



# FLASHREPORT

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Presented by Jon Fleischman

## CALIFORNIA TAX AGENCY CREATES NEW ILLEGAL TASTE TAX

*An exclusive column penned for the FlashReport by Michelle Steel, a Member of the California Board of Equalization.*

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*[Publisher's Note: As part of an ongoing effort to bring original, thoughtful commentary to you here at the FlashReport, I am pleased to present this column from Michelle Steel. Steel was elected last year to a seat on the State Board of Equalization - Flash]*

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**Give the tax lobby credit: when it comes to raising your taxes, nothing gets in their way. The public may be opposed. The State Legislature may have repeatedly rejected it. The regulatory agency levying the tax might even lack the legal authority to do so; but, those small obstacles won't stop their raid on your wallet.**

**This week— despite serious constitutional and legal questions— the State Board of Equalization approved a new taste tax on certain beverages. My Republican colleague, Bill Leonard, and I opposed this new 1550% tax increase, yet were unable to defeat the measure, which passed on 3-2 party-line vote. All taxpayers, including those who don't drink alcohol, should be concerned about this tax increase on both a practical and procedural level.**

**Nationwide, pro-tax groups have been pushing for higher taxes on flavored malt beverages in an effort to curb underage drinking. Proponents claim that the lower taxes on flavored malt beverages encourage underage drinking. There is no question that underage drinking and substance abuse are serious problems in California. As a mother of two teenage daughters, I support every effort to prevent teenagers from illegally purchasing and drinking alcohol.**

**However, raising taxes by fifteen hundred percent on some alcoholic beverages won't stop underage drinking. Studies on underage drinking indicate that teens consume all types of alcohol, regardless of the alcohol's tax rate. When was the last time you saw a teenager clip coupons, comparison shop, and fret about price when trying to score a six-pack on a Saturday night?**

**This new taste tax won't stop underage drinking, but it will hurt thousands of small businesses. Here in California, over 35,000 small restaurants and family owned markets have alcohol licenses that only allow them to distribute beer and wine. This new regulation makes it more difficult for these small businesses to comply with California's alcohol and tax law and compete with large corporate restaurant chains. As a result of the Board's decision, two different state agencies now have two different definitions of alcoholic beverages.**



**On a procedural level, this new tax increase represents a scary expansion of regulatory agencies' power and authority to tax. The Board of Equalization doesn't have the constitutional authority to levy this tax. Proposition 13 is unambiguous: all tax increases must be approved by a two-thirds decision by the Legislature. As Grover Norquist, President of Americans for Tax Reform, explained in a letter of opposition to this new taste tax, "This is a backdoor tax hike."**

**But, don't take my word for it. The Legislature's own attorneys, the Legislative Counsel's Office, issued a legal opinion questioning the Board of Equalization's legal authority to pass a new alcohol tax increase. Under the Legislature's interpretation of the state constitution, the Department of Alcohol Beverage Control has exclusive authority to classify alcoholic beverages. Consequently, the Board's actions create a bureaucratic nightmare that pits one branch of state government against another.**

**When bureaucracies battle, taxpayers lose. Ultimately, the courts will settle the dispute, and taxpayers will be left with the legal bills for both government agencies. Taxpayers and small businesses have one last refuge from this nightmare; the regulation must still be approved by the Governor's Office of Administrative Law. Hopefully, the Office of Administrative Law understands the problems posed by this illegal new taste tax and its major costs to taxpayers.**

**The Office of Administrative Law can and should reject this illegal tax.**

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**You can write to Board Member Steel, via the FR, [here](#).**

**California's highest ranking Republican woman, Michelle Steel serves as Southern California's representative on the State Board of Equalization, the state's tax appellate body and the country's only publicly-elected tax board.**