S. 362

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

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. Bennett, Mrs. Capito, Ms. Baldwin, and Mr. Gardner) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Craft Beverage Modernization and Tax Reform Act of 2019”.

SEC. 2. PERMANENT EXTENSION OF CERTAIN PROVISIONS.

(a) PRODUCTION PERIOD FOR BEER, WINE, AND DISTILLED SPIRITS.—
(1) IN GENERAL.—Paragraph (4) of section 263A(f) of the Internal Revenue Code of 1986, as added by section 13801(a) of Public Law 115–97, is amended to read as follows:

“(4) EXEMPTION FOR AGING PROCESS OF BEER, WINE, AND DISTILLED SPIRITS.—For purposes of this subsection, the production period shall not include the aging period for—

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

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

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

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to interest costs paid or accrued in calendar years beginning after December 31, 2017.

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

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

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

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

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

“(II) imported by the importer into the United States during the calendar year, and

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

“(B) BARREL.—For purposes of this section, a barrel shall contain not more than 31 gallons of beer, and any tax imposed under this section shall be applied at a like rate for any other quantity or for fractional parts of a barrel.”.

(2) REDUCED RATE FOR CERTAIN DOMESTIC PRODUCTION.—Subparagraph (A) of section 5051(a)(2) of the Internal Revenue Code of 1986, as
amended by section 13802(b) of Public Law 115–97, is amended—

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

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

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

(A) in subparagraph (A)(i)(II) of paragraph (1), as amended by paragraph (1) of this subsection, by inserting “but only if the importer is an electing importer under paragraph (4) and the barrels have been assigned to the importer pursuant to such paragraph” after “during the calendar year”, and

(B) in paragraph (4)—

(i) in subparagraph (A), by striking “paragraph (1)(C)” and inserting “paragraph (1)(A)”, and

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

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

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

c TRANSFER OF BEER BETWEEN BONDED FACILI-
ties.—

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

“SEC. 5414. TRANSFER OF BEER BETWEEN BONDED FACILI-
ties.

“(a) IN GENERAL.—Beer may be removed from one
brewery to another brewery, without payment of tax, and
may be mingled with beer at the receiving brewery, subject
to such conditions, including payment of the tax, and in
such containers, as the Secretary by regulations shall pre-
scribe, which shall include—

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

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

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

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

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

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

“(B) the transferor has divested itself of
all interest in the beer so transferred and the
transferee has accepted responsibility for pay-
ment of the tax.
“(b) Transfer of Liability for Tax.—For purposes of subsection (a)(3), such relief from liability shall be effective from the time of removal from the transferor’s bonded premises, or from the time of divestment of interest, whichever is later.”.

(2) Effective Date.—The amendment made by this subsection shall apply to any calendar quarters beginning after December 31, 2017.

(d) Reduced Rate of Excise Tax on Certain Wine.—

(1) In General.—Section 5041(c) of the Internal Revenue Code of 1986, as amended by section 13804 of Public Law 115–97, is amended—

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

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

“(1) Allowance of Credit.—

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

“(i) $1 per wine gallon on the first 30,000 wine gallons of wine, plus
“(ii) 90 cents per wine gallon on the first 100,000 wine gallons of wine to which clause (i) does not apply, plus
“(iii) 53.5 cents per wine gallon on the first 620,000 wine gallons of wine to which clauses (i) and (ii) do not apply, which are produced by the producer and removed during the calendar year for consumption or sale, or which are imported by the importer into the United States during the calendar year.
“(B) Adjustment of credit for hard cider.—In the case of wine described in subsection (b)(6), subparagraph (A) of this paragraph shall be applied—
“(i) in clause (i) of such subparagraph, by substituting ‘6.2 cents’ for ‘$1’,
“(ii) in clause (ii) of such subparagraph, by substituting ‘5.6 cents’ for ‘90 cents’, and
“(iii) in clause (iii) of such subparagraph, by substituting ‘3.3 cents’ for ‘53.5 cents’.”,
(C) by striking paragraphs (2) and (8),
(D) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively,

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

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

“(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to ensure proper calculation of the credit provided in this subsection.”.

(2) ALLOWANCE OF CREDIT FOR FOREIGN MANUFACTURERS AND IMPORTERS.—Subsection (e) of section 5041 of the Internal Revenue Code of 1986, as amended by paragraph (1), is amended—

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

(B) in paragraph (6)—
(i) in subparagraph (A), by striking “paragraph (8)” and inserting “paragraph (1)”;

(ii) in subparagraph (B), by striking “The Secretary” and inserting “The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services and the Secretary of the Department of Homeland Security,”, and

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

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

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

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

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(2) Effective date.—The amendments made by this subsection shall apply to wine removed after December 31, 2017.

(f) Definition of mead and low alcohol by volume wine.—

(1) In general.—Subsection (h) of section 5041 of the Internal Revenue Code of 1986, as added by section 13806 of Public Law 115–97, is amended—

(A) in paragraph (2), by striking “the Secretary shall” each place it appears and inserting “the Secretary may”, and

(B) by striking paragraph (3).

(2) Effective date.—The amendments made by this subsection shall apply to wine removed after December 31, 2017.

(g) Reduced rate of excise tax on certain distilled spirits.—

(1) In general.—Subsection (c) of section 5001 of the Internal Revenue Code of 1986, as added by subsection (a) of section 13807 of Public Law 115–97 and amended by subsection (c) of such section, is amended—

(A) in the heading, by striking “for 2018 and 2019”,

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

(C) by striking paragraph (4).

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

(h) BULK DISTILLED SPIRITS.—

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

(A) by striking the last two sentences,

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

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

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

(i) SIMPLIFICATION OF RULES REGARDING RECORDS, STATEMENTS, AND RETURNS.—
(1) In general.—Subsection (a) of section 5555 of the Internal Revenue Code of 1986 is amended by striking ‘‘For calendar quarters beginning after the date of the enactment of this sentence, and before January 1, 2020, the Secretary’’ and inserting ‘‘The Secretary’’.

(2) Effective date.—The amendments made by this subsection shall apply to any calendar quarters beginning after February 9, 2018.

SEC. 3. USE OF WHOLESOME PRODUCTS SUITABLE FOR HUMAN FOOD CONSUMPTION IN THE PRODUCTION OF FERMENTED BEVERAGES.

(a) In general.—Not later than the date that is 1 year after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary of the Treasury’s delegate shall amend subpart F of part 25 of subchapter A of chapter I of title 27, Code of Federal Regulations, to ensure that, for purposes of such part, wholesome fruits, vegetables, and spices suitable for human food consumption that are generally recognized as safe for use in an alcoholic beverage and that do not contain alcohol are generally recognized as a traditional ingredient in the production of fermented beverages.
(b) **DEFINITION.**—For purposes of this section, the term “fruit” means whole fruit, fruit juices, fruit puree, fruit extract, or fruit concentrate.

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

**SEC. 4. INCREASED FUNDING FOR THE ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.**

(a) **IN GENERAL.**—In addition to any other amounts authorized to be appropriated to the Alcohol and Tobacco Tax and Trade Bureau, there is authorized to be appropriated—

(1) for fiscal year 2019, $15,000,000, to remain available until September 30, 2020; and

(2) for fiscal year 2020, $15,000,000, to remain available until September 30, 2021.

(b) **AVAILABILITY OF FUNDS.**—Of the amounts authorized to be appropriated under subsection (a), for each of fiscal years 2019 and 2020—
(1) $5,000,000 shall be for the costs of accelerating the processing of formula and label applications;

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

(3) $5,000,000 shall be for the purpose of carrying out the provisions of this Act and the amendments made by this Act, including accelerating the processing of permit applications for non-industrial alcohol production and distribution.