

**From:** Kobey Shwayder  
**Sent:** Tuesday, May 11, 2021 4:51 PM  
**To:** Tom Stevens, Barbara Murphy, Matt Birong, Tiff Bluemle  
**Subject:** Comments on H.313 discussion from a small producer

Dear Representatives Stevens, Murphy, Birong, and Bluemle,

I watched the committee discussion on H.313 last week and today, and I'd like to respond and add some information that I think would be useful to the committee in further discussions on this topic.

First, I'd like to point out an inaccuracy stated by Deputy Commissioner Knight. Commissioner Knight stated that 16% ABV is the cutoff for spirits, which is not true. Under the current laws and rulings by the DLL board, anything that contains any distilled spirits is a spirit, with the only exception of fortified wines, which are defined as between 16-23% ABV (and all vermouths <23% ABV, for some reason). Even low alcohol fortified wines are currently regulated as spirits. So, for example, a low alcohol fino sherry or light port under 16% ABV is regulated as a spirit rather than a wine or even a fortified wine.

I've attached a chart showing the current regulatory categories of wine and spirits and the proposed carveout in this bill to show you how strange the <16% abv system is at the moment.

	< 16% abv	between 16%–23%	> 23% abv
Fermented Juice (wine)	Vinous Beverage	Fortified Wine	Spirits
Wine with added spirits (not labeled vermouth)	Spirits	Fortified Wine	Spirits
Wine with added spirits (labeled vermouth)	Fortified Wine	Fortified Wine	Spirits
Spirits / Beverages with distilled alcohol	Spirits	Spirits	Spirits
Currently Proposed Legislation: Combination of Distilled alcohol and non-alcoholic beverage in a single use can	Vinous Beverage	Spirits	Spirits

The proposed bill would allow for a canned cocktail to be a "vinous beverage", while an actual vinous beverage like a low alcohol sherry or port would not be.

Second, I'd like to follow up on two points I have written to you about previously which were brought up but not fully discussed:

(1) Clare Buckley was asked about the can and size restriction in the bill. While she gave a reasonable answer for the size restriction, Ms. Buckley failed to say why they specifically support cans and not other packaging, other than "that's what most of the products are." Bringing this together with Rep. Bluemle's question about the effect on small local businesses, canning is a complex operation that involves expensive equipment while bottling is much more accessible for small businesses, requiring far less and far cheaper equipment. As such, the restriction specifically to cans is very favorable to large companies and unfavorable to small local producers who may not have canning equipment. For example, I could start producing bottled cocktails tomorrow, but it would cost me at least tens of thousands, if not hundreds of thousands of dollars, in equipment to start canning cocktails.

I urge you to remove the can stipulation from this bill.

As I brought up in a previous e-mail, the can stipulation puts in a strange carveout where a product in a can would be regulated as "vinous beverage", the most lax restriction on alcohol, but the exact same product in the same volume in a bottle would be a "spirit", the most strict restriction on alcohol. Alcohol designations should be based on the ingredients, manufacturing method, and/or alcohol content, and not on the packaging.

(2) Rep. Murphy brought up that she prefers the term "canned cocktail", which is apt, but I'd like to point out that many traditional cocktails, including very popular prepackaged cocktails such as Manhattans and Negronis, contain vermouth, which itself is mostly wine. The way the bill is currently worded, wine is not one of the possible additives to these "low alcohol"/"canned cocktail" beverages. As such, while a canned gin and tonic is possible, a canned manhattan or negroni, or even a canned vermouth spritz, is not. I urge you to add "wine" to the list of possible additives to these beverages.

I bring all this to you in an effort to, as Commissioner Knight put it, modernize the alcohol beverage regulatory system. I hope this will be done the right way by considering the system as a whole, and not just by creating a specific carveout for a subset of canned cocktails.

Thank you,  
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