Geralyn Lasher
Director, Great Lakes States

January 17, 2023

Mr. Craig Headland, Chairman
Mr. Jared Hagert, Vice-Chairman
North Dakota House Finance and Taxation Committee
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Representatives Headland and Hagert:

This letter is submitted on behalf of the Wine Institute, a nonprofit trade association representing over 1,000 California wineries and associate members. California wineries produce 90% of the wine manufactured in the United States and provide a significant portion of the wine sold in licensed establishments in North Dakota.

We respectfully oppose North Dakota HB 1303, which would reduce the tax on spirits-based ready-to-drink (RTD) cocktails from the current $2.50/gallon spirits tax to only $.60/gallon. These bills would define "diluted beverages" as those containing distilled spirits mixed with nonalcoholic beverages, they may also contain wine and contain less than 12.5% alcohol by volume (ABV). HB 1303 would reclassify these products attempting to equate them with wine.

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 North Dakota bills propose to drop the tax rate on spirits-based RTDs by 76% 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 North Dakota deviates from longstanding alcohol tax policy for popular products.

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 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 re-evaluate one that impacts wine, beer and spirits equally.

Thank you for your consideration of our comments on this important item. On behalf of our member wineries, Wine Institute greatly appreciates the opportunity to share our perspective and work with the Committee during this process in any way we can.

Sincerely,

Geralyn A. Lasher

Geralyn Lasher
Director, Great Lakes States
The Wine Institute
glasher@wineinstitute.org
517-898-3260