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Testimony of the Bureau of Alcoholic Beverages and Lottery Operations
Joint Standing Committee on Veterans and Legal Affairs

In Opposition to LD 631
An Act to Allow a Home Distiller to Distill and Share Homemade Spirituous Liquor

Senator Hickman, Representative Supica, and members of the Joint Standing Committee on Veterans and Legal Affairs: I am Louis Luchini and I'm the Director of the Bureau of Alcoholic Beverages and Lottery Operations. I'm here to testify in opposition to LD 631, *An Act to Allow a Home Distiller to Distill and Share Homemade Spirituous Liquor*.

The Bureau opposes this legislation because it appears to violate federal law. I've attached to my testimony information from the Alcohol and Tobacco Tax and Trade Bureau (TTB) website outlining the laws around home distilling. As you may hear from others today, there are also safety concerns that are unique to the distillation process.

Thank you and I'm happy to answer any questions.



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HOME DISTILLED SPIRITS INDUSTRY HOME DISTILLING

Home Distilling

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While individuals of legal drinking age may produce wine or beer at home for personal or family use, Federal law strictly prohibits individuals from producing distilled spirits at home (see 26 United States Code (U.S.C.) 5042(a)(2) and 5053(e)). Producing distilled spirits at any place other than a TTB-qualified distilled spirits plant can expose you to Federal charges for serious offenses and lead to consequences including, but not necessarily limited to, the following:

1. Within title 26 of the United States Code, section 5601 sets out criminal penalties for activities including the following. Offenses under this section are felonies that are punishable by up to 5 years in prison, a fine of up to \$10,000, or both, for each offense.
 - 5601(a)(1) – Possession of an unregistered still.
 - 5601(a)(2) – Engaging in business as a distiller without filing an application and receiving notice of registration.
 - 5601(a)(6) – Distilling on a prohibited premises. (Under 26 U.S.C. 5178(a)(1) (B), a distilled spirits plant may not be located in a residence or in sheds, yards, or enclosures connected to a residence.)
 - 5601(a)(7) – Unlawful production or use of material fit for production of distilled spirits.
 - 5601(a)(8) – Unlawful production of distilled spirits.
 - 5601(a)(11) – Purchase, receipt, and/or processing of distilled spirits when the person who does so knows or has reasonable grounds to believe that Federal excise tax has not been paid on the spirits.
 - 5601(a)(12) – Removal or concealment of distilled spirits on which tax has not been paid.

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Under 26 U.S.C. 5602, engaging in business as a distiller with intent to defraud the United States of tax is a felony punishable by up to 5 years in prison, a fine of up to \$10,000, or both. Under 26 U.S.C. 5604(a)(1), transporting, possessing, buying, selling, or transferring any distilled spirit unless the container bears the closure required by 26 U.S.C. 5301(d) (i.e., a closure that must be broken in order to open the container) is a felony punishable by up to 5 years in prison, a fine of up to \$10,000, or both, for each offense. Under 26 U.S.C. 5613, all distilled spirits not closed, marked, and branded as required by law and the TTB regulations shall be forfeited to the United States. In addition, 26 U.S.C. 5615(1) provides that unregistered stills and/or distilling apparatus also will be forfeited. Under 26 U.S.C. 5615(3), whenever any person carries on the business of a distiller without having given the required bond or with the intent to defraud the United States of tax on distilled spirits, the personal property of that person located in the distillery, and that person's interest in the tract of land on which the still is located, shall be forfeited to the United States. Under 26 U.S.C. 5686, possessing liquor or property intended to be used in violation of the law is a misdemeanor punishable by up to 1 year in prison, a fine of up to \$5,000, or both. Such liquor and property is also subject to the seizure and forfeiture provisions in 26 U.S.C. 5688. Under 26 U.S.C. 7201, any person who willfully attempts to evade or defeat any Internal Revenue Code tax (including the tax on distilled spirits) has committed a felony and shall be fined up to \$100,000, imprisoned for up to 5 years, or both, plus the cost of prosecution. Under 26 U.S.C. 7301, any property subject to tax, or raw materials and/or equipment for the production of such property, in the possession of any person for the purpose of being sold or removed in violation of the internal revenue laws may be seized and shall be forfeited to the United States. In addition, any property (including aircraft, vehicles, and vessels) used to transport or used as a container for such property or materials may be seized and shall be forfeited to the United States. Further, 26 U.S.C. 7302 adds that it is unlawful to possess any property intended for use, or which has been used, in violation of the internal revenue laws; no property rights shall exist in any such property.

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