

January 18, 2023

John Ward, North Dakota Wine and Liquor Wholesalers Association

Testimony in support of HB 1303 (Alcoholic Beverage Tax — Diluted Beverages)

Good morning Chairman Headland and Members of the Committee:

My name is John Ward. I am a local Bismarck attorney and lobbyist. I am here representing the ND Wine and Liquor Wholesalers Association. The North Dakota Wine and Liquor Wholesalers association is made up of Johnson Brothers, Republic National Distributing Company, and Southern Glazers Wine and Spirits.

I have with me today Joshua Guy, who is the Vice President of Sales for Southern Glazers Wine & Spirits and Dwayne Kratt, who is the Vice President of External Affairs for Johnson Brothers.

I am here today in support of amended HB1303 which would reform the tax rate on low-proof spirit-based alcohol beverages or “diluted 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 \$2.50 per gallon or more than 15 times higher than malt beverages with similar alcohol by volume or ABV. Malt beverages are currently taxed at 16 cents per gallon.

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 or malt beverage rate (16 cents/gallon).

In response, this legislation creates a new “diluted beverage” category for alcohol beverages containing distilled spirits of less than 12.5% ABV or less. The tax rate for these products will be .50 cents per gallon for products containing 12.5% ABV or less. The new tax rate for these products will still be significantly higher than malt or sugar-based alcohol beverages –more than 3 times higher – but it does provide these products with a “fairer opportunity” to compete.

Do we believe this legislation will cost ND 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 25 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,

John Ward