Spirits industry pushes for states to lower state taxes on canned cocktails to compete with beer and hard seltzer

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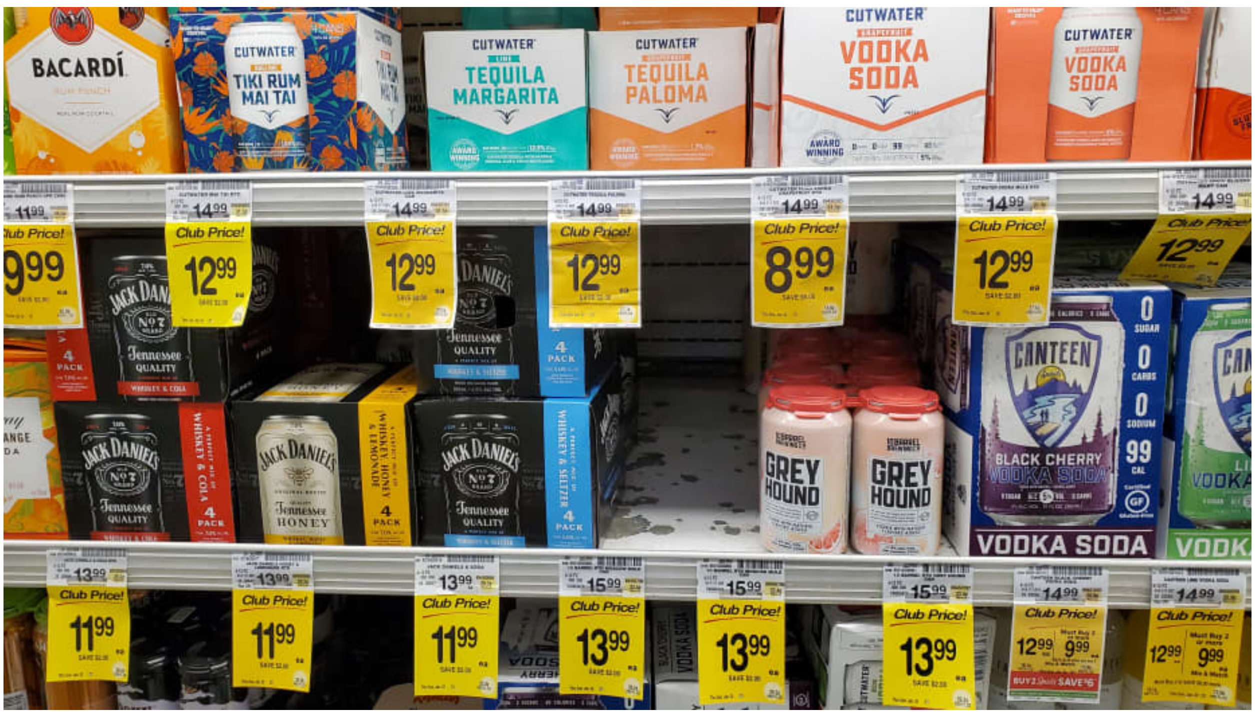

Close-up of discounted cans and cases of packaged cocktails on Safeway store shelves in Lafayette, California, December 31, 2020.
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John Granata, co-founder of Jersey Spirits Distilling and president of the New Jersey Craft Distillers Guild, has been pushing for lower excise taxes in New Jersey for years. For the first time, however, it seems like state legislators are finally listening.

“It was a surprise that legislators were even entertaining it,” Granata said.

The spirits industry has an effort underway to lobby states to lower taxes on canned cocktails to more closely mimic those placed on beer and hard seltzer.

Excise taxes have been placed on alcohol dating back to the early days of the United States, but since the repeal of Prohibition, spirits have been taxed higher than other forms of alcohol by the federal government and states. Liquor's high alcohol content carries a taboo that separates it from beer and wine in the eyes of some lawmakers and watchdogs. Producers, importers, wholesalers and even retailers in some states have to pay excise taxes on alcohol, although they typically pass the cost down to consumers.

Granata's distillery started selling canned cocktails during the pandemic as a way to offset on-premise sales lost during the health crisis. New Jersey had been slow to legalize to-go cocktails. Most of Granata's ready-to-drink beverages have an alcohol by volume of roughly 10%.

"Once we got into that, we started thinking about the taxes," Granata said. "The state taxes became a stumbling block in trying to do things on an even larger scale. With the price points that were already set, it became challenging."

On top of federal excise taxes, Jersey Spirits Distilling pays $5.50 per gallon in excise taxes to New Jersey on those drinks because they contain spirits, while a beer manufacturer would only pay 12 cents for the same amount, even if beer had a higher ABV. If New Jersey passes a bill moving through its state legislature, the distillery would pay 15 cents for every gallon of its canned cocktails.

'Alcohol is alcohol is alcohol'

The pandemic and consumers' desire for convenience have driven up the sales of canned cocktails. In 2020, U.S. consumption of canned cocktails grew 52.7% from the previous year, accounting for 6.9% of the total volume in the alcoholic ready-to-drink category, according to IWSR data. The higher sales have encouraged liquor companies to take the offensive in a fight for tax parity.

"With all of the attention that came organically, we started getting much more engaged," said Les Fugate, vice president of state and local public affairs for Jack Daniels distiller Brown-Forman. "We're always looking for the opportunity for our products to get treated the same, and this is the perfect way to demonstrate that alcohol is alcohol is alcohol."

The spirits industry thinks that canned cocktails can see even more growth if distillers could pay lower excise taxes, making the drinks cheaper for consumers. A six-pack of hard seltzers usually sets consumers back about $10, around the starting price for a four-pack of lower-end canned cocktails. Distillers argue that canned cocktails have similar alcohol content as beer and hard seltzer and are treated unfairly just because their drinks contain spirits.

So far this year, Michigan and Nebraska have already passed laws to lower excise taxes on canned cocktails. New Jersey and Pennsylvania have bills sitting in their state legislatures, while Hawaii, North Carolina, Vermont, Washington and West Virginia have bills that will roll into their 2022 sessions.

"This excessive tax burden is unfair to consumers and creates a steep hurdle for many small craft distillers who want to enter this growing category," said Lisa Hawkins, senior vice president of public affairs for the Distilled Spirits Council of the United States. "States are taking a closer look at this issue to provide consumers with more convenient and equal access to spirits-based RTDs, and to ensure these products are being taxed fairly."

A DISCUS survey of craft distillers from earlier this year found that 62% of respondents who aren't currently making canned cocktails cited the higher tax rate as a barrier to entering the market.

Federal changes are far away

Despite some wins on the state level, changes on the federal level seem far away at this point.

"You start to hear a little bit about the conversation at the federal level, but right now I think most of the attention is at the state level," Fugate said.

Even on the state level, there is opposition, most notably from brewers and beer distributors, who fear losing a competitive edge. Beer consumption has been declining in recent years as consumers switch to hard seltzer or spirits or opt out of drinking altogether.

This spring, Boston Beer founder Jim Koch reportedly sent letters to a handful of beer industry trade groups urging them to work together to oppose the growing movement, according to Beer Business Daily. In addition to brewing Sam Adams, Boston Beer also owns Truly Hard Seltzer, which has seen slowing sales growth this summer. A representative for Boston Beer did not return CNBC's request for comment.

"Legislation to lower taxes on canned cocktails is bad for state budgets and bad for good-paying local jobs that depend on our nation's beer industry," a spokesperson for the Beer Institute, a beer industry trade group, said in a statement to CNBC. "We look forward to working with elected officials at all levels on ways to help bolster local jobs and strengthen public safety that doesn't involve giving a subsidy to liquor companies."

Alcohol industry watchdogs are also opposed to lowering excise taxes on canned cocktails.

"There's no reason why they should be given a reduction in taxes," said Michael Scippa, public affairs director for Alcohol Justice, a California-based organization. "Our real concern, one of our steadfast goals, is to raise taxes on all alcoholic beverages because they're just too low and many haven't been raised in generations, making them moot in terms in generating revenue."