12.
4. Johnston LD, Miech RA, O'Malley PM, Bachman JG, Schulenberg JE, Patrick ME. Monitoring the Future National Survey Results on Drug Use, 1975-2020: Overview, Key Findings on Adolescent Drug Use. *Institute for Social Research.* 2021.
5. Mosher JF. Joe Camel in a bottle: Diageo, the Smirnoff brand, and the transformation of the youth alcohol market. *Am J Public Health.* 2012;102(1):56-63.
6. Mosher JF, Johnsson D. Flavored alcoholic beverages: an international marketing campaign that targets youth. *Journal of Public Health Policy.* 2005;26(3):326-342.

Opposition to HB 867 & SB 793 to Decrease Tax on Spirits-Based Ready-to-Drink (RTD) Products

Wine Institute is the trade association of California wineries, representing more than 1,000 wineries and associate members. We are **opposed to Maryland HB 867 & SB 793**, which would reduce the tax on spirits-based ready-to-drink (RTD) cocktails from the current $1.50/gallon spirits tax to the same tax rate as table wine, $0.40/gallon. These bills would define "ready to drink cocktails" as those containing distilled spirits mixed with nonalcoholic beverages; they may also contain wine. They must contain 12% or less alcohol by volume (ABV) and be sold in metal cans smaller than 12 ounces.

Wineries, breweries and distilleries have introduced hundreds of creative new products that blur historical lines between wine, beer and spirits. Beer- and wine-based products generally fit into existing alcohol tax categories, but states are now being asked to set new tax rates on spirits-based products driven solely by the ABV of new products that is lower than that of distilled spirits.

Since the end of Prohibition, the federal government (and most states) have controlled and taxed wine, beer and spirits based on two factors: 1) the license of the producer and its raw material (e.g., wineries fermenting grapes, breweries brewing grains and distilleries distilling other natural products), and 2) the ABV of the finished product. The federal government continues to regulate the producer, formula, labeling and containers of all alcohol, and it continues to charge federal excise tax rates based on both factors.

The Maryland bills propose to drop the tax rate on spirits-based RTDs by 73% based entirely on ABV, without regard to the producer and raw material used. A broader discussion regarding the appropriate ABV limit and tax treatment of all products needs to occur before Maryland deviates from longstanding alcohol tax policy for popular products that grew in sales volume by 53% last year.

This change would further blur the lines between products and confuse consumers about alcohol content. While these RTDs would contain distilled spirits and be marketed as cocktails, they would be taxed at a lower rate. **Wine Institute opposes all legislation, including Maryland's HB 867 and SB 793, lowering the tax on spirits-based RTDs to the same or a similar tax rate as wine.**

If the Legislature wishes to reduce the tax on alcohol, it might instead reevaluation one that impacts wine, beer and spirits equally by removing the 9% sales tax surcharge on all off and on-premises alcohol sales in Maryland.

For more information, please contact Wine Institute Eastern Counsel Terri Cofer Beirne at tbeirne@wineinstitute.org or our Maryland lobbyists Greg Snyder at greg@bellamygenngroup.com or Lorenzo Bellamy at Lorenzo@bellamygenngroup.com.