

118TH CONGRESS
1ST SESSION

S. 3365

To amend the Internal Revenue Code of 1986 to ensure that low alcohol by volume kombucha is exempt from any excise taxes and any regulations under chapter 53 of such Code which are imposed on alcoholic beverages.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2023

Mr. WYDEN 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 ensure that low alcohol by volume kombucha is exempt from any excise taxes and any regulations under chapter 53 of such Code which are imposed on alcoholic beverages.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keeping Our Manufac-
5 turers from Being Unfairly taxed while Championing
6 Health Act” or “KOMBUCHA”.

1 **SEC. 2. TAX-FREE PRODUCTION OF LOW ALCOHOL BY VOL-**
 2 **UME KOMBUCHA.**

3 (a) EXEMPTION FROM TAX ON WINE.—Section
 4 5042(a) of the Internal Revenue Code of 1986 is amended
 5 by adding at the end the following:

6 “(4) LOW ALCOHOL BY VOLUME KOMBUCHA.—

7 “(A) IN GENERAL.—Subject to regulations
 8 prescribed by the Secretary, low alcohol by vol-
 9 ume kombucha shall not be subject to—

10 “(i) tax as wine, or

11 “(ii) the provisions of subchapter F.

12 “(B) DEFINITION.—For purposes of this
 13 chapter, the term ‘low alcohol by volume
 14 kombucha’ means a beverage which—

15 “(i) is fermented solely by a symbiotic
 16 culture of bacteria and yeast,

17 “(ii) contains not more than 1.25 per-
 18 cent of alcohol by volume,

19 “(iii) is sold or offered for sale as
 20 kombucha, and

21 “(iv) is derived from—

22 “(I) fermentable sugars, includ-
 23 ing sugar, malt or malt substitute,
 24 honey, and fruit juice, and

25 “(II) plant materials, including
 26 tea and coffee.”.

1 (b) EXEMPTION FROM TAX ON BEER.—Section 5053
 2 of the Internal Revenue Code of 1986 is amended—

3 (1) by redesignating subsection (i) as subsection
 4 (j), and

5 (2) by inserting after subsection (h) the fol-
 6 lowing new subsection:

7 “(i) PRODUCTION OF LOW ALCOHOL BY VOLUME
 8 KOMBUCHA.—Subject to regulations prescribed by the
 9 Secretary, low alcohol by volume kombucha (as defined in
 10 section 5042(a)(4)(B)) shall not be subject to—

11 “(1) tax as beer, or

12 “(2) the provisions of subchapter G.”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to calendar quarters beginning
 15 after the date of enactment of this Act.

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