



DISTILLED SPIRITS COUNCIL OF THE UNITED STATES

April 30, 2021

Majority Chairman Carl Metzgar (House Liquor Control), Minority Chairman Daniel Deasy (House Liquor Control), Majority Chairman Mike Regan (Senate Law and Justice), and Minority Chairman Jim Brewster (Senate Law and Justice):

On behalf of the Distilled Spirits Council of the United States, a national trade association representing producers and marketers of distilled spirits sold in the United States, thank you for allowing me to share with you our thoughts on the spirit based ready to drink market in Pennsylvania.

There has been tremendous innovation and transformation in the ready-to-drink category over the past several years from beer, wine and spirits producers. There are hard seltzers made with malt/beer; flavored spritzers made with wine; and canned or pre-mixed cocktails containing distilled spirits. In fact, in 2020 the Pennsylvania legislature passed legislation expanding where wine based RTD products can be sold to include beer distributorships.

In 2020, there were around 10 million cases of spirit based RTDs sold in the United States. Based upon the Canadian experience the US market is expected to grow to over 200 million cases if the right policies are put in place. The pandemic has accelerated the growth of these products as adult consumers look to recreate the cocktail experience at home with convenient, canned cocktails made with premium spirits, fresh ingredients and low ABV.

Unfortunately, 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- and wine-based RTD. This discriminatory tax structure is hurting consumers and craft distilleries in Pennsylvania.

Additionally, the malt- and wine- based RTDs are permitted to be sold at 18 times as many retail outlets in the state as spirits-based RTDs, which inconveniences consumers by forcing them to make a special trip for their spirits-based canned cocktails. That's completely unjustified and unfair to consumers. In Pennsylvania there are 0.6 spirits outlets per 10,000 people - well below the national average of 3.4 outlets per 10,000 people.

This excessive tax burden is also a steep hurdle for many Pennsylvania small craft distillers who 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.

Pennsylvania is one of many states taking a closer look at this issue to provide consumers with the same equal access to wine-, malt/beer- and spirits-based RTD products in the marketplace and to ensure spirits-based RTD products are being taxed fairly to support consumers and small businesses in their communities.

In addition to leveling the playing field, we believe that a supplier of spirits-based RTDs should be allowed to choose the distribution channel of their choice. Pennsylvania's RTD distribution should not be limited, and suppliers should also be allowed to go through a licensed wholesaler of their choice. In addition, if a supplier is forced into a distribution agreement spirits suppliers should not be subjected to long standing franchise laws put in place for the beer industry.

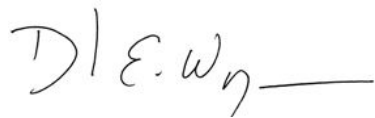
Lastly, we would be remiss if we did not reiterate that the spirits industry has long been a stalwart opponent of underage access and consumption of alcohol. We are committed to supporting our retail partners in ensuring the highest standards of responsibility. For example, the industry has invested in the promotion and utilization of the "We Don't Serve Teens" campaign and other programs to discourage underage purchases.

We urge the committee's support of this commonsense legislation that will rectify the unfair tax and market access advantage that malt- and wine-based RTDs have compared to spirits-based RTDs with the same or similar alcohol content.

This growing, unique category of beverages should be taxed based on the amount of alcohol contained in the product, not the type of alcohol used.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Wojnar", followed by a horizontal line.

David Wojnar
Senior Vice President and Head of State Public Policy