

Testimony of Dennis Pathroff – HB 1303

Good morning, Chairman Headland and committee members,

My name is Dennis Pathroff. I am an attorney with the GA Group. I am here today representing the **North Dakota Beer Distributors Association**.

The members of the association are North Dakota's family-owned beer distributors. Together, our members employ 513 North Dakotans, pay \$34.6 million in wages annually, and support charities and local events in the amount of \$500,000 per year.

The beer distributors oppose HB 1303. Our opposition is based on two primary reasons.

First, hard-liquor based canned cocktails are doing just fine without the need for tax cuts. Canned cocktails sales are growing rapidly, up 59% nationwide in 2022. They are selling well with good margins for suppliers, distributors, and retailers. We don't see the need to reduce taxes when the products are selling so well.

Second, lowering the tax on canned cocktails will not benefit North Dakota's distributors or consumers. Alcohol tax reductions are not passed through in a linear fashion. A recent study shows that when Nebraska and Michigan reduced taxes on canned cocktails, the states lost significant tax revenue and consumers did not see a price break on any of these products. *See attached study.* Moreover, very little of that tax relief was passed on to the distributors. If HB 1303 passes, we are likely to see similar results in North Dakota.

I'd now like to introduce Mr. Hunter Jerome to the committee to provide some background and explain the likely consequences of this legislation. Hunter is the General Manager of Jerome Distributing and the President of the North Dakota Beer Distributors Association.

Thank you, Chairman Headland and committee members.

Hard Liquor–based Ready-to-drink Pricing Trends, 2017–2022

November 2, 2022





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Executive Summary

When Nebraska and Michigan passed measures in 2021 to reduce taxes on ready-to-drink cocktails (RTDs), industry supporters of the legislation claimed consumers in Michigan would "benefit from the reduced tax rate for these popular products" (DISCUS May 24, 2021) and that Nebraska's bill was "another great benefit for adult consumers" (DISCUS May 26, 2021). Despite these claims, consumers are not benefitting from lower prices in either state since taxes were reduced on RTDs.

Public Sector Consultants examined RTD pricing before and after the tax changes, and the analysis shows dramatic price hikes for RTDs in both states: a 44 percent jump in Michigan and a 65 percent jump in Nebraska since the legislation passed. These increases far outpaced inflation and the rapid overall increase in the consumer price index.

Introduction

Ready-to-drink cocktails, also known as canned cocktails, are premade, hard liquor-based mixed alcoholic beverages purchased for immediate consumption. Taxes on these products were reduced in Michigan and Nebraska in 2021. Public Sector Consultants examined RTD pricing before and after the tax changes. This report uses retail market data to analyze trends in RTD sale prices over a five-and-a-half-year period.

Beverage Tax Reductions

In May 2021, Michigan enacted Public Act 19 of 2021, which revised the definition of and lowered the tax rate on mixed-spirits drinks, the category to which nearly all hard liquor-based RTDs belong. The new law defines "mixed spirit drinks" as drinks made of hard liquor mixed with a nonalcoholic beverage or flavoring and coloring. Michigan law allows for these drinks to be 10 percent or less alcohol by volume (ABV), or between 10 percent and 13.5 percent ABV if they are filled in a closed metal container that is the "general shape and design of a can" and do not exceed 24 ounces per unit. The law also reduced the tax on these drinks by 37.5 percent, from 48 cents per liter to 30 cents per liter (approximately \$1.82 to \$1.14 per gallon) for RTDs sold in bulk and by a proportionate amount for lesser quantities. These changes took effect August 23, 2021.

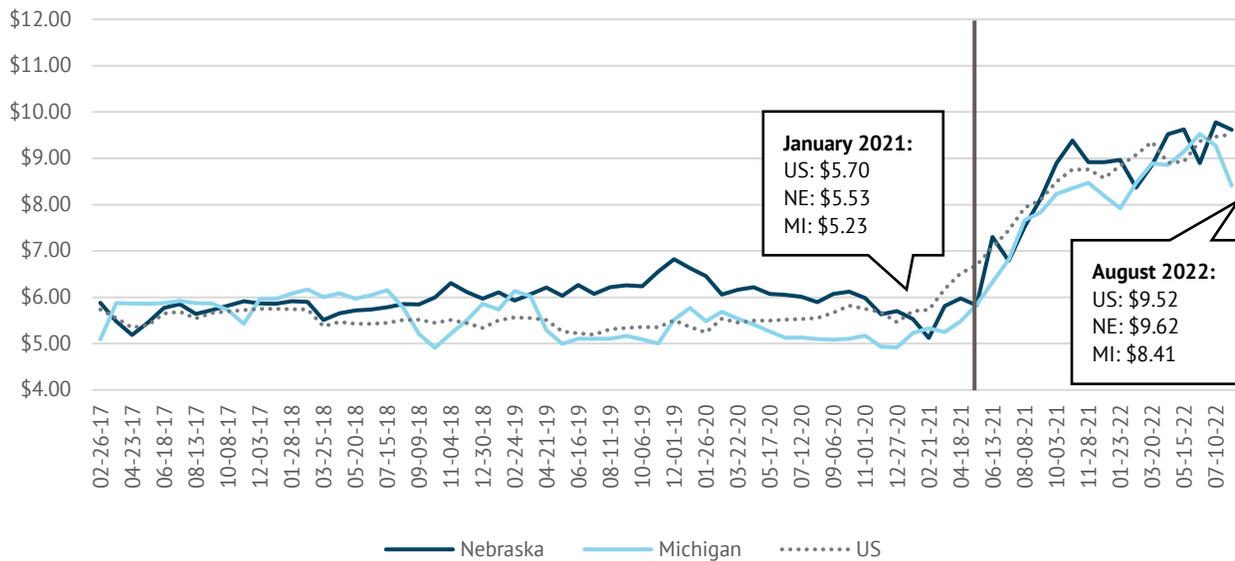
Similarly, Nebraska enacted Legislative Bill 274 in May 2021, creating a new category of hard liquor-based RTDs, which had previously been taxed at the same rate as distilled spirits like whiskey or vodka. The State of Nebraska now defines RTDs as a beverage or confection "in an original package" that contains hard liquor, and which is 12.5 percent or less ABV. The \$3.75 per gallon (approximately \$0.99 per liter) tax rate was reduced by nearly 75 percent to \$0.95 per gallon (approximately \$0.25 per liter). The change became effective July 1, 2021.

Analysis

Using retail sales data from international market research and data firm IRI, PSC analyzed price increases for RTDs in Michigan, Nebraska, and the United States. Each price point in the exhibits that follow is the four-week average price for a unit of RTDs.¹

Exhibit 1 shows that after four years of relative stability (2017–2020), the retail price of hard liquor–based RTDs began to increase in the first quarter of 2021. Despite some minor fluctuations, prices have steadily risen through August 2022, the latest available data at the time of this report. Between May 2021, when legislation to lower tax rates on hard liquor-based RTDs in these two states was signed into law (indicated by the vertical line), and August 2022, the four-week average RTD unit price grew from \$5.84 in Michigan to \$8.41 (44 percent) and from \$5.83 to \$9.62 (65 percent) in Nebraska.

EXHIBIT 1. Hard liquor-based Ready-to-drink Four-week per Unit Prices, 2017–2022

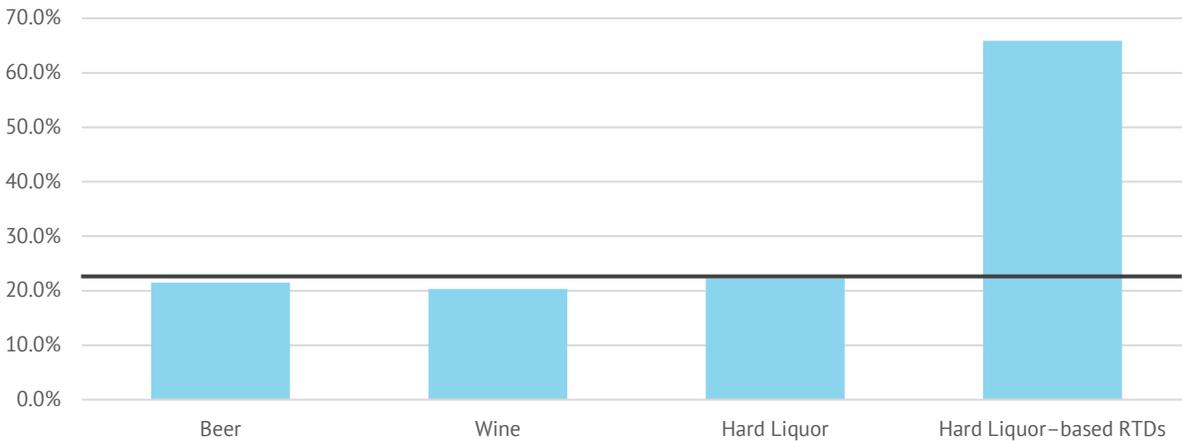


Source: IRI Multi-Outlet (MULO) and PSC analysis

Exhibit 2 compares RTD pricing with prices in other alcoholic beverage categories. While hard liquor–based RTD retail prices in the United States increased 65.9 percent from February 2017 to August 2022, the retail price of beer rose by just 21.5 percent, wine by 20.3 percent, and spirits by 22.3 percent. The horizontal line marks the level of inflation (22 percent) over this period.

¹ An RTD unit is defined by IRI as four 0.355-liter containers (48 ounces total). The exact characteristics that qualify a product as an RTD, such as maximum ABV, vary by state.

EXHIBIT 2. Percentage Change in per Unit Pricing from February 2017 to August 2022, United States



Source: IRI Multi-Outlet (MULO) and PSC analysis

Conclusions

PSC's findings show that hard liquor-based RTDs retail sales prices began to increase dramatically and consistently in both Michigan and Nebraska since spring 2021 and continued after legislation was passed that lowered the tax rate on hard liquor-based RTDs. These price hikes reflect pricing trends for hard liquor-based RTDs in other states across the U.S during the same time, while prices for products in other categories—beer and wine—tracked in line with inflation figures.

While supporters of tax reduction legislation claimed consumers would benefit from the rate changes, consumers are not seeing lower prices in Michigan and Nebraska since the tax rate was lowered on hard liquor-based RTDs. In fact, retail sales prices in August 2022 remained substantially higher than those in the three-year period prior to the tax reductions.

References

Distilled Spirits Council of the United States (DISCUS). May 24, 2021. "Governor Signs Ready-to-Drink Cocktail Expansion in Michigan." *Distilled Spirits Council of the United States*. Accessed October 26, 2022.

<https://www.distilledspirits.org/news/governor-signs-ready-to-drink-cocktail-expansion-in-michigan/#:~:text=Today%2C%20Governor%20Gretchen%20Whitmer%20signed,on%20these%20spirits-based%20products>

— — —. May 26, 2021. "Nebraska Governor Signs Bill That Makes Cocktails To-Go Permanent and Reduces Tax Rate on Spirits-Based RTDs." *Distilled Spirits Council of the United States*. Accessed October 26, 2022.

<https://www.distilledspirits.org/news/nebraska-governor-signs-bill-that-makes-cocktails-to-go-permanent-and-reduces-tax-rate-on-spirits-based-rtlds/>

Appendix: Data Methodology

This report uses data collected by IRI, an international market research firm. IRI Multi-Outlet (MULO/MULC) data provides pricing data based on the aggregation of retail sales information from over 100 different retailers and over 80,000 individual stores. These stores include grocery, drug, and liquor outlets. IRI collects sales data via point-of-sale scans during the customer checkout process. PSC utilized sales data from February 2017 to August 2022.



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