

Senate Bill 806 – Written Testimony  
March 30, 2021

Madam Chair and esteemed Committee members, my name is Christina LaRue and I am the Executive Director of the Oregon Brewers Guild. Our lobbyist, Jonathan Manton, testified yesterday in support of Senate Bill 806 and its corresponding amendments. I am writing to you today as a follow up to his testimony.

Senate Bill 806 will help align the Oregon definition of malt beverage with the Federal definition, and in turn, a better clarification of what are acceptable substitutions for malt, including sugars. Under the current Oregon definition, malt beverage is defined as an alcoholic beverage obtained by the fermentation of grain, not exceeding 14% alcohol by volume. There has been confusion through the years on what constitutes “grain”. By aligning the definition with the Federal version, there is clear guidance on what can be substituted during the fermentation process, which will now include bran, glucose, grain, molasses, rice or sugar. With that change, the confusion relating to hard seltzer manufacturing will also be eliminated, as many are fermented with cane or corn sugar.

After listening to the testimony yesterday, I know that there is concern amongst certain individuals regarding loss of revenue, as the change in definition will clearly place hard seltzer under “malt beverage” vs “wine”, in turn, those manufacturers paying a lower excise tax rate on the product. The reality is, up until December 15<sup>th</sup> of 2020, there was not clear guidance on the manufacturing and classification of hard seltzer in Oregon. The OLCC sent out a notice to its stakeholders on that date, which included Oregon craft breweries, with new guidance and a notification that hard seltzer fermented with cane sugar should be classified as “wine” and not “malt beverage”. Included in this notice was also notification that stakeholders, who had been paying the malt beverage tax rate on the product would have to submit amended reports for the 2020 year and that the OLCC will be reviewing anything 2019 and prior, adjusting the tax liability accordingly. So you see, the idea of revenue loss is inaccurate, as these stakeholders have already been paying at the malt beverage tax rate.

The Oregon craft beer industry has been built on creativity and innovation. Over the past year, the economic impact to our Oregon craft breweries has been devastating – revenue loss, job losses, business closures. For some, turning to manufacturing of hard seltzer was an opportunity to help keep the lights on. With the alignment of the Oregon definition with the Federal, there is potential for many more breweries to add hard seltzer to their portfolios without the increased tax rate, or the need to apply for an additional winery license. Currently, I am not aware of any state that classifies hard seltzer fermented with cane sugar as “wine”, as in most states the “malt beverage” definition is in alignment with the federal – including Washington, Kentucky, Florida, Colorado, Wyoming, New York, and Iowa. California updated their definition in 2019 to also include sugars.

Along with Oregon manufacturers, there is a number of hard seltzer manufacturers located outside of the state that sell their product here in Oregon, some of them of substantial size. With the clarification of which tax rate they fall under, there is strong potential for those manufacturers to reallocate those

products to other states that are in line with the federal definition and taxed under “malt beverage”. If that were to occur, it would equate to a major loss of revenue for the state.

I would also like to submit our support for the -2 amendment, which would adjust the maximum case count of malt beverage per month shipped to an Oregon resident from 2 cases to 5 cases (with a maximum of 9 liters per case). As Jonathan had mentioned in his testimony, the past year has brought many economic challenges to our members. With a sudden and sustained loss of demand for draft product, one way many were able to pivot to keep money coming in was through direct to consumer shipping and delivery. As the state continues to slowly reopen, and vaccinations increase, our members will begin to see the demand for draft return through restaurants and bars; however, it will not happen overnight. Increasing the max case count will help keep their businesses moving forward. We are aware of the same legislation regarding wine (Senate Bill 406), which moved out of Committee without opposition and is currently referred to the Speaker’s desk. We are asking for the same consideration.

Each and every Oregonian has felt the effects from the past year – be it financial, mental, emotional, or physical. It has taught us how to be resilient and how to adapt in order to keep moving forward against the current. Recovery is within reach, but it will take time. Senate Bill 806 and amendment -2 are essential lifelines for an industry that has been one of the hardest hit. An industry made up of mainly local, small business owners – families, mothers, fathers, sons, and daughters – trying to keep their dream alive. We ask for your consideration and support in moving this bill forward.

Thank you for your time and I am happy to answer any questions Madam Chairperson or Committee members may have. I can be contacted via email at [christina@oregonbeer.org](mailto:christina@oregonbeer.org) or via phone at 541-390-8325.

In Gratitude,

A handwritten signature in black ink, appearing to read 'Christina LaRue', with a stylized, flowing script.

Christina LaRue  
Executive Director  
Oregon Brewers Guild