

NJ Craft Distillers Guild  
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June 16, 2021

Hon. Paul Sarlo, Chairman  
New Jersey Senate Budget & Appropriations Committee  
State House Annex  
P.O. Box 068  
Trenton, NJ 08625-0068

Dear Senator Sarlo,

I write to you today on behalf of the New Jersey Distillers Guild in support of Senate Bill 3452 sponsored by Senate President Sweeney. This bill proposes to reduce the alcohol beverage tax rate on cider and canned ready-to-drink cocktails made with distilled spirits as described in the bill as “low-percentage alcohol by volume liquors.” The guild represents craft distilleries in New Jersey which began to proliferate in 2014. These businesses are all small manufacturers that are owned by individuals and families who make a large investment of time and money to achieve the American dream. Some even have multiple generations working together to achieve their goals. We are all manufacturing and distributing spirits locally and around the state of New Jersey. We are contributing economically to the state which will grow exponentially as we all grow and add more distilleries. In the last seven years, we brought highly skilled manufacturing jobs back to New Jersey. One of the biggest things our legislature can do is create parity among all alcohol producers in New Jersey. We all need to be treated fairly especially as we are advancing out of the pandemic. We understand that collectively the brewers of New Jersey, both large and small, want you to somehow treat them differently because they are more deserving and worthy of this treatment than distillers. That is all tragically misguided.

We have witnessed many misrepresentations of the product we all make, distilled spirits, especially by the brewers in the state of New Jersey. There is a specific need to eradicate these harmful and purposeful misrepresentations so informed decisions can be made by real facts and not the fallacies that the brewers continue to utilize as their sole means of opposing this bill. Every claim the brewers have raised in their large opposition to this bill is easily refuted with real facts and science. It is blatantly transparent they seek to enjoy this lucrative space all to themselves. Brewers want to limit the consumer’s choice.

Craft distillers are seeking parity with all of our alcohol peers. Beer enjoys huge and substantial tax reductions compared to distilled spirits in the state of New Jersey. Excise tax rates in New

Jersey are .12 per gallon for brewers compared to \$5.50 per gallon for a craft distiller. The brewer's excise taxes in New Jersey are among the absolute lowest in the United States while Distilled Spirits rates are upper mid-level in the country comparatively. The fact the alcohol is identical in both type (ethanol) and percentage and has such a disparity defies common sense. Adjusting these tax rates for equal ABV products as this bill sets out to accomplish is a fair and excellent solution for all parties involved.

Innovation and modern times have propelled manufacturers, as well as consumers, to new levels of development and consumption habits. Even as we have progressed past the days of Prohibition, much has changed except for certain folklore around distilled spirits. To set the facts and science straight, beer, wine, cider, mead and distilled spirits all contain the same exact alcohol which is ethanol. The body does not do anything different with it from one product to another. They are exactly the same. So much so that a typical 12-ounce (5 percent ABV) beer has the same alcohol content and effects as a cocktail with 1.5 ounces of 80 proof Vodka. The unregulated alcohol production that went on during Prohibition is no longer prevalent since there is no black-market driving this need. We are all licensed and following very strict protocols and supervision by the Federal Alcohol Tobacco Tax and Trade Bureau. What happened more than 90 years ago during Prohibition should stay in the past and should never be used to illustrate the present. We are in modern times, and we should be allowed to all compete for the consumers on an even playing field without unnecessary protections, especially when these are framed on a mountain of unsubstantiated claims that are easily disputed and corrected.

The science and facts continue to erode the brewer's claims that beer is somehow more expensive to produce than distilled spirits. Distillation is a separation process to purify one component of a solution from all others. We use distillation to separate alcohol from a fermented product. The only reason distilled spirits are higher in strength is because we took the extra steps to separate it from beer, wine, mead or cider. We must make a fermented beverage such as beer, wine, mead or cider in order to move onto the next steps required. So, how in the world could beer be more expensive to manufacture, as the brewers purport, when we have to make a beer first? We go through all of the expense to make a beer and then move on to even more precision work that is an added cost to our initial manufacturing of beer. These processes also incur losses of product to evaporation. In some instances, those losses can exceed 50 percent with aging of products like Whiskey. When a brewer makes a 600 gallon batch of beer, every drop is sellable unless it is spilled due to carelessness. When a distiller makes a 600 gallon batch of beer and distills it, we recover only around 60 gallons, and all of that is not a sellable product. The other 540 gallons is dumped. Pretty simple math and science can outline that this is an impossible statement of fact foisted upon you by the brewers.

Brewers attempt to make a case that beer is under 5 percent ABV and distilled spirits are "harder" than beer. Again, the facts illustrate a different reality that the brewers seek to hide. The typical brewer is creating products that far exceed 5 percent ABV. In fact, some are as

much as 15 percent ABV. These products are no “softer” than a product that is the same ABV and utilizes distilled spirits as part of the product. Again, it is all ethyl alcohol so, scientifically, the alcohol is the same. Some of the mainstream seltzer companies are now making 8 percent and above versions which are malt-based. We seek parity for products that we can make with distilled spirits in the same ABV ranges. Even looking at ABV as a determining factor, beer still pays only 2.6 cents per ABV at their purported average. We argue that average is much higher now since even White Claw boasts a full 5 percent and IPA’s are upwards of 8 percent with many craft stouts over 12 percent. Distillers are paying 13 ¾ cents per ABV for a typical vodka product at 80 proof. If we were to make a lower ABV product, say 10 percent, our taxes per ABV would increase to 55 cents per ABV. It is interesting that beer’s taxes for a 15 percent stout would actually go down to .008 cents per ABV. Yes, that is a fraction of a cent. They already enjoy the benefits they are seeking and to allow more protected status is irresponsible of the legislature and harmful to all the families that own distilleries. Yes, families own distilleries just like the brewers make claims about their ownership. Do you really think big business owns manufacturers that are limited to 20,000 gallons per year as opposed to brewers (on the craft side) who can manufacture more than 1,500,000 gallons that can crank out over 18,000,000 cans are small family operations? Just to be clear, we are in the 100,000 750ml bottle range at our cap.

Distilled spirits and beer products remain the same from an alcohol point of view as illustrated above. There are some differences that do play into the consumer’s desire. Malt-based and fermentation-based products contain sugars that are hidden in the product during the process of fermentation. Distilled spirits do not contain any hidden sugars by the very nature of our scientific processes. If we make a product with no added sugar, then it contains zero sugar. Fermentation-based products, such as beer, may note they have no added sugars, yet they actually contain a substantial amount of hidden sugars that are just a factual part of the fermentation process.

Traditionally, cocktails have always been made with distilled spirits and it has a very rich and storied history supporting those practices. Technology and art have now made things available and accessible that now allow us better delivery methods and a consumer who embraces such. It is evident that beer is making products that encroach on our market space, and they want to enjoy low taxes while pushing all of you to encumber us yet again with high taxes. Beer is supposed to be beer. Adding things to beer such as fruit juice, sugar, cake batter, etc. and making a pseudo cocktail is not making beer or adhering to their attempts to wrap themselves up in the malt alcohol space. Even the aforementioned “White Claw” makes implied claims to be a substitute for vodka and seltzer. This is NOT beer. Hiding behind these misrepresentations and somehow erroneously classifying distilled spirits as “hard” alcohol is completely false and misleading, and our consumers deserve better.

We imagine the brewers make the hefty investments they characterize in their own businesses because of the super low taxes they are saving when they sell their products. Seems they have

pretty healthy profit margins due to the pennies they are paying in taxes. We would relish to have these opportunities and somehow trash all the other producers while we see our profits raise for more than 150 years! Obviously, this is pretty factual sarcasm. We are only looking for parity and a level playing field. The facts in their own words seem to outline they have substantial profits from tax savings. This is something that the distilling world cannot boast. We need to make investments in this space in order to compete. These investments equal more tax dollars for the state. Allowing distillers to have parity in this space would enable growth and expansion and would create more tax dollars through these equipment investments, raw materials, employees, support vendors and, of course, taxes with products that are prohibitive to produce with such a high tax rate. It's one thing to require \$5.50 a gallon for a product that is almost 50 percent alcohol. It is a completely different thing to require \$5.50 per gallon for a product that is only 9.9 percent alcohol and taxing the remaining 90.1+ percent (mostly water) at that same rate. That is not creating a fair playing field.

The storied history that beer claims is more about their sector seeking protections and ability to operate without competition all based on a mountain of misrepresentations. The facts and science all speak for themselves once they are disclosed. Even the data illustrates that beer enjoys much of the landscape and there is great need for parity especially when considering equal points such as alcohol being exactly the same and ABV being the same. The canned RTD market is pretty new, and we should all have the opportunity to produce like products at like tax rates and let the consumer have more options to make their decisions. We urge you to look at the facts rather than the rhetoric and allow us to compete on an even playing field with all our alcohol industry members. We want parity not protectionism. It is all the same alcohol after all.

Thank you for your consideration.

Sincerely,

John Granata  
President of New Jersey Distillers Guild  
Co-Founder, Master Distiller & President of Jersey Spirits Distilling Co.

Mark Elia  
President  
Long Branch Distillery

Aleksandr Zhdanov  
Co-CEO and Head Distiller  
3BR Distillery

Raymond Disch  
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Sourland Mountain Spirits

Gil Spaier  
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Kevin & Erin Wright  
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Gordon & Michael Geerhart  
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Susan Lord  
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Geoff Karch  
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Richard Norman  
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James Bednar  
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Nate Thompson  
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Steve Miller  
President  
Nauti Spirits

cc: Members of the New Jersey Budget & Appropriations Committee