

CONCURRENCE IN SENATE AMENDMENTS

AB 2303 (Aguiar-Curry)

As Amended June 21, 2022

Majority vote

SUMMARY

This bill provides that only agave spirits produced entirely from agaves grown within California, without flavoring or coloring additives, may be labeled with the words "California agave spirits" or any combination of the words "California agave spirits," "California agave," or substantially similar description.

Senate Amendments

Provides that this bill does not preclude the use of the word "California" to describe the location of the distillery.

COMMENTS*Background.*

Agave is a perennial succulent, found all over the world, but most notably in the Southwestern United States, Mexico, India, South Africa and tropical South America. An agave plant typically takes eight to 25 years to mature, and is harvested only once. Harvesting the plant is a demanding, physical process done by highly skilled farmers. Worldwide, there are over 200 species of wild and cultivated agave, diverse in size, form, and color. Approximately 40 of them are used in the creation of agave spirits. An agave spirit can be classified as a distillate produced by the cooking, crushing, fermenting and distilling of agaves. Both blends and 100% agave spirit brands have emerged in the United States (U.S.), India, and South America. Just like the grape varietals used for wine, agave spirits can be classified by the species of plant from which they are distilled.

The most famous of all agave spirits is tequila, but before tequila got its name, it was called mezcal. It started off as a "Vino de Mezcal de Tequila." Tequila is a town in the middle of the state of Jalisco. The producers there was so confident of the quality of their mezcal that the name of the spirit itself eventually turned into tequila.

Like cognac and champagne, tequila has a recognized Appellation of Origin (AOC) meaning that it is covered by and named after a geographical region. Declared by the Mexican government in 1974, the AOC is in consideration of specific characteristics of tequila due to location, climate, and cultural traditions. Tequila can be made only in the Mexican states of Jalisco, Guanajuato, Michoacán, Nayarit, and Tamaulipas and produced under the regulations dictated by the Tequila Regulatory Council of Mexico. Jalisco is the major area accounting for some 97 percent of tequila production. Any other distilled beverage made from the blue agave plant in other areas is not legally tequila.

All agave spirits have at least one thing in common: a one-of-a-kind recipe. They are all born from carefully crafted processes that have been tested and refined for generations. Although there are some similarities in production methods, each spirit is made with a very distinct technique.

A growing business in the United States and California. The Alcohol and Tobacco Tax and Trade Bureau (TTB) of the U.S. Treasury Department published a final rule on April 2, 2020, which established a new category of spirits called "Agave Spirits," Agave spirits is now a new Class with 2 defined types listed under it, Tequila and Mezcal. U.S. producers making Agave spirits in this Class will now be able to do so without submitting a formula.

Previously, the standards included a class for tequila but generally did not address mezcal or the broader category of agave spirits. The new agave spirits class will include any spirits distilled from a fermented mash, of which at least 51% is derived from plant species in the genus agave and up to 49% is derived from sugar. Agave spirits must be distilled at less than 95% alcohol by volume and bottled at or above 40% alcohol by volume. Industry members who have approved labels for "spirits distilled from agave" may choose to change their labels to designate their products as "agave spirits," but will not be required to do so.

It has been reported that since the TTB established the Agave spirits category, more than 150 labels for domestic agave spirits have been approved throughout the United States. With few exceptions, these spirits are made entirely with imported agave syrup from Mexico. Proponents note that California is currently the only state growing agave and producing agave spirits made from agave grown in California.

Recent reports state that California is quickly establishing itself as the producer of the highest quality agave spirits produced in the United States. The growing and harvesting of agave matches up well with California's varied climates. Additionally, it can grow in places where almost nothing else can grow - like rocky and sandy areas. Just as there are better regions for growing wine grapes, there are better areas for growing agave plants. While the plants take 7-9 years to mature into a harvestable and fermentable commodity, it uses significantly less water than other crops grown in California, which is why some farmers are starting to transition part of their lands to grow agave.

The intent of this bill is to specify in law that if an agave spirit is labeled as a "California agave spirit" it shall be made from 100% California grown agave, without flavoring and coloring additives. A manufacturer could still make any kind of agave spirit in California, including those with only 51 percent agave, made from imported syrup, with additives, as long as they meet the TTB's general rules and do not use "California agave spirits" on their label.

According to the Author

According to the author's office, "the agave spirits industry in California is an emerging industry, involving craft distillers and agave growers throughout the state. California is quickly establishing itself as the producer of the highest quality agave spirits produced in the United States. California agave distillers and growers are making significant investments and seek to protect the use of the word 'California' from those who, in the future, could take advantage of our reputation for high quality products and cause consumer confusion and unfair competition. Similar labeling standards have been established to protect other California crops, including winegrapes and olive oil. AB 2303 will require that any agave spirits sold in California labeled with the words 'California agave spirits,' in any combination, must be made entirely from agave grown in the state of California and may not contain any flavor or coloring additives."

Arguments in Support

According to the California Agave Council, "as agave spirits continue to gain in popularity throughout the United States and the world, and domestic craft distillers respond to this demand,

California is earning a reputation for the highest quality domestically produced agave spirits. Consumers deserve to know the highest standards continue to be met on bottles labeled with the words 'California Agave Spirits,' protecting California's reputation for growing and producing high quality and beverages. Your legislation does that."

Arguments in Opposition

None received

FISCAL COMMENTS

According to the Senate Appropriations Committee, "ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests."

VOTES:

ASM GOVERNMENTAL ORGANIZATION: 19-0-3

YES: Santiago, Bigelow, Aguiar-Curry, Berman, Bryan, Cooley, Cooper, Megan Dahle, Daly, Davies, Gipson, Jones-Sawyer, Lackey, Low, Mathis, Ramos, Blanca Rubio, Salas, Smith

ABS, ABST OR NV: Eduardo Garcia, Quirk-Silva, Robert Rivas

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Bigelow, Bryan, Calderon, Carrillo, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Megan Dahle

ASSEMBLY FLOOR: 74-0-4

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

ABS, ABST OR NV: Berman, Mia Bonta, O'Donnell, Blanca Rubio

SENATE FLOOR: 38-0-2

YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Durazo, Roth

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