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Congress of the United States
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September 13, 2010

The Honorable John Conyers, Jr.
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

On April 15, 2010, I introduced H.R. 5034, the Comprehensive Alcohol Regulatory Effectiveness (CARE) Act, to help ensure every state's ability to regulate alcoholic beverages within their borders as provided for in the clear language of the 21st Amendment. To date, twenty-six states have been sued as private interests have sought to deregulate the sale of alcohol. Not only have these suits been very costly to the states, but they have also created an uncertainty about the states' ability to regulate alcohol effectively. I believe that alcohol is a unique product that merits different treatment than other consumer goods and that the states should be able to regulate alcohol according to the desires of their residents.

While my bill has generated broad, bipartisan support with 136 co-sponsors to date, there were concerns about unintended consequences of the language as written. In an effort to perfect the language, I sought comments from both critics and supporters of this legislation. Attached you will find for your review language which takes the feedback I received into account.

Put simply, the revised language reaffirms longstanding congressional intent that states do indeed have the primary authority to regulate alcohol within their borders so long as those regulations are not facially or intentionally discriminatory to an out-of-state manufacturer. I have removed from the text language that some claim would have allowed the states to engage in anticompetitive behavior.

It is my hope to not only garner your support for this new language but to also offer this "manager's amendment" to strike and replace the original language of H.R. 5034 at a mark up which I would request be scheduled before Congress adjourns this year.

This new language will help protect societal interests in guarding against underage drinking, and will limit access to alcohol by preserving the states' right to require face to face identification checks, etc. The language will continue to promote temperance and orderly markets.

Thank you for your attention to this matter and I look forward to your support of this common sense compromise language.

Sincerely,



Bill Delahunt
Member of Congress

Cc: The Honorable Lamar Smith
Ranking Member, House Committee on the Judiciary
The Honorable Jason Chaffetz
The Honorable Howard Coble
The Honorable Mike Quigley

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5034
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Comprehensive Alcohol
3 Regulatory Effectiveness (CARE) Act of 2010”.

4 SEC. 2. PURPOSES.

5 The purposes of this Act are—

6 (1) to recognize that alcohol is different from
7 other consumer products and that it should be regu-
8 lated effectively by the States; and

9 (2) to reaffirm and protect the primary author-
10 ity of States to regulate alcoholic beverages.

11 SEC. 3. SUPPORT FOR STATE ALCOHOL REGULATION.

12 The Act entitled “An Act divesting intoxicating liq-
13 uors of their interstate character in certain cases”, ap-
14 proved March 1, 1913 (27 U.S.C. 122 et seq.), commonly
15 known as the “Webb-Kenyon Act”, is amended by adding
16 at the end the following:

1 **“SEC. 3 SUPPORT FOR STATE ALCOHOL REGULATION.**

2 “(a) DECLARATION OF POLICY.—It is the policy of
3 Congress that each State or territory shall continue to
4 have the primary authority to regulate alcoholic beverages.

5 “(b) CONSTRUCTION OF CONGRESSIONAL SI-
6 LENCE.—Silence on the part of Congress shall not be con-
7 strued to impose any barrier under clause 3 of section 8
8 of article I of the Constitution (commonly referred to as
9 the ‘Commerce Clause’) to the regulation by a State or
10 territory of alcoholic beverages. However, State or terri-
11 torial regulations may not intentionally or facially dis-
12 criminate against out-of-State or out-of-territory pro-
13 ducers of alcoholic beverages in favor of in-State or in-
14 territory producers unless the State or territory can dem-
15 onstrate that the challenged law advances a legitimate
16 local purpose that cannot be adequately served by reason-
17 able nondiscriminatory alternatives.”.

18 **SEC. 4. AMENDMENT TO WILSON ACT.**

19 The Act entitled “An Act to limit the effect of the
20 regulations of commerce between the several States and
21 with foreign countries in certain cases”, approved August
22 8, 1890 (27 U.S.C. 121), commonly known as the “Wilson
23 Act”, is amended by striking “to the same extent” and
24 all that follows through “Territory,”.

