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Md. Gov. Won't Veto Alcopop Bill

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News Feature

By Bob Curley

Maryland Gov. Martin O'Malley announced this week that he would not veto a bill that will legally define so-called "alcopop" drinks as beer rather than liquor for taxation and regulatory purposes, tacitly endorsing a measure backed by the alcohol industry but strongly opposed by alcohol prevention advocates.

O'Malley's decision to neither sign nor veto Senate Bill 745 means that the measure will automatically pass under state legislative rules, dashing the hopes of opponents who pleaded with the governor to reject the bill and had earlier convinced him to back off an announced plan to sign the measure into law. Bruce Livingston, executive director of the Marin Institute, called O'Malley's decision "unfortunate and cowardly."

"We are deeply disappointed that Governor O'Malley did not stand up to Big Alcohol and put the health and safety of Maryland's youth before corporate profits," said Livingston. "While California, Utah, and Maine have recognized the danger to youth and taken action to limit youth access to alcopops, O'Malley caved to the wishes of the industry to keep the dangerous drinks relatively inexpensive and widely available."

Maryland Attorney General Douglas Gansler issued an opinion earlier this year that alcopops should be regulated as liquor and thus taxed at a higher rate than beer. Gansler's ruling is widely believed to have spurred the alcohol industry and its allies to rush the bill through the state legislature.

O'Malley tried to put a positive spin on his decision, saying he planned to revisit the issue and carve out a separate regulatory scheme for alcopops.

"I look forward to returning to the flavored malt beverage issue during the next legislative session, working with advocates on both sides, to build a broader consensus for regulating these alcoholic beverage," said O'Malley. "It is my opinion that the Constitution contemplates, and the public expects, major regulatory and taxation decisions of this nature to be made in the fullness of legislative consideration, not through the chance confluence of an opinion of the Attorney General and the veto of a Governor."

Still, O'Malley used the bulk of a letter to Thomas V. Mike Miller, Jr., president of the Maryland Senate, to defend the status quo on the state's alcopop regulations, echoing the position of the alcohol industry.

"This bill does not define FMBs [flavored malt beverages, the industry's preferred terminology for alcopops] as a separate category of alcohol," O'Malley wrote. "Nor does this bill change our statutory

law to "downgrade" the status of FMBs from distilled spirits to beer, thereby reducing the cost of FMBs or making sales of FMBs more widely available. Instead, it represents a decision by the General Assembly to codify a long-standing practice in Maryland (as well as at the federal level and in almost every state in the country) in reaction to an Attorney General's Opinion ... that advocated a change in the way this law should be interpreted."

In a May 23 editorial, the Baltimore Sun chided O'Malley for his non-decision on the alcopop bill, opining, "He may think that signals his intention to revisit the issue next year. What it actually indicates is that he didn't have the stomach to do the right thing and veto the measure."

"The governor says he'd like to see alcopops regulated differently in the future, but he's given lawmakers little incentive to reverse course," the Sun noted. "Redefine them as wine or some new and similarly higher-taxed category and it just looks like another tax increase. Mr. O'Malley says he's also interested in attacking underage drinking. A veto would have done much for the cause."

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