



**May 13, 2021**

**RE: H.178 Low-Alcohol Spirits**

**TO: House Committee on General, Housing & Military Affairs**

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Wineries, breweries and distilleries have recently introduced hundreds of creative new products into the market that blur historical lines between wine, beer and spirits. These products are marketed to the public as coolers, mixed cocktails, seltzers, spritzers and flavored malt beverages to name a few. Generally, they are termed **ready-to-drink** (RTD) products and are typically sold in single serve containers. Most beer/malt-based and wine-based RTD products generally fit within most state law definitions; however, the spirits-based RTD products are more challenging, especially in control states such as Vermont.

TTB considers all formulated distilled spirits products NOT conforming to one of the classes described in [27 CFR 5.22](#) to be a Distilled Spirits Specialty (DSS). RTD spirits products fall within this DSS category. At the Federal level, these products are taxed as a distilled spirit no matter the alcohol by volume (ABV) of the product.

H 178 seeks a tax rate lower than the distilled spirits rate and also seeks to reclassify these spirits drinks as “vinous beverages”. Wine Institute objects to both of these suggestions

These RTD spirits-based products are unique and need their own category in state statute and a state tax rate that does not unfairly put wine products at a competitive disadvantage.

Historically, the type of alcohol (wine, beer or spirits) and the ABV have been the basis for regulatory control and taxation. These two factors should remain the basis of the regulation and taxation of these RTD spirits-based products.

**Blurring the lines between wine, beer and spirits-based specialty products confuses consumers about the nature of the products and can cause confusion about how much alcohol is contained in one serving. We firmly believe these RTD products should not merely be inserted in a wine or beer category or declared to be “treated” as “vinous beverages”.**

We would respectfully suggest an approach similar to Maine where low-alcohol spirits products have their own definition and their own tax category.

## **Maine**

**Low-alcohol spirits product:** means a product containing spirits that has an abv of 8% or less by volume. Beginning 7/1/2019, low-alcohol spirits product does **not** mean a flavoring, such as an extract or concentrate, added to a malt beverage or wine that (a) may or not be alcohol, (B) is not intended to be consumed alone as a beverage or food product but serves as a flavor enhancement to a beverage or food product and (C) is not, prior to being added to a malt beverage or wine, subject to excise tax.

**Low-spirits alcohol products:** \$1.24 per gallon

Relevant **New Hampshire** language:

**Specialty beverage:** means any wine-based product or liquor-based product with other liquids added for human consumption having a combined alcoholic content of not less than 6% abv and not more than 8% abv at 60 degrees Fahrenheit and sold in single serve ready to drink containers that shall not exceed 16 ounces. The commission may approve any specialty beverage. A specialty beverage shall not be considered a product classified by the commission as a domestic wine as defined in RSA 175:1, LXVII, or as a table wine defined in RSA 175:1, LXIX, a fortified wine as defined in RSA 175:1, LXVIII, or as a liquor as defined in RSA 175:1, XLII.

A "fee" of \$.30 (thirty-cents) per gallon for malt base specialty beverages.

A "fee" of 5% of the wholesale price per case of any specialty for licenses issued to wholesale distributors or beverage manufacturers beverage sold or transferred for retail sale or to the public shall be required for wine or spirits-based specialty beverages.

Respectfully,

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***Wine Institute is an association of approximately 1,000 California wineries and affiliated suppliers dedicated to advocating the responsible consumption and enjoyment of wine.***