

HB

76

COMMITTEE REPORT

HOUSE

FURTHER:

3/15/79

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 76

"An Act relating to powdered alcohol."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 76 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

RODOLPH GREGG D.P.

[Signature]

[Signature]

[Signature]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

[Signature] No Rec.

[Signature] " "

[Signature] No Rec.

[Signature]

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 76
 Title An Act Related to Powdered Alcohol
 Requested by House HESS Committee Date 3/14/79

II. FISCAL DETAIL

Agency Affected Revenue
 Program Category Affected Fiscal Services
 Budget Request Unit(s) Affected Audit Division

EXPENDITURES (Thousands of Dollars) NONE

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

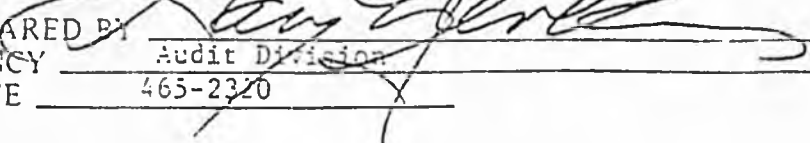
POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill would have no effect on this division.

See attachment.

IV. DATE 3/14/79 PREPARED BY 
 AGENCY Audit Division
 PHONE 465-2320
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

ATTACHMENT TO FISCAL NOTE
HOUSE BILL NO. 76 (An Act relating to powdered alcohol.)

This bill assumes non-conversion to liquid form prior to sale within the State. Senate Bill 239, Section 04.16.110 does not allow sale of a powdered product in the state "unless in liquid form". With present knowledge of the product conversion to liquid form, the formula would be:

1 pound powdered product equals approximately 2.584 gallons.

Point at which tax is imposed should be distinguished. This may possibly be either at point when wholesaler receives powdered product in the state or point after conversion to liquid form.



DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC.

1300 PENNSYLVANIA BUILDING
WASHINGTON, D. C. 20004
202-628-3544

November 17, 1978

Mr. Sharman Haley
Research Analyst
Legislative Affairs Agency
Pouch Y - State Capitol
Juneau, Alaska 99811

Dear Mr. Haley:

We have received your letter of 10-30-78 requesting information on powdered alcohol.

Based on information we have received from the Bureau of Alcohol, Tobacco and Firearms, the powdered alcohol product has been approved and is presently being imported into the U.S. from Japan by Global Marketing, Inc. of Portland, Oregon. A taxing formula has been approved by BATF.

The base powder has the consistency of very fine sugar. It is comprised of droplets of grain neutral spirits encapsulated in "glister", a form of corn syrup. The bulk powder after having been imported in drums by Global will be sent to a rectifier in Orange County, California. Power Packaging, Inc., the rectifier, will add flavoring, blend, package and label the containers under the name "Sureshot". The types of products will be Vodka Sour, Vodka Sling, Screwdriver, Apricot Sour, Cappucino and possibly others.

It is our understanding that each can contains 2 5/8 ounces of alcohol powder at 22% alcohol by weight. When mixed with 5 ounces (one full can) of water a drink containing 6.8 fluid ounces at 22 proof will result. It is understood that the product will retail for \$1.39 per can.

The product is currently being test marketed in Oregon, California and possibly some other states. California had to change its taxing guide lines to allow the sale of the product in that state. There is attached for your information a copy of the amended California regulation.

Sincerely,

George F. Bonifant
Director - International Trade

GFB:sas

Attachment

BOARD OF EQUALIZATION

DEPARTMENT OF BUSINESS TAXES

ALCOHOLIC BEVERAGE TAX REGULATIONS

Regulation 2557. POWDERED DISTILLED SPIRITS.

Reference: Sections 32001 - 32556, Revenue and Taxation Code.

(a) **IN GENERAL.** The Alcoholic Beverage Tax Law and Alcoholic Beverage Tax Regulations apply with respect to powdered distilled spirits in the same manner and to the same extent as with respect to other distilled spirits. Tax will be paid at the same rate per wine gallon, and at a proportionate rate for any quantity, as for distilled spirits of the same proof strength in liquid form.

(b) **RECORDS AND REPORTS.** Transactions involving powdered distilled spirits, including any powdered alcoholic beverage containing powdered distilled spirits, must be stated by volume in wine gallons to the nearest one-hundredth of a gallon in all required records and reports. The importer, in the case of powdered distilled spirits imported into California packaged in containers for sale to the general public, and the rectifier in the case of powdered distilled spirits packaged within California shall:

(1) Label the outside of each case with the volume in wine gallons of the powdered product contained in the case and of the powdered product contained in each individual package within the case.

(2) Print on each invoice, credit memorandum, or similar document the total volume in wine gallons of the powdered product or products listed on that document.

(3) Print on each invoice, credit memorandum, or similar document the volume in wine gallons of the powdered product contained in each size case and in each individual package listed on that document.

(c) **CONVERSION OF WEIGHT TO VOLUME.** The weight of powdered distilled spirits, and powdered distilled spirits products, shall be converted to volume as follows:

- (1) One pound equals .16 wine gallons;
- (2) One ounce equals .01 wine gallons;
- (3) One gram equals .000353 wine gallons.

History: Adopted May 4, 1978, effective June 21, 1978.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

November 22, 1978

M E M O R A N D U M

SUBJECT: Powdered Alcohol (W.O. #5743-R)

TO: The Honorable Charlie Parr

FROM: Sharman Haley
Research Analyst 

You requested information on powdered alcohol and the likelihood for marketing in Alaska. Attached you will find a letter from the Distilled Spirits Council of the United States describing the product.

Exclusive distribution rights for marketing powdered alcohol in Alaska have been awarded to K&L Distributors. I contacted the Anchorage office of K&L and was told that they are not pursuing the marketing of the product at this time, because they are not satisfied with the quality-- in particular the taste of the cocktails. If and when the manufacturers improve the taste to the satisfaction of K&L, K&L plans to market powdered alcohol cocktails state-wide.

If you have any further questions please let us know.

SH:dh
Attachment

1 IN THE HOUSE

BY PARR

2 HOUSE BILL NO. 76

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to powdered alcohol."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 43.60.010 is amended by adding a new subsection to read:

9 (c) For the purpose of calculating the tax imposed by (a) of this
10 section, ~~the weight of~~ powdered distilled spirits and powdered distilled
11 spirit products ^{shall be} is converted to volume as follows: *liquid equivalent*
expressed as gallons.

12 (1) one pound equals .16 gallons;

13 (2) one ounce equals .01 gallons;

14 (3) one gram equals .000353 gallons.

15 * Sec. 2. AS 43.60 is amended by adding a new section to read:

16 Sec. 43.60.050. DEFINITIONS. As used in this chapter "liquor" and
17 "intoxicating liquor" includes powdered distilled spirits and powdered
18 distilled spirit products.

19 * Sec. 3. AS 04.20.010 is amended to read:

20 Sec. 04.20.010. INTOXICATING LIQUOR DEFINED. As used in this
21 title, "intoxicating liquor" includes whiskey, brandy, rum, gin, wine,
22 ale, porter, beer, powdered distilled spirits and powdered distilled
23 spirit products and all other spirituous, vinous, malt and other fer-
24 mented or distilled liquors intended for human consumption and contain-
25 ing more than one per cent alcohol by volume.

AMENDMENT

OFFERED IN THE HOUSE:

BY: Health Education and
Social Services

To: _____ HOUSE BILL No. 76

SENATE BILL No. _____

PAGE: _____

LINE: _____

Page 1 Line 11:

Delete "is" replace with "shall be"

Delete "Volume as follows:" Insert: "Liquid equivalent as
expressed as wine gallons"

Page 1, ~~Lines 12, 13 and 14:~~

Delete Lines 12, 13 and 14

1 IN THE HOUSE

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 29, 1978

SUBJECT: Work Order #5743: Regulation of
powdered alcohol under existing law.

TO: Representative Charles Parr

FROM: Joseph A. Guthrie
Legislative Counsel



You have asked whether powdered alcohol could be regulated under existing statutes. Title 4 is addressed to the control of "intoxicating liquor" and, less frequently, "alcoholic beverages." Of the two, only "intoxicating liquor" is defined, as follows:

Sec. 04.20.010. INTOXICATING LIQUOR DEFINED. As used in this title, "intoxicating liquor" includes whiskey, brandy, rum, gin, wine, ale, porter, beer and all other spiritous, vinous, malt and other fermented and distilled liquors intended for human consumption and containing more than one per cent alcohol by volume.

Whether the foregoing would cover powdered alcohol would seem to depend on the meaning of "liquor." Black's Law Dictionary cites case law on the meaning of liquor as follows:

All kinds of intoxicating decoctions, liquids, or beverages, Newton v. State ex rel. Atty Gen., 234 Ala. 91, 175 So. 563, 564. Any alcoholic or intoxicating liquid, People v. Draper, 134 Cal. App. 1, 22 P.2d 604.

Any beverage, as temperance liquors, or those not intoxicating, Benton v. State, 24 Ala. App. 441, 136 So. 428, 429.

Any liquid substance, Newton v. State ex rel. Atty Gen., 234 Ala. 91, 175 So. 563, 564.

Representative Charles Parr

Page 2

November 29, 1978

Distilled spirits stronger than malt beverages and fermented wines, Peurifoy v. State, 53 Ga. App. 515; 186 S.E. 461, 462.

Such as is prohibited by prohibition law, Newton v. State, 27 Ala. App. 492, 175 So. 562, 563.

Whiskey, Bohican v. Monnat, 248 N.Y.S. 722, 727; 232 App. Div. 33; Jones v. State, 23 Ala. App. 339; 125 So. 382, 383.

Black's Law Dictionary defines "alcoholic beverage" as follows:

The term is distinguished from the term "intoxicating liquor," in that a beverage may be alcoholic in that it contains some alcohol, and yet not be intoxicating as defined in the National Prohibition Act, Premier-Polost Sales Co. v. McNutt, D.C. Ind., 17 F.Supp. 708, 714.

Beer, Liquor Control Commission v. McGillis, 91 Utah 586, 65 P.2d 1136, 1141. Ethyl alcohol, within tax statute. H.O. Hurley Co. v. Martin, 267 Ky. 182, 101 S.W.2d 657, 660. It is immaterial whether the liquor is suitable or desirable for beverage purposes, if it is prohibited by law and is in fact used as a beverage. Powell v. State, 179 Md. 399, 18 P.2d 587, 590, 591. But it must be drinkable, McChristy v. State, 138 Tex. Cr.R. 133 S.W.2d 976, 977.

As you can see from the foregoing, it is questionable whether our statutes would apply to alcohol not liquid in form. Even if they did, it is questionable whether authority would lie under our statutes to ban a product entirely from the market. Although existing authority for regulations states that the board "may adopt necessary rules and regulations to assure the proper administration of state liquor regulations in a manner that will protect the public health, safety, and welfare (AS 04.05.030)," a regulation banning sale of powdered alcohol would be vulnerable to challenge as being beyond the scope of the board's authority and not reasonably necessary, since no statutory authority exists for either banning sales of alcohol entirely or treating different types of alcohol differently.

JAG:jdm