Opposition to HB 663 Decreasing Tax on Spirits-Based Ready-to-Drink (RTD) Products

Wine Institute is the trade association of California wineries, representing more than 1,000 wineries. We are **opposed to Maryland HB 663 (Ebersole)** to reduce the tax on spirits-based ready-to-drink (RTD) cocktails from the $1.50/gallon spirits tax to the $0.40/gallon wine tax. This bill would define “ready to drink cocktails” as distilled spirits mixed with nonalcoholic beverages with 12% or less alcohol by volume (ABV) sold in metal cans smaller than 12 ounces; they may also contain wine.

Wineries, breweries and distilleries have introduced hundreds of creative new products that blur historical lines between wine, beer and spirits. All products generally fit into existing alcohol tax categories, but states are now being asked to set new rates--lower than distilled spirits rates--for spirits-based products driven solely by the ABV. Based on recent experience in other states, for a variety of reasons, this is a bad idea. The 2023 study by the Maryland Alcohol & Tobacco Commission resulting from SB793 & HB 867 in 2022 found that only 3 of 12 states passed bills assessing “low-proof”, spirits-based, ready-to-drink cocktails at a lower rate than full-strength spirits.

Since the end of Prohibition, federal and state governments 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.

HB 663 proposes to drop the tax rate on spirits-based RTDs by 73% based entirely on ABV, without regard to the producer or raw material used. This will impact how these products can be marketed and distributed, as well as where they can be sold. A comprehensive look at the impact of this change on sales of all alcohol must occur before Maryland deviates from longstanding policy for popular products that grew in sales volume by 57.6% in 2022.

This bill would further blur the lines between products and confuse consumers about alcohol content. While RTDs would contain distilled spirits and be marketed as cocktails, they would be taxed at a lower rate. **Wine Institute opposes legislation in all states, including HB 663, to lower 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 consider removing the 9% sales tax surcharge on off- and on-premises sales of wine, beer and spirits in Maryland.

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