

115TH CONGRESS
1ST SESSION

S. 389

To amend the Internal Revenue Code of 1986 to ensure that kombucha is exempt from any excise taxes and regulations imposed on alcoholic beverages.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2017

Mr. WYDEN (for himself and Mr. GARDNER) 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 kombucha is exempt from any excise taxes and regulations 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 KOMBUCHA.**

2 (a) EXCEPTION FROM DEFINITION OF BREWER.—

3 Subsection (d) of section 5052 of the Internal Revenue
4 Code of 1986 is amended to read as follows:

5 “(d) BREWER.—

6 “(1) IN GENERAL.—For purposes of this chap-
7 ter, the term ‘brewer’ means any person who brews
8 beer or produces beer for sale.

9 “(2) EXCEPTION.—The term ‘brewer’ shall not
10 include any person who—

11 “(A) produces only beer exempt from tax
12 under subsection (e) of section 5053, or

13 “(B) produces only kombucha exempt from
14 tax under subsection (i) of such section.”.

15 (b) EXEMPTION FROM TAX.—Section 5053 of the In-
16 ternal Revenue Code of 1986 is amended—

17 (1) by redesignating subsection (i) as subsection
18 (j), and

19 (2) by inserting after subsection (h) the fol-
20 lowing new subsection:

21 “(i) PRODUCTION OF KOMBUCHA.—

22 “(1) IN GENERAL.—Subject to regulation pre-
23 scribed by the Secretary, any person may, without
24 payment of tax, produce kombucha for consumption
25 or sale.

1 “(2) DEFINITION.—For purposes of this chap-
2 ter, the term ‘kombucha’ means a beverage which—
3 “(A) is fermented solely by a symbiotic cul-
4 ture of bacteria and yeast,
5 “(B) contains not more than 1.25 percent
6 of alcohol by volume,
7 “(C) is sold or offered for sale as
8 kombucha, and
9 “(D) is derived from—
10 “(i) sugar, malt or malt substitute,
11 tea, or coffee, and
12 “(ii) not more than 20 percent other
13 wholesome ingredients.”.

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