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Editorial

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When beer is not beer

WHY ARE drinks with names like Smirnoff Ice, Jack Daniels Country Cocktails and Bacardi Breezers classified as beers?

That's not a trick question.

The Alcohol and Tobacco Trade Bureau in the U.S. Treasury Department has found that distilled spirits make up most of the alcohol content in these so-called "flavored malt beverages." Yet, in a peculiar marketing sleight of hand, these often sickly sweet, alcohol-laced drinks are classified as beers in California.

That provides manufacturers a distinct advantage when it comes to marketing them. Unlike distilled spirits, drinks classified as beer can be sold at virtually every convenience store in the state. They're also taxed at a far lower rate than distilled spirits. Sixteen times lower -- the tax on beer and wine in California is 20 cents per gallon, compared to \$3.30 per gallon of distilled spirits.

Because they're so freely available, and because they cost far less than the straight alcohol that bears their name -- Smirnoff, Bacardi and Jack Daniels, for example -- these beverages (or "alcopops" to their critics) have become enormously popular, especially with young people, many of them below the legal drinking age.

Today, attorneys for the Public Law Group in San Francisco, representing Santa Clara County and others, will do battle with the state Board of Equalization in a San Francisco Superior Court over whether "alcopops" should be taxed as beers or as distilled spirits.

State law is clear. The definition of beer makes no reference to distilled spirits, while the definition of distilled spirits covers "all dilutions and mixtures thereof."

The state Board of Equalization should stop fighting this lawsuit, and reclassify these drinks as distilled spirits concoctions. The state Department of Alcoholic Beverage Control should join them. The change would have a secondary benefit of raising between \$40 million and \$50 million annually for the state treasury -- money which could be used to attack the scourge of underage drinking.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/05/15/EDGGTP3E4H1.DTL>

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