To: Claire Buckley

From: Patrick Delaney

Date: 12/18/19

Re: Low Alcohol Spirits Beverages

Dear Ms. Buckley.

Thank you for preparing and submitting your proposal regarding the classification and sales opportunities for ready to drink (RTD) beverages. I have reviewed and analyzed the data that you have presented. While I appreciate the efforts made to present a case to move spirits based RTD sales to the private sector the case presented does not meet the threshold of increasing revenues for the State of Vermont general fund and therefore will not be supported by the Vermont Department of Liquor Control.

I will break your proposal into several pieces to facilitate explaining our concerns with the selling points presented.

Definition of "Low Alcohol Spirits Beverage"

Proposal to establish a definition of products below an alcohol ceiling at 16% as a "low alcohol beverage"

From the Department's perspective beverages with an ABV above 4% are not low alcohol beverages.

To establish a 16% ABV ceiling for this arbitrarily defined category would be contrary the Depts. Public safety mission.

1. This far exceeds the ABV range for 90% of commercially produced beer as well as the vast majority of internationally and domestically produced table wine.

2. Sixteen percent ABV is the threshold for wine to be classified as a distilled spirit

Tax as wine-lower tax rate to beer and wine equivalent.

Currently **federal** excise tax rates:

Beer	$18.00 per barrel - 31 gallons	
Wine	$1.07 per gallon <14%	$1.57 per gallon between 14% and 21%
Liquor	$13.50 per proof gallon	

Currently **Vermont** excise tax rates

Beer	$.26 per gallon	
Wine	$.55 per gallon	
Liquor	5% excise	20% flat margin

Between 40 & 50% variable margin on each spirits category.

There is no logical reason for the State legislature to consider this proposal to reduce tax rates on a commodity that clearly does not qualify for an exemption. Additionally, this is a dramatic departure from Federal tax standards that apply to the existing beverage alcohol categories of beer, wine, and distilled spirits. The proposal to lower excise tax rates on spirits based RTDs would be a significant financial burden on citizens of Vermont.

Move RTD sales from the VDLC to the private sector.

The DLC currently retails RTD products in multiple package sizes. The 1750 ml size is the strongest performer in the RTD category with sales also generated in the 750 ml, 1000 ml, 355 ml, and 200 ml package sizes. Obviously, all package sizes of RTD's would be affected by a policy change.

The 355 ml packaging appears to be the current focus of the spirits industry to attempt to piggyback on the meteoric recent successes of flavored malt beverages (FMB). In fiscal 2018/19 the DLC retailed approx. 47,500 units of RTD across all package sizes.

a. In fiscal 2018/19 the DLC grossed $643,700 on sales of assorted sizes of RTDs.

    i. In fiscal 2018/19 the DLC gross margin exceeded $463,500 ($643,700 x.72)

        1. (72% is the average price markup over all spirits categories)

    ii. In fiscal 2018/19 $386,200 was the gross margin generated on $643,700 by the DLC total sales of assorted sizes of RTDs. The gross margin amount was generated by subtracting cost of goods sold from gross revenue. Forty percent c.o.g.s. is average for our business model.

The RTD category nationally generates gross revenues of $5,000,000,000 annually. The national growth rate for the overall RTD category is only 2.5% from 2013-2018.

The VDLC annual growth rate is like the national trend at just below 2%. That will accelerate as we add new listings- which we have been doing for the past 6 months.

Projections

I was unable to determine the mathematical factors used to determine State revenue numbers, so I did some simple division to arrive at a per case contribution of $5.55 per case.

Comparing projected growth trends for RTDs that mirror FMB trends is delusional. I cannot recall any product innovations gaining such consumer traction ever in my 25-year career in the business. Current annual growth trends of 300-400 % on a large sales base is an industry anomaly.

The points of distribution number presented is also overly aggressive. To assume two separate PODS in each retailer for RTDs is unrealistic due to current growth trend in RTD sales.

RTD's cannot be compared as innovation equivalents to flavored malt beverages. They have been around a long time in various package sizes and have not demonstrated any remarkable growth trends in 20 years.

Historical Perspective

The Vermont Division of Liquor Control was granted a monopoly on Distilled spirits sales at the repeal of prohibition. This monopoly has been maintained for over 85 years as the Dept. has generated hundreds of millions of dollars in revenue to fund government programs throughout the State and continued to focus considerable resources in the pursuit of promoting public safety.

We feel comfortable in our ability to meet and service consumer demand for this category of products. We can find no compelling reason, either financially or in respect to public safety, to create a precedent where we vacate managing distilled spirit sales in any category. We do not feel that it would be in the best interests in the citizens of the State to start the erosion of our business model and to weaken our position to continue a sustainable growth trend for the VDLC that directly supports the State's general fund.

Conclusions:

a. The DLC does not support:
    1. Giving the RTD business away to the private sector.
    2. Lowering the excise tax on RTDs
b. The financial projections presented are arguably flawed and are based on unrealistic growth
c. Current State revenues generated from the RTD category are significantly under stated.
d. Consumers in this state know where to find spirit-based products-at our stores.
e. There is no rational argument to the legislature to justify the change in historic beverage alcohol retail framework that continues to function at a high level.
f. The DLC can develop the category if it has consumer pull.
g. The State would lose money on the proposition.
h. The precedent to alter the control state model would be concerning.

Please feel free to reach out if I can provide additional feedback.

Patrick Delaney

Commissioner VDLL 802 272 7492