

116TH CONGRESS  
1ST SESSION

# S. 362

To amend the Internal Revenue Code of 1986 to reform taxation of alcoholic beverages.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2019

Mr. WYDEN (for himself, Mr. BLUNT, Mr. CARPER, Mr. ROBERTS, Ms. STABENOW, Mr. MORAN, Mr. CASEY, Mr. PORTMAN, Mr. BENNET, Mrs. CAPITO, Ms. BALDWIN, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to reform taxation of alcoholic beverages.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Craft Beverage Mod-  
5 ernization and Tax Reform Act of 2019”.

6 **SEC. 2. PERMANENT EXTENSION OF CERTAIN PROVISIONS.**

7 (a) PRODUCTION PERIOD FOR BEER, WINE, AND  
8 DISTILLED SPIRITS.—

1           (1) IN GENERAL.—Paragraph (4) of section  
2           263A(f) of the Internal Revenue Code of 1986, as  
3           added by section 13801(a) of Public Law 115–97, is  
4           amended to read as follows:

5           “(4) EXEMPTION FOR AGING PROCESS OF  
6           BEER, WINE, AND DISTILLED SPIRITS.—For pur-  
7           poses of this subsection, the production period shall  
8           not include the aging period for—

9                   “(A) beer (as defined in section 5052(a)),

10                   “(B) wine (as described in section  
11                   5041(a)), or

12                   “(C) distilled spirits (as defined in section  
13                   5002(a)(8)), except such spirits that are unfit  
14                   for use for beverage purposes.”.

15           (2) EFFECTIVE DATE.—The amendment made  
16           by this subsection shall apply to interest costs paid  
17           or accrued in calendar years beginning after Decem-  
18           ber 31, 2017.

19           (b) REDUCED RATE OF EXCISE TAX ON BEER.—

20           (1) IN GENERAL.—Paragraph (1) of section  
21           5051(a) of the Internal Revenue Code of 1986, as  
22           amended by section 13802(a) of Public Law 115–97,  
23           is amended to read as follows:

24                   “(1) IN GENERAL.—

1           “(A) IMPOSITION OF TAX.—A tax is here-  
2           by imposed on all beer brewed or produced, and  
3           removed for consumption or sale, within the  
4           United States, or imported into the United  
5           States. Except as provided in paragraph (2),  
6           the rate of such tax shall be—

7                   “(i) \$16 on the first 6,000,000 barrels  
8                   of beer—

9                           “(I) brewed by the brewer and  
10                           removed during the calendar year for  
11                           consumption or sale, or

12                           “(II) imported by the importer  
13                           into the United States during the cal-  
14                           endar year, and

15                           “(ii) \$18 on any barrels of beer to  
16                           which clause (i) does not apply.

17           “(B) BARREL.—For purposes of this sec-  
18           tion, a barrel shall contain not more than 31  
19           gallons of beer, and any tax imposed under this  
20           section shall be applied at a like rate for any  
21           other quantity or for fractional parts of a bar-  
22           rel.”.

23           (2) REDUCED RATE FOR CERTAIN DOMESTIC  
24           PRODUCTION.—Subparagraph (A) of section  
25           5051(a)(2) of the Internal Revenue Code of 1986, as

1 amended by section 13802(b) of Public Law 115–97,  
2 is amended—

3 (A) in the heading, by inserting “\$3.50 A  
4 BARREL” before “RATE”, and

5 (B) by striking “\$7” and all that follows  
6 through “January 1, 2020)” and inserting  
7 “\$3.50”.

8 (3) APPLICATION OF REDUCED TAX RATE FOR  
9 FOREIGN MANUFACTURERS AND IMPORTERS.—Sub-  
10 section (a) of section 5051 of the Internal Revenue  
11 Code of 1986, as amended by section 13802(c) of  
12 Public Law 115–97, is amended—

13 (A) in subparagraph (A)(i)(II) of para-  
14 graph (1), as amended by paragraph (1) of this  
15 subsection, by inserting “but only if the im-  
16 porter is an electing importer under paragraph  
17 (4) and the barrels have been assigned to the  
18 importer pursuant to such paragraph” after  
19 “during the calendar year”, and

20 (B) in paragraph (4)—

21 (i) in subparagraph (A), by striking  
22 “paragraph (1)(C)” and inserting “para-  
23 graph (1)(A)”, and

24 (ii) in subparagraph (B), by striking  
25 “The Secretary” and inserting “The Sec-

1           retary of the Treasury, in consultation  
2           with the Secretary of Health and Human  
3           Services and the Secretary of the Depart-  
4           ment of Homeland Security.”.

5           (4) CONTROLLED GROUP AND SINGLE TAX-  
6           PAYER RULES.—Paragraph (5) of section 5051(a) of  
7           the Internal Revenue Code of 1986, as amended by  
8           section 13802(d) of Public Law 115–97, is amended  
9           by striking “paragraph (1)(C)(i)” each place it ap-  
10          pears and inserting “paragraph (1)(A)(i)”.

11          (5) EFFECTIVE DATE.—The amendments made  
12          by this subsection shall apply to beer removed after  
13          December 31, 2017.

14          (c) TRANSFER OF BEER BETWEEN BONDED FACILI-  
15          TIES.—

16          (1) IN GENERAL.—Section 5414 of the Internal  
17          Revenue Code of 1986, as amended by section  
18          13803(a) of Public Law 115–97, is amended to read  
19          as follows:

20          **“SEC. 5414. TRANSFER OF BEER BETWEEN BONDED FACILI-**  
21          **TIES.**

22          “(a) IN GENERAL.—Beer may be removed from one  
23          brewery to another brewery, without payment of tax, and  
24          may be mingled with beer at the receiving brewery, subject  
25          to such conditions, including payment of the tax, and in

1 such containers, as the Secretary by regulations shall pre-  
2 scribe, which shall include—

3 “(1) any removal from one brewery to another  
4 brewery belonging to the same brewer,

5 “(2) any removal from a brewery owned by one  
6 corporation to a brewery owned by another corpora-  
7 tion when—

8 “(A) one such corporation owns the con-  
9 trolling interest in the other such corporation,  
10 or

11 “(B) the controlling interest in each such  
12 corporation is owned by the same person or per-  
13 sons, and

14 “(3) any removal from one brewery to another  
15 brewery when—

16 “(A) the proprietors of transferring and  
17 receiving premises are independent of each  
18 other and neither has a proprietary interest, di-  
19 rectly or indirectly, in the business of the other,  
20 and

21 “(B) the transferor has divested itself of  
22 all interest in the beer so transferred and the  
23 transferee has accepted responsibility for pay-  
24 ment of the tax.

1       “(b) TRANSFER OF LIABILITY FOR TAX.—For pur-  
2 poses of subsection (a)(3), such relief from liability shall  
3 be effective from the time of removal from the transferor’s  
4 bonded premises, or from the time of divestment of inter-  
5 est, whichever is later.”.

6           (2) EFFECTIVE DATE.—The amendment made  
7 by this subsection shall apply to any calendar quar-  
8 ters beginning after December 31, 2017.

9       (d) REDUCED RATE OF EXCISE TAX ON CERTAIN  
10 WINE.—

11           (1) IN GENERAL.—Section 5041(c) of the Inter-  
12 nal Revenue Code of 1986, as amended by section  
13 13804 of Public Law 115–97, is amended—

14           (A) in the heading, by striking “FOR  
15 SMALL DOMESTIC PRODUCERS”,

16           (B) by amending paragraph (1) to read as  
17 follows:

18           “(1) ALLOWANCE OF CREDIT.—

19           “(A) IN GENERAL.—There shall be allowed  
20 as a credit against any tax imposed by this title  
21 (other than chapters 2, 21, and 22) an amount  
22 equal to the sum of—

23           “(i) \$1 per wine gallon on the first  
24 30,000 wine gallons of wine, plus

1           “(ii) 90 cents per wine gallon on the  
2           first 100,000 wine gallons of wine to which  
3           clause (i) does not apply, plus

4           “(iii) 53.5 cents per wine gallon on  
5           the first 620,000 wine gallons of wine to  
6           which clauses (i) and (ii) do not apply,

7           which are produced by the producer and re-  
8           moved during the calendar year for consump-  
9           tion or sale, or which are imported by the im-  
10          porter into the United States during the cal-  
11          endar year.

12          “(B) ADJUSTMENT OF CREDIT FOR HARD  
13          CIDER.—In the case of wine described in sub-  
14          section (b)(6), subparagraph (A) of this para-  
15          graph shall be applied—

16                 “(i) in clause (i) of such subpara-  
17                 graph, by substituting ‘6.2 cents’ for ‘\$1’,

18                 “(ii) in clause (ii) of such subpara-  
19                 graph, by substituting ‘5.6 cents’ for ‘90  
20                 cents’, and

21                 “(iii) in clause (iii) of such subpara-  
22                 graph, by substituting ‘3.3 cents’ for ‘53.5  
23                 cents’.”,

24          (C) by striking paragraphs (2) and (8),

1           (D) by redesignating paragraphs (3)  
2 through (6) as paragraphs (2) through (5), re-  
3 spectively,

4           (E) by redesignating paragraph (9) as  
5 paragraph (6), and

6           (F) by amending paragraph (7) to read as  
7 follows:

8           “(7) REGULATIONS.—The Secretary may pre-  
9 scribe such regulations as may be necessary to carry  
10 out the purposes of this subsection, including regula-  
11 tions to ensure proper calculation of the credit pro-  
12 vided in this subsection.”.

13           (2) ALLOWANCE OF CREDIT FOR FOREIGN MAN-  
14 UFACTURERS AND IMPORTERS.—Subsection (c) of  
15 section 5041 of the Internal Revenue Code of 1986,  
16 as amended by paragraph (1), is amended—

17           (A) in subparagraph (A) of paragraph (1),  
18 by inserting “but only if the importer is an  
19 electing importer under paragraph (6) and the  
20 wine gallons of wine have been assigned to the  
21 importer pursuant to such paragraph” after  
22 “into the United States during the calendar  
23 year”, and

24           (B) in paragraph (6)—

1 (i) in subparagraph (A), by striking  
2 “paragraph (8)” and inserting “paragraph  
3 (1)”,

4 (ii) in subparagraph (B), by striking  
5 “The Secretary” and inserting “The Sec-  
6 retary of the Treasury, in consultation  
7 with the Secretary of Health and Human  
8 Services and the Secretary of the Depart-  
9 ment of Homeland Security,” and

10 (iii) in subparagraph (C), by striking  
11 “paragraph (4)” and inserting “paragraph  
12 (3)”.

13 (3) EFFECTIVE DATE.—The amendments made  
14 by this subsection shall apply to wine removed after  
15 December 31, 2017.

16 (e) ADJUSTMENT OF ALCOHOL CONTENT LEVEL FOR  
17 APPLICATION OF EXCISE TAX RATES.—

18 (1) IN GENERAL.—Paragraphs (1) and (2) of  
19 section 5041(b) of the Internal Revenue Code of  
20 1986, as amended by section 13805 of Public Law  
21 115–97, are each amended by striking “14 percent”  
22 and all that follows through “January 1, 2020” and  
23 inserting “16 percent”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to wine removed after  
3           December 31, 2017.

4           (f) DEFINITION OF MEAD AND LOW ALCOHOL BY  
5 VOLUME WINE.—

6           (1) IN GENERAL.—Subsection (h) of section  
7           5041 of the Internal Revenue Code of 1986, as  
8           added by section 13806 of Public Law 115–97, is  
9           amended—

10                   (A) in paragraph (2), by striking “the Sec-  
11                   retary shall” each place it appears and insert-  
12                   ing “the Secretary may”, and

13                   (B) by striking paragraph (3).

14           (2) EFFECTIVE DATE.—The amendments made  
15           by this subsection shall apply to wine removed after  
16           December 31, 2017.

17           (g) REDUCED RATE OF EXCISE TAX ON CERTAIN  
18 DISTILLED SPIRITS.—

19           (1) IN GENERAL.—Subsection (c) of section  
20           5001 of the Internal Revenue Code of 1986, as  
21           added by subsection (a) of section 13807 of Public  
22           Law 115–97 and amended by subsection (c) of such  
23           section, is amended—

24                   (A) in the heading, by striking “FOR 2018  
25                   AND 2019”,

1 (B) in paragraph (3)(B), by striking “The  
2 Secretary” and inserting “The Secretary of the  
3 Treasury, in consultation with the Secretary of  
4 Health and Human Services and the Secretary  
5 of the Department of Homeland Security,” and

6 (C) by striking paragraph (4).

7 (2) EFFECTIVE DATE.—The amendments made  
8 by this subsection shall apply to distilled spirits re-  
9 moved after December 31, 2017.

10 (h) BULK DISTILLED SPIRITS.—

11 (1) IN GENERAL.—Section 5212 of the Internal  
12 Revenue Code of 1986, as amended by section  
13 13808 of Public Law 115–97, is amended—

14 (A) by striking the last two sentences,

15 (B) by striking “Bulk distilled spirits on  
16 which” and inserting “Distilled spirits on  
17 which”, and

18 (C) by striking “bulk distilled spirits for”  
19 and inserting “distilled spirits for”.

20 (2) EFFECTIVE DATE.—The amendments made  
21 by this subsection shall apply to distilled spirits  
22 transferred in bond after December 31, 2017.

23 (i) SIMPLIFICATION OF RULES REGARDING  
24 RECORDS, STATEMENTS, AND RETURNS.—

1           (1) IN GENERAL.—Subsection (a) of section  
2           5555 of the Internal Revenue Code of 1986 is  
3           amended by striking “For calendar quarters begin-  
4           ning after the date of the enactment of this sen-  
5           tence, and before January 1, 2020, the Secretary”  
6           and inserting “The Secretary”.

7           (2) EFFECTIVE DATE.—The amendments made  
8           by this subsection shall apply to any calendar quar-  
9           ters beginning after February 9, 2018.

10 **SEC. 3. USE OF WHOLESOME PRODUCTS SUITABLE FOR**  
11 **HUMAN FOOD CONSUMPTION IN THE PRO-**  
12 **DUCTION OF FERMENTED BEVERAGES.**

13           (a) IN GENERAL.—Not later than the date that is  
14 1 year after the date of the enactment of this Act, the  
15 Secretary of the Treasury or the Secretary of the Treas-  
16 ury’s delegate shall amend subpart F of part 25 of sub-  
17 chapter A of chapter I of title 27, Code of Federal Regula-  
18 tions, to ensure that, for purposes of such part, wholesome  
19 fruits, vegetables, and spices suitable for human food con-  
20 sumption that are generally recognized as safe for use in  
21 an alcoholic beverage and that do not contain alcohol are  
22 generally recognized as a traditional ingredient in the pro-  
23 duction of fermented beverages.

1 (b) DEFINITION.—For purposes of this section, the  
2 term “fruit” means whole fruit, fruit juices, fruit puree,  
3 fruit extract, or fruit concentrate.

4 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
5 tion shall be construed to revoke, prescribe, or limit any  
6 other exemptions from the formula requirements under  
7 subpart F of part 25 of subchapter A of chapter I of title  
8 27, Code of Federal Regulations, for any ingredient that  
9 has been recognized before, on, or after the date of the  
10 enactment of this Act as a traditional ingredient in the  
11 production of fermented beverages.

12 **SEC. 4. INCREASED FUNDING FOR THE ALCOHOL AND TO-**  
13 **BACCO TAX AND TRADE BUREAU.**

14 (a) IN GENERAL.—In addition to any other amounts  
15 authorized to be appropriated to the Alcohol and Tobacco  
16 Tax and Trade Bureau, there is authorized to be appro-  
17 priated—

18 (1) for fiscal year 2019, \$15,000,000, to re-  
19 main available until September 30, 2020; and

20 (2) for fiscal year 2020, \$15,000,000, to re-  
21 main available until September 30, 2021.

22 (b) AVAILABILITY OF FUNDS.—Of the amounts au-  
23 thorized to be appropriated under subsection (a), for each  
24 of fiscal years 2019 and 2020—

1           (1) \$5,000,000 shall be for the costs of accel-  
2           erating the processing of formula and label applica-  
3           tions;

4           (2) \$5,000,000 shall be for the costs of pro-  
5           grams to enforce trade practice violations of the  
6           Federal Alcohol Administration Act (27 U.S.C. 201  
7           et seq.); and

8           (3) \$5,000,000 shall be for the purpose of car-  
9           rying out the provisions of this Act and the amend-  
10          ments made by this Act, including accelerating the  
11          processing of permit applications for non-industrial  
12          alcohol production and distribution.

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