

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

LIQUOR CONTROL COMMITTEE
SUBCOMMITTEE ON SENATE LAW & JUSTICE

STATE CAPITOL
MAIN CAPITOL BUILDING
ROOM 140, MAJORITY CAUCUS ROOM
HARRISBURG, PENNSYLVANIA

TUESDAY, APRIL 13, 2010
10:00 A.M.

PRESENTATION ON
PHILADELPHIA BEER RAIDS

BEFORE:

HONORABLE ROBERT C. DONATUCCI, MAJORITY CHAIRMAN
HONORABLE TIM MAHONEY
HONORABLE FRANK BURNS
HONORABLE R. TED HARHAI
HONORABLE MICHAEL H. O'BRIEN
HONORABLE RONALD G. WATERS
HONORABLE JOHN TAYLOR, MINORITY CHAIRMAN
HONORABLE NICK MICCARELLI
HONORABLE JOHN D. PAYNE
HONORABLE STEPHEN BARRAR
HONORABLE THOMAS J. QUIGLEY

KELSEY DUGO REPORTING
71 Willow Mill Park Road * Mechanicsburg, PA 17050
Phone: (704) 996-9514

1
2 ALSO IN ATTENDANCE:

3 HONORABLE JOHN PIPPY, MAJORITY CHAIRMAN
4 HONORABLE RICHARD L. ALLOWAY, II, VICE CHAIRMAN
5 HONORABLE LAWRENCE M. FARNESE
6 HONORABLE CHARLES T. MCILHINNEY, JR.
7 HONORABLE GENE YAW
8 HONORABLE SEAN LOGAN, MINORITY CHAIRMAN
9 HONORABLE WAYNE D. FONTANA
10 HONORABLE MICHAEL J. STACK LAW & JUSTICE:

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KELSEY DUGO, REPORTER
NOTARY PUBLIC

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P R O C E E D I N G S

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CHAIRMAN DONATUCCI: Good morning. I would like to pull this joint hearing together. My name is Representative Donatucci. I represent Philadelphia and Delaware Counties. And to my right is Chairman John Taylor, who is Philadelphia. To my left is Senator Pippy, who is Allegheny County. Senator Logan, Allegheny County.

I want to recognize the chairs first, if they want to make an opening statement. I'm going to pass on it right now. At the end, if I feel there should be a statement made, I will. On that note, I'll turn it over to Senator Pippy.

CHAIRMAN PIPPY: Thank you, Mr. Chairman. Good morning everyone, it's a pleasure to be here. We look forward to hearing the testimony and getting adequate information and then make decisions after it as to whether or not actions need to be taken in any manner of ways. The purpose of hearings is to find out information and I appreciate the Chairman for hosting us in the Majority Caucus Room. I have very fond memories of this room and I look forward to the testimony.

CHAIRMAN DONATUCCI: Senator Logan.

CHAIRMAN LOGAN: I don't have any.

CHAIRMAN DONATUCCI: Thank you, Senator.
Representative Taylor.

CHAIRMAN TAYLOR: Thank you, Mr. Chairman. Good

1 morning everyone. We are, at least on the House side of the
2 Liquor Control Committee, not used to this many attendees on
3 any particular meeting, but I think that the fact that there
4 are indicates that there is some interest in this. But I would
5 like to just maybe try to set the tone and say that in
6 conversations with a lot of people about this particular issue,
7 not the least of which, were the folks directly involved.

8 It seems to me that there was a lot of ideas floating
9 around about ways to change the code. Some constructive
10 things, I think, will come to this at almost every level from
11 retail, to the distribution, to the way that we do things.

12 I think that the entire system is open to criticism on
13 a daily basis. These kinds of incidents didn't help, but I
14 think we can turn that around from a situation that was bad
15 press in many cases, but to one that is very constructive. So
16 we're looking forward to that testimony.

17 Thank you, Mr. Chairman.

18 CHAIRMAN DONATUCCI: Thank you. Before we start
19 the testimony, I would like to have all the members introduce
20 themselves. We'll start on our right and work over to our
21 left.

22 SENATOR FONTANA: Senator Wayne Fontana; Allegheny
23 County.

24 SENATOR FARNESE: Senator Larry Farnese;
25 Philadelphia County.

1 VICE CHAIRMAN ALLOWAY: Rich Alloway; Franklin
2 County.

3 REPRESENTATIVE SANTONI: Representative Dante
4 Santoni; Berks County.

5 REPRESENTATIVE MAHONEY: Representative Tim
6 Mahoney from Fayette County.

7 REPRESENTATIVE BURNS: Representative Frank Burns;
8 Cambria County.

9 REPRESENTATIVE PAYNE: Representative John Payne;
10 Southern Dauphin County.

11 REPRESENTATIVE MICCARELLI: Representative Nick
12 Miccarelli; Delaware County.

13 REPRESENTATIVE O'BRIEN: Representative Mike
14 O'Brien; Philadelphia County.

15 REPRESENTATIVE QUIGLEY: Representative Tom
16 Quigley from Montgomery County.

17 REPRESENTATIVE BARRAR: Representative Steve
18 Barrar from Delaware and Chester County.

19 CHAIRMAN DONATUCCI: Thank you. I would like to
20 call up our first testifier, Leigh Maida, owner of the Memphis
21 Taproom in Philadelphia. Good morning.

22 OWNER MAIDA: Good morning. Thank you.

23 CHAIRMAN DONATUCCI: Can you identify yourself?

24 OWNER MAIDA: Yes. My name is Leigh Maida and I
25 am actually, just the manager of Memphis Taproom and the owner

1 of Resurrection Ale House and Local 44, all three in
2 Philadelphia. This is my husband and business partner, Brendan
3 Hartranft. I'll be doing the talking, I guess, for the both of
4 us.

5 So I brought prepared notes because I'm not used to
6 public speaking. I hope that you don't mind if I just read
7 from them. Here to discuss our circumstances in our
8 restaurants, but also, and I think, more importantly, to sort
9 of discuss the larger systemic flaws that sort of exist that
10 led to these instances. Everything that I'm about to say is
11 from my particular point of view as a licensee and a seller of
12 craft beer products. I'm not an authority on the Liquor Code
13 and as a restaurateur, I don't think that I should necessarily
14 have to be.

15 On March 4, three different teams of Liquor Control
16 Officers entered our restaurants after receiving three distinct
17 complaints from a citizen that we were serving unregistered in
18 Pennsylvania -- beers that weren't registered with the PLCB and
19 there's a list online that shows what's registered. I was
20 initially relieved because everything that they come looking
21 for, we had receipts for and we obtained through the proper
22 channels we had -- we go through retable, you know, big
23 distributors for everything that we sell.

24 The officers brought with them a list of each place of
25 beers that had a yes or a no next to them from -- basically

1 from the list -- from PLCB's list. I offered them receipts
2 when they asked and it was my opinion at the time that the --
3 they located the list that they come on with the -- the way
4 that they accumulated this list was from our website -- take
5 our menu off of the internet and there was a long list that
6 they came looking for. There was a list of things that looked
7 to me like they contained either the spellings or abbreviations
8 or just the casual ways of listing a beer and I'll give you
9 some examples.

10 One of the things that they came looking for is "PBC
11 Joe", which I put -- we have a limited amount of space on our
12 website. The proper name of it would be "Philadelphia Brewing
13 Company Joe Coffee Porter," so I call it "PBC Joe," but "PBC
14 Joe" is not registered, the longer version of it is. There
15 were lot of instances where things that were abbreviated were
16 what they came looking for as "unregistered."

17 When I pointed this out to the agents -- I was at
18 Resurrection Ale House while this was happening. When I
19 pointed this out to the agents, I was told that the agents were
20 only there to confiscate beer that was deemed illegal or
21 unregistered by the PLCB. They weren't there to make
22 decisions, they weren't there to make judgment calls. It's
23 either on the list or it's not on the list and these are the
24 things that are on the list and these are the things that we're
25 taking. And I would like to say that they were very

1 professional about it and they were really friendly and very
2 helpful as far as what they came to do.

3 But I was led to believe that, even though I was
4 telling them that, well, obviously, this one is this and this
5 one is this, that was not an acceptable justification or excuse
6 on my part. It was -- they were going to take what they found
7 to be not registered.

8 So during the investigation, at some point, it became
9 necessary to start calling the PLCB's -- I'm not sure if they
10 were calling the compliance line or the registration -- the
11 brand registration department -- but they were calling in
12 bottle by bottle. We have a big bottle list at two of our
13 restaurants. Some of them are esoteric beers. They're not, by
14 any means, super rare. You can find them -- at least in
15 Philadelphia, you can find them pretty regularly. They were
16 calling in bottle by bottle reading the words from the label of
17 the bottle and trying to jive it against the PLCB registration
18 list.

19 What this came back -- ultimately, when they left for
20 the day, 16 brands were deemed unregistered, and that was with
21 the help of the PLCB on the phone, acting as, yes, it is okay,
22 and no, it is not okay.

23 We went we got home that night, we went through the
24 list, which is online in public and we took our property record
25 and went down the list looking for, okay, where are these, and

1 nine of them were absolutely registered, just plain as day.
2 Out of those nine, we've gotten seven back, two of them are
3 still being debated. We were really unpleasantly surprised to
4 find out that eight of them weren't on the list, you know, in
5 gargled-language form, we realize.

6 We spent the weekend, sort of, hunting down
7 explanations why they weren't on the list. One of them hadn't
8 been registered in 2010. Due to paperwork, the guy was busy
9 and didn't do it. A couple of them were registered in 2009
10 when we bought them and they were delivered to our bars, but
11 they weren't renewed in 2010 and those beers are still gone --
12 you know, still under lock and key.

13 One of the beers that was taken of the 16 was
14 absolutely never registered in Pennsylvania, which is not
15 something that we knew about, but it's a common enough beer in
16 Philadelphia at least. We were surprised that it hadn't been
17 registered. Again, that was something that was delivered to us
18 by a reputable distributor.

19 That's the whole story. We are waiting -- from what I
20 understand the way the process works, we're waiting to find out
21 how in trouble we are. If I understand strict liability
22 correctly, we're in trouble no matter what is actually found
23 because these beers are -- at least the second half of what I
24 was talking about, they were in our bars, they were on our
25 premises, and it doesn't matter that we didn't know that they

1 weren't registered. It didn't matter that it's not our fault
2 that they weren't registered. We are responsible because of a
3 strict liability, is how it's viewed.

4 So I've prepared a couple of comments that, I think,
5 are valid in terms of, not only bureau registration, which is
6 what we are specifically here to talk about today, but the kind
7 of the overarching flaws in the system that sort of led to some
8 of this stuff. The main one is that beer sales have changed, I
9 mean, specifically beer sales.

10 We can talk -- I'm sure there's other opportunities to
11 talk about liquor and wine and the whole system, but craft beer
12 is what we do and beer sales have changed. The marketplace is
13 huge now. In the early 80s, there were 80 national breweries.
14 They were owned by 51 companies. Now, there are 1500 just
15 craft breweries and just domestically produced craft breweries,
16 that doesn't include -- we do a huge international amount of
17 beer sales too and that doesn't include that at all.

18 So these are kind of things that I think, just as a
19 licensee and just as a craft beer selling, they stick out and
20 they are so obvious to me, in terms of what can use a little
21 fixing, and not really just a little fixing, but kind of a
22 complete overall at this point, I don't think it's -- but maybe
23 out of line. And if you don't mind, I'll just go through them
24 real quick, numbered.

25 First, and very particular to our case, is anonymous

1 complaints. The reason that we were investigated is because
2 someone complained. It may or may not have been anonymous when
3 they called and complained, but we aren't allowed to find out
4 who that person is, which makes sense. Their identity is
5 protected and it should be, I think. But I think that it could
6 be argued that anonymous complaints should maybe not be
7 investigated because there is a huge opportunity for someone
8 with a grudge -- which seems to be what happened in our case --
9 someone with a grudge is able to call and manipulate a state
10 agency to come out and kind of harass the object of their
11 grudge. I think that that's not only unfair, but it's a waste
12 of the agent's time, the state's time, everyone here's time.

13 If the person's identity is required to really
14 investigate a complaint, there's not that opportunity, but
15 there's also the opportunity that if someone keeps complaining
16 for personal reasons, there's a diplomatic fix to it versus an
17 investigation each time.

18 I think that along those same lines, prioritization of
19 what is investigated, could really use some looking at. If
20 there's public risk, if there's major nuisance bar, if there's
21 major under age drinking, absolutely, agents and the police
22 should be involved. If there's paperwork issues, or
23 registration issues, or there's clerical issues, I think that
24 an agent with a set of questions and a clipboard could come in
25 and have a conversation with us and would have accomplished

1 similar versus this kind of fiasco that all of this turned
2 into. And I think that that should be a priority of those of
3 you who deal with this for a living.

4 I think that, importantly -- this is number two on my
5 list and I'm going to quote somebody else here and I'm going to
6 read it, "There needs to be a uniform understanding of the code
7 among those who regulate it, those who enforce it and those who
8 have to follow it." This does not exist now. There is a huge
9 amount of crazy information on the internet that I would have
10 to go to as a licensee if I want information about whether or
11 not I'm doing X, Y, and Z right.

12 There's a title for me, which is an organizational mess
13 and it has very little to do -- and I've I pretty much
14 memorized it at this point -- and it has very little to do with
15 day-to-day operations of a bar or a restaurant or someone with
16 a liquor license. There's not a lot that I can take from it
17 and use in use in my business.

18 There is a PLCB Liquor Code, which is not necessarily
19 used as the -- for legal opinions there's a big fat disclaimer
20 that says, don't use -- it basically said, don't use this for
21 anything useful, which is great, thank you. There is also
22 about, I think, just a little over 6,000 legal opinions online
23 that talk about any number of subjects. If I can't find what I
24 want on the internet, if I can't find use -- using the an
25 access of legal opinions that are out there. If I can't find

1 if X, Y, and Z is legal, I can write to the Department and they
2 will issue me a legal opinion. And that is not binding for my
3 particular establishment, but only for my establishment, so
4 it's still not a wider law, it's just kind of focused.

5 They also alert the Liquor Control Enforcement
6 Department division and encourage them to go out and
7 investigate my probable or possible violation of that law. So
8 it's kind of a catch 22, where, if I try as hard as I can to be
9 in compliance, there's very little hope that I will find the
10 information on my own if I write the PLCB a letter, saying, can
11 you please give me a determination on this? I now kind of
12 assume that I'm breaking that law and it also binds me without
13 the opportunity to discuss it at all and also without -- the
14 legal opinion is only as good as that piece of paper.

15 The agent that shows up in my bar to investigate the
16 situation may feel differently when they get there, and that's
17 the actual person who's making a decision. And the PLCB is
18 only sort of regulating and suggesting and offering these legal
19 opinions, but if the Officer on the scene -- the agent on the
20 scene is the one who makes the determination in terms of my
21 possible or probable violation. It's too much to keep up with,
22 quite frankly.

23 I'm certainly not encouraged to contact the PLCB. I
24 certainly want to fly under the radar. I don't want agents in
25 my bar. It disrupts my business and it leads to hearings in

1 Harrisburg. I'm not going to find a legal opinion, I'm going
2 to hope that I'm doing it right. I've done a ton looking on my
3 own now to make sure that we're as compliant as possible in
4 every area as possible.

5 There are things that stick out to me as questions of
6 my staff. We have gone through huge amounts of training. My
7 staff have very specific questions, what about this instance
8 and what about this instance. And right now, I'm not contact
9 PLCB for a legal opinion because I don't want to alert them
10 that I might be doing it wrong and find out that I'm sort of
11 bringing the house down by myself.

12 So anyway, how do I wrap that up? I think making sure
13 the PLCB has a more organized place for the laws is a huge
14 important step. I think that an online database that is not,
15 cross my fingers and hope that I'm searching in the right place
16 or reading through really dense legal text that I just don't
17 know if I'm understanding correctly. I think those are some
18 good places to start.

19 I think also that coordinating what the law is and how
20 it's enforced and making sure that who coordinates it and how
21 it's coordinated and the person, meaning me, who has to follow
22 that law. I think that all three parties, getting us all on
23 the same page in terms of a place and where it's centrally
24 located and uniformly understood, I think will be huge. I
25 mean, this is a waste of, I think, all of our time. There's

1 situations where all three parties understand differently and
2 now, we're having a big conversation about it. It's a silly
3 way to handle the law, which, should be, if not, black and
4 white, at least a lot more clearer.

5 I think that along that sort of same lines, when things
6 change -- and this would be great if, in my dream world, there
7 is an online database of all the laws. This is an outline,
8 this is how you search through it. And when things change, I
9 think that, as a license holder, I think that a system that
10 alerts me to changes would be great.

11 I found out, antidotally, a couple of things that have
12 changed that we were operating in what we thought were perfect
13 operating standards and turns out, no, those have changed a
14 year ago. And I'm not following on the PLCB every week
15 checking on those crazy laws. No, I'm not looking at that
16 every week, I'm running three businesses every week and having
17 time with that. So I think that some sort of an alert system
18 to the license holder, I think, would not be a bad place to
19 focus on some of the energy.

20 I think that, in terms of brand registration -- kind of
21 moving to my next thought -- brand registration really
22 discourages craft breweries, and that's what we sell, craft
23 beer. It discourages them from thriving and there is a small
24 brewery who has, say, 60 craft products throughout the year and
25 small batches of beer that only a couple of bars get ahold of

1 or a bunch of ours get a little bit each of and everybody
2 celebrates. And people come into Philadelphia and they come
3 into our bars, specifically, to celebrate these rare beers and
4 to -- a community forms around these kind of products. If a
5 small batch brewery has 60 products through the year that they
6 produce and get out there to the public, that's about \$4500
7 worth of registration for \$75 per brand, per year.

8 If Miller -- Coors light, and Coors Extra Gold and, I
9 guess, whatever their third product is -- I guess plain old
10 Coors -- \$225 and all of Pennsylvania can drink it all year.
11 In Miller or Coors, I'm guessing they make a lot more money
12 than the average brew pub down the street does. There's a
13 disconnect between what's there and what's good for the
14 Commonwealth, really.

15 If you think of it in terms of money -- I think I saw
16 it quoted somewhere, and don't quote me on this -- but I think
17 that it's \$75 per brand, per year, I think it yielded in
18 Pennsylvania maybe \$300,000 for the year, which is a lot of
19 money to me, for the Commonwealth, maybe a drop in the bucket.
20 Think about it in terms of tourism dollars. In Philadelphia,
21 we do Philly beer week, we participate in that. And 35,000
22 people will come to Philadelphia for Philly beer week. It's a
23 substantial part of the tourism in Philadelphia.

24 I know Harrisburg has a ton of beer focused places and
25 I'm sure Pittsburgh does as well. And, you know, even the out

1 lying areas of the bigger cities, there's a huge amount of
2 tourism dollars and good press and community built where these
3 people are coming and spending money, we're employing people,
4 the craft beer market is employing people. You know, for the
5 \$300,000 that you're missing on the registration fee, you're
6 sort of losing out on sort of the bigger picture opportunity.

7 I think that, personally, eliminating registration
8 process is the way to go. I think that tweaking it or
9 simplifying it a little bit here and a little bit there kind of
10 just leads to a thicker, denser set of rules that is a little
11 harder to follow, versus just eliminating it.

12 The arguments for it are, what, keeping track of tax
13 dollars? Everyone is paying taxes on these things. It's not
14 easy -- I can't imagine what's easy to hide at this point.
15 There is so many checkpoints before brand registration and
16 then, you know, I think there's something we talked about, in
17 case of an auto accident, they could prove that it really was a
18 beer. I mean, that's a little -- I think that it's a little
19 disconnected from reality to me.

20 That's what I had to say. Just to sum it up really
21 quickly, we are an industry in the restaurant business and the
22 bar business. We are heavily, heavily taxed. And I think that
23 we operate under this crazy web of really chaotic, really dense
24 laws that don't work.

25 So here's an opportunity -- something really crappy

1 happened to us for whatever personal reason that someone out
2 there had against us, and here's the chance to sort of take the
3 focus off of the little instance. And I would encourage you
4 and hope that you will really look at the bigger picture and
5 take it and use it.

6 CHAIRMAN DONATUCCI: Thank you. I appreciate you
7 coming up here today and giving your testimony and you do bring
8 up a lot of points that we've been considering. The number
9 that the state collects, it probably costs us more to enforce
10 it than the money we're collecting. We'll take a look at that.

11 I want to commend taverns, like yourself, and other
12 ones, at least in the City of Philadelphia, that I know of,
13 that are expanding the beer like the wines that we're doing in
14 our states stores. Basically, the LCB, right now, have some of
15 the best wine selections, I understand, in the country and I
16 like to see the beer get on the same platform. And there's
17 establishments like yours that are doing that, and I want to
18 commend you on that.

19 I just have one question, if you don't mind and then
20 I'll ask the members if they have any. Were you given any
21 notice prior -- notices from the enforcement that there might
22 have been a problem with your establishments?

23 OWNER MAIDA: You mean with this particular
24 complaint?

25 CHAIRMAN DONATUCCI: Yes.

1 OWNER MAIDA: No. At one of our bars, the
2 Resurrection Ale House, we had an -- we were opening a keg of
3 beer given to us from a brewery in Baltimore, and we actually
4 drove down to Baltimore to pick it up, it was a gift, and
5 that's not on the registration list. And we've received a
6 warning about that particular keg of beer. But this was a set
7 of three separate complaints that was distinct from that. That
8 issue was resolved with a warning.

9 CHAIRMAN DONATUCCI: In other words, what you're
10 saying is, up until this point of inspection, the LCB never
11 gave you any kind of a notice that --

12 OWNER MAIDA: No. Not that this was an
13 unregistered beer, no.

14 CHAIRMAN DONATUCCI: Thank you. Senator Logan.

15 CHAIRMAN LOGAN: Thank you, Mr. Chairman. Thank
16 you, Leigh, for coming in. Just, the troubling part for me was
17 on item No. 2. It seems like you're saying that there's not an
18 understanding of the code and you can only speak for yourself.
19 But I guess a non understanding the code doesn't seem like it
20 would be an offense. Did you ever call the Counsel's office or
21 LCB or anybody to get an understanding of the code?

22 OWNER MAIDA: It has been -- I've been encouraged
23 to use the PLCB's website to find answers to my questions. So
24 under the for licensees area, I can look at title 40 -- which,
25 I think, it's chapter 5, which is the -- it's actually titled

1 "For Licensees". There's a lot of really irrelevant stuff in
2 there, a lot of stuff that has to do with distributions.

3 There's a section on brand registration itself does not
4 once mention any responsibility or any part about what I should
5 be doing. And when I read it, I thought, oh, well, this isn't
6 even information that I need, even to prepare my notes for
7 here. It wasn't really relative because it was just how to --
8 as a distributor, how to register beer and what your priorities
9 are.

10 There was a comment about transferring beer and coal in
11 the same vehicle. That is illegal. There's a lot of stuff
12 that just doesn't -- the things that I could, maybe, look at,
13 if I was interested, were: Nuisance bar -- what constitutes a
14 nuisance bar and I think the --

15 CHAIRMAN LOGAN: I wouldn't want to go on the
16 website and read that. But, as a licensee, there's numbers and
17 departments, do you ever call them? I wouldn't want to read it
18 too.

19 OWNER MAIDA: No. Like I said, I wouldn't -- my
20 option is -- and, actually, we just had our staff trained for
21 RAMP certified, which is the responsible alcohol management.
22 In that training class, the steps that -- if you have questions
23 that we're not answering here, the first step is to contact the
24 Legal Department. Like I said in my statement, I wouldn't feel
25 comfortable doing that.

1 I would really -- and this is probably damning myself
2 -- I would much prefer to stay off that radar and to -- you
3 know, between my lawyer and other bars and colleagues in the
4 industry -- figure out how everyone else is doing it and doing
5 it that way, versus learning the PLCB's --

6 CHAIRMAN LOGAN: Obviously, someone's doing it
7 wrong.

8 OWNER MAIDA: Well, this indicates -- brand
9 registration, or are you talking about what happened to us?

10 CHAIRMAN LOGAN: If you're saying there's not an
11 understanding -- you don't have an understanding, you want to
12 stay off the radar screen, wouldn't you simply just call and
13 try to get the answers --

14 OWNER MAIDA: No. You have to write them and it's
15 a legal binding, a legal decision, that you get back. It takes
16 about a month, from what I understand. And one of the
17 questions that I had was, there's legal opinions -- you can use
18 it almost like an Ask Jeeves -- one of the questions,
19 specifically, that I had was whether or not our tap handles,
20 versus the big thing that, you know, you get that says the name
21 of the brewery on it.

22 One of my questions was, are these legal or do I need
23 to actually call these breweries and get tap handles in? And
24 after a couple different attempts of the right combination of
25 words, I get one determination from 2007 from some guy who

1 wrote a similar question to the Legal Department. And it came
2 back with a short, but somewhat, you know, legal use in terms
3 of, it has to be a brand new tap handle that the consumer can
4 read, which I knew was part of the law.

5 So I called -- I mean, the week after that all of this
6 happened to us, people started to return my calls. I don't
7 know if they would anymore, but one short week, my name got
8 some calls back. What I said was, look, I see that it has to
9 be branded. Does that mean that I can write on there myself
10 which beer it is or do I need to contact them and have this big
11 plastic branded -- you know, "branded" piece of tap handle sent
12 to me? And I got someone on the phone at the Legal Department
13 who said, no, I think that should be okay, but I'm a little new
14 here, let me check.

15 I think that the person who called me back, actually
16 took more away than what that guy had originally offered me in
17 terms of information. Well, you know, this is really just our
18 opinion on this and don't hold us to it and that guy was a
19 little new, so we really wouldn't want to necessarily encourage
20 you look at this as the law. I actually hung up. I think at
21 one point he said well this is going to be kind of a circular
22 answer, you're not going to like it. And I hung up thinking,
23 well, I don't actually know, and I still don't know and I
24 talked to someone now and -- I don't know.

25 And my guess -- and I put this in here, I didn't

1 actually say it -- the experience I've had and I know just
2 talking with -- we know a ton of people who own a ton of
3 different restaurants, it's the industry that we work in --
4 talking to these people on a regular basis, like you can call
5 five different times and get five different answers and then
6 when the agent shows up at your bar there's a sixth version of
7 how things are supposed to be done.

8 There does not seem to be any one place or any one -- I
9 mean, once all of this happened, I called our lawyer and said,
10 can I come and look at the book that says the law so I can at
11 least see what I'm dealing with here? And he says, well, there
12 isn't really one. I'm just shocked, I thought, oh, okay.
13 Between the four places, a couple them on the internet and the
14 legal opinions, you know, you can kind of pastiche together
15 what's supposed to be happening. But that's, quite frankly, a
16 lot of work. I'm busy running three bars. That's time
17 consuming in itself.

18 CHAIRMAN LOGAN: Did you know that you had
19 non-registered beer?

20 OWNER MAIDA: No. At the time, no.

21 CHAIRMAN LOGAN: Okay, thank you.

22 CHAIRMAN DONATUCCI: Senator Farnese.

23 SENATOR FARNESE: Thank you, Mr. Chairman. Thank
24 you both for coming in. I really appreciate it. I've heard
25 your testimony as well, and I've looked at your documents here

1 and to me, it seems like you're a small business owner, you're
2 running three bars right now in Philadelphia and you're doing
3 what you think you need to do.

4 But as I sit here and listen to you, it seems to me
5 like, in order to be in this business that you have chosen to
6 be in, which we already know is extremely important,
7 specifically, to Philadelphia by what it brings in, in terms of
8 revenue, business development and tourism dollars. And
9 especially, this craft industry, as you have noticed.

10 It seems like you also need to have some kind of a
11 legal background in order to do this day-to-day work there.
12 And, you know, the question from my colleague, I want to sort
13 of follow-up on that. There is not -- I don't want there to be
14 an understanding, I want you to clarify this for me. There is
15 not a hotline, like, you know, if you have a problem and you
16 have an Apple computer, you can pick up the phone 24 hours a
17 day, 7 days a week. There is a hotline there for a question.
18 That's not what you're dealing with here in your business; am I
19 right?

20 OWNER MAIDA: As far as I understand, there isn't.

21 CHAIRMAN PIPPY: There is.

22 SENATOR FARNESE: There is that?

23 OWNER MAIDA: Really? I've only ever been
24 encouraged to write a letter to the compliance, and maybe I
25 would --

1 SENATOR FARNESE: Maybe we should utilize it. You
2 know, there is a line that you can call with questions 24 hours
3 a day 7 days a week. You didn't know about that?

4 OWNER MAIDA: No, I didn't.

5 SENATOR FARNESE: And was there ever any
6 availability, was there ever a time when they came in to you,
7 to see if that was explained to you by the Board or anybody
8 else?

9 OWNER MAIDA: No, and I guess maybe part of the
10 reason why I didn't know that there was a hotline was because I
11 never felt like I needed one. I mean, we run three legitimate
12 businesses, we do everything as by the book as we think that we
13 can and we're -- you know, a lot of questions don't come up, so
14 I haven't -- until this experience, I haven't had any real
15 interest in the Liquor Code -- other than being slightly
16 annoyed by some of the inconveniences of it, I never really had
17 to consider it as in depth as this because we run businesses,
18 and we them well, and we're doing -- you know, I have pretty
19 regular conversation with our liquor license lawyer in
20 Philadelphia, and he would alert me to the fact if we were
21 doing something way out of line, or even small out of line.
22 He's a stickler.

23 So we never really had to consider too much of this, in
24 terms of checking on ourself before.

25 SENATOR FARNESE: And just a follow-up question on

1 the written part. What your understanding was, is to just
2 write a letter? Can you just explain that a little bit more?

3 OWNER MAIDA: Sure. It's the legal advisory --
4 just give me a second. I'll give you the exact -- it's an
5 advisory opinion that you can write in for. I think it's the
6 law department that you write to. And this what our lawyer had
7 suggested -- he said, this is what you do if you want to --
8 when went and said, hey, can I see the law book? And he said,
9 oh, you're so silly. There isn't one.

10 He said, this is what you do if you want an answer. He
11 says, you write the legal department. It might take them a few
12 weeks, you get an advisory opinion back, and that is now -- the
13 way that he explained it, that is considered the law, but it's
14 only considered the law for our establishment, and that is
15 binding, which, I guess, it happens in other parts of world,
16 like in tax laws that are similar. But that's now binding for
17 our establishment, and they also copy with it. When they send
18 you a copy of the legal opinion, they send a copy of that to
19 the Liquor Control Enforcement Division and then, they are, I
20 guess, encouraged to go out and investigate to make sure that
21 you are now doing things according to that now binding law.

22 SENATOR FARNESE: Is this the first time that you
23 had to deal with a situation like this?

24 OWNER MAIDA: Oh, yeah.

25 SENATOR FARNESE: How long have you been in

1 business?

2 OWNER MAIDA: We opened Memphis Taproom almost two
3 years ago to the day.

4 SENATOR FARNESE: Thank you.

5 CHAIRMAN DONATUCCI: Senator Pippy.

6 CHAIRMAN PIPPY: Two quick questions. First, do
7 you belong to any associations, such as, a tavern or
8 restaurants or anything like that?

9 OWNER MAIDA: No.

10 CHAIRMAN PIPPY: Because my first question to my
11 colleague was, isn't that what associations are supposed to do,
12 to provide that information? The second, after your incident,
13 I was at a local brewery in Pittsburgh and we've had some
14 discussions and that issue came up about the registrations \$75
15 fee per and looking at changing it so there maybe a cap. For
16 example, as you mentioned, there maybe some seasonal brews and
17 they may want to try something different with cherries,
18 whatever it is.

19 I'm not sure if we want to go with getting rid of
20 registration completely because it is alcohol. We have some
21 issues with safety and a whole bunch of other considerations,
22 but there maybe some way that we could either cap or have an
23 easier system to register. So if you have thoughts on that,
24 not now --

25 OWNER MAIDA: I do.

1 CHAIRMAN PIPPY: -- but down the road, please send
2 it to us because we do want to brew our crafts, but we also
3 want to keep an eye on it so, one, we don't have this influx of
4 craft beers from everywhere, from my backyard, from that little
5 plastic thing that I bought for \$60 that told me how to brew.
6 So there has to be some type of balance between safety,
7 registration, taxation. So any thoughts that you have on that
8 would be appreciated.

9 We'll follow-up. We'll hear from the LCB. There is a
10 number for you to call as a licensee. I'm not sure if it's
11 24/7, but there should be a number for you to call to get some
12 information. Thank you, Mr. Chairman.

13 OWNER HARTRANFT: If I could, just for a moment.
14 My name is Brendan Hartranft. I'm a partner with my wife,
15 Leigh Maida. And, you know, I was starting to think about the
16 hotline suggestion and I was getting hot thinking about it. To
17 be completely honest with you, as a day-to-day operator, our
18 weeks are somewhere in the 84-hour-a-week range. That's how
19 much time it requires to run a restaurant and bar the right way
20 and a bar that I'm going to be in, for a lack of a better term,
21 business with the PLCB.

22 If I want to be in full compliance and run a place that
23 is not a nuisance bar that is a credit to the neighborhood that
24 it's in, that's employing people that is paying all the tax
25 dollars that it pays, that's what kind of time it takes.

1 As far as a hotline is concerned, well, the maleficence
2 with which the PLCB acted in taking beers that were registered,
3 only scares me of calling that hotline. There's been no reason
4 for me to establish to feel like, hey, they're pretty sharp
5 guys over there, let me give a ring because I would only be in
6 deeper and I would lose that reputation that I have being that
7 day-to-day operator that we.

8 It's something where, especially, after the
9 registration debacle, we couldn't afford to look more
10 ridiculous than what we already looked, you know, having beers
11 that were bought from the proper place that were registered and
12 they were confiscated.

13 I appreciate the notion of having a hotline to call,
14 but up to this point, it doesn't seem to be like it's an expert
15 hotline. It's not like calling a restaurant and asking them
16 what the soup of the day and just having someone say, cream of
17 broccoli.

18 OWNER MAIDA: Could I just actually interrupt you?
19 The hotline, I'm guessing is the PLCB's hotline; is that
20 correct? So this hotline -- I might be incorrect here -- the
21 way I understand it is, no matter what it is that I'm told in
22 using that hotline, it's if I'm told that these four
23 microphones are legal and they're allowed to be sitting here.
24 If an LCB agent walks in and decides that those are not to his
25 liking or her liking, then I'm in violation.

1 It almost -- and I would appreciate this hotline and I
2 would use it every time I have a question -- but it also
3 doesn't encourage me in terms of thinking like, I don't feel
4 like, oh, I called this and I got a good answer now, great, I'm
5 doing great because it's really still up to any agent that
6 walks in to decide whether or not I'm in compliance.

7 CHAIRMAN DONATUCCI: Thank you. Representative
8 O'Brien.

9 REPRESENTATIVE O'BRIEN: Thank you, Mr. Chairman.
10 Good morning. In the interest of full disclosure, I need to
11 say, whereas, Memphis Tap is in Representative Taylor's
12 district and if I was out having a smoke and flick the butt, it
13 would land in my district. Not only that, I happen to be a
14 resident within 500 feet of your establishment. So let me ask
15 a couple of clarifying questions, if I can. You're a licensed
16 establishment in Pennsylvania, correct?

17 OWNER MAIDA: Correct.

18 REPRESENTATIVE O'BRIEN: You bought the beer from
19 a licensed beer distributor in Pennsylvania, correct?

20 OWNER MAIDA: Correct.

21 REPRESENTATIVE O'BRIEN: When you picked up the
22 phone and placed the call, you felt that you were acting in
23 compliance with the law in a responsible fashion, correct?

24 OWNER MAIDA: Correct.

25 REPRESENTATIVE O'BRIEN: The beer was delivered by

1 a God-fearing member of teamsters, correct?

2 OWNER MAIDA: Presumably, yes.

3 REPRESENTATIVE O'BRIEN: Nothing that, as a
4 reasonable person, would cause you to sit back and question
5 what was going on, right?

6 OWNER MAIDA: Right.

7 REPRESENTATIVE O'BRIEN: Now, give us a sense of
8 your establishment, of Memphis Tap. Give us a sense of your
9 patrons. Who comes to Memphis Tap?

10 OWNER HARTRANFT: We wanted to build a place
11 that's designed for the craft beer community and to just
12 redress what Mr. Donatucci brought up, if wine ever got to the
13 point that beer is in Philadelphia, you would have quite a
14 business on your hand.

15 Philly is a beer town and the craft beer, particularly,
16 is killing it. There's just a huge amount of passion for it
17 and it's something that Leigh and I share with the rest of the
18 beer community. And we wanted to design a place that was for a
19 neighborhood that expressed our passion for craft beer and, you
20 know, food that's lovingly prepared and well thought out, but
21 we also wanted to make sure that we were part of a
22 gentrification of a neighborhood.

23 We wanted to be sure that we were building a place
24 where new residents and existing residents could be in the same
25 place because some neighborhoods in Philadelphia have gone

1 through the process where, you know, a bar opens up and, for a
2 lack of a better term, it's deemed as the yuppy bar.

3 I grew up in northeast Philadelphia and I wanted to
4 feel like I was back in the neighborhood and doing something to
5 that end. I think that's pretty much the essence of Memphis
6 Taproom, in addition with Resurrection to locals as well.

7 REPRESENTATIVE O'BRIEN: So it wouldn't be
8 uncommon to walk into Memphis Taproom and find the sisters of
9 St. Joseph from St. Ann's parish sitting down; is that correct?

10 OWNER HARTRANFT: Saturday and Sunday brunch, of
11 course.

12 REPRESENTATIVE O'BRIEN: So you've taken every
13 reasonable step to run a reputable establishment, correct?

14 OWNER MAIDA: Correct.

15 REPRESENTATIVE O'BRIEN: Now, I know Memphis Tap
16 from it's days as Waltz. I go back a long time. I think that
17 what has happened to you to say is unfortunate would be an
18 understatement. I think that you have acted in the appropriate
19 manner in all facets of your business. As a resident, I'll
20 thank you.

21 OWNER MAIDA: Well, thank you.

22 REPRESENTATIVE O'BRIEN: As a legislator, I'll
23 apologize. And sadly, what has happened to you has put us on
24 the path of correcting this issue. Thank you for your
25 testimony today and thank you for the business that you do.

1 OWNER MAIDA: Thank you.

2 CHAIRMAN DONATUCCI: Thank you.

3 OWNER MAIDA: Is that everything?

4 CHAIRMAN DONATUCCI: That is.

5 OWNER MAIDA: When you're ready to discuss
6 anything to do with the situation that licensees have to --
7 have been dealing with picking up and ordering liquor and wine
8 sales, I would like to come back.

9 CHAIRMAN DONATUCCI: Any information you could
10 give us, please do. Thank you for your testimony. Next is
11 Domonic Origlio. Good morning. Welcome. We're running a
12 little bit behind, so if you feel like you don't want to read
13 and just go with certain points, you're welcome to.

14 PRESIDENT ORIGLIO: I'll try.

15 CHAIRMAN DONATUCCI: Okay. Thank you.

16 PRESIDENT ORIGLIO: Good morning, Representative
17 Donatucci, Senator Pippy, Members of the committee.

18 My name is Dominic Origlio, President of Origlio
19 Beverage, a wholesale beer distribution company serving the
20 five-county Philadelphia region. I am honored to be the third
21 generation leading my family business.

22 I have been in business for ever 75 years, since the
23 end of prohibition. We distribute a lot of different products.
24 We represent about 68 suppliers, including Yuengling,
25 Wyerbacher, Sly Fox, some Pennsylvania brewers. We also have

1 Coors, Corona and Heineken. The vast majority of those 68
2 suppliers are from smaller suppliers, smaller brewers, such as
3 the companies that would have beers that Resurrection or
4 Memphis Taproom would sell.

5 I'm grateful to have the opportunity to discuss with
6 you the events that transpired on March 8th, when the agents
7 from the State Police seized beer from my warehouse. As you
8 all know, the agents were responding to an anonymous tip from
9 an individual or organization who complained that a few beers
10 were being sold at retail and were not registered. It is
11 important to say at the outset that while my company now checks
12 the Liquor Control Board website daily to be certain that all
13 the brands are registered.

14 As a matter of fact, I submitted a letter to my
15 suppliers that the day after the raid, making sure that we were
16 in compliant, that we are checking the website daily now to
17 make sure that the beers we sell are registered. We had no
18 idea that we were supposed to check it. We had no idea that
19 this was our responsibility. We thought that the manufacturers
20 were the ones who registered and did it. When they sold it to
21 us, we had assumed that it was already registered.

22 We were also told by the State Police or the Liquor
23 Agents that came to my place of business that day to check the
24 website. So when I got on the website, the first thing that
25 you see is a huge disclaimer that -- to have that paperwork

1 with me. I haven't submitted it, but we could get you copies
2 -- that maybe the website information is not correct. We were
3 asked to check it, but then there was a huge disclaimer on both
4 the Pennsylvania website and the Liquor Control Board website,
5 which says, the information included in the website may not be
6 accurate.

7 Some of these beers, indeed, were not properly
8 registered. And I know that someone lied and that they were
9 subsequently registered right after that. I'm happy to go on
10 the record and say that I support to the mission of
11 Pennsylvania's Liquor Control Board and the Commission and the
12 United States Constitution's 21st Amendment, which delegates to
13 the states the authority to regulate the sale of alcohol within
14 its borders.

15 Alcohol is not just another consumer product. It is a
16 legal, controlled product to be consumed responsibly by adults
17 21 years of age and older. Pennsylvania's three-tier system of
18 alcohol distribution provides a clear chain of custody for this
19 perishable and regulated product, which has served the people
20 very well since the end of Prohibition.

21 Origlio also collects taxes on behalf of the State.
22 Last year, we remitted approximately \$11 million in tax
23 revenue. It is also the responsibility of Origlio to ensure
24 that only properly licensed retailers in good standing purchase
25 the beers in our portfolio. Through meticulous record keeping,

1 we do just that.

2 I'll tell a you quick story about what happened to
3 Boston Beer. There was a recall of products, bottles. They
4 recalled a national -- there was a national recall of products
5 because their supplier had some bits of glass in the bottles.
6 Within three days, we had the market cleaned up, as did most
7 distributors in the country had the market cleaned up because
8 that's the way it's done. We keep great records, we know where
9 the beer is going and we picked up that product very quickly to
10 ensure the safety of the consumers.

11 Selling beer is a privilege in Pennsylvania and we take
12 that responsibility very seriously. Over the years, my
13 employees and I have developed excellent working relationships
14 with the men and women who work on behalf of Pennsylvania's
15 Liquor Control Board. In fact, the controller of my company
16 who deals with the LCB regularly, is on a first name basis with
17 several LCB enforcement agents. To the best of my knowledge,
18 Origlio Beverage and the LCB have always worked together in a
19 spirit of mutual respect and cooperation. For this and other
20 reasons, I was extremely perplexed by the actions taken by the
21 State Police.

22 That being said, you can imagine our shock and dismay
23 when armed agents of Pennsylvania State Police raided three
24 Philadelphia bars based on an anonymous tip stating that beer,
25 which had not been properly registered with the State, was

1 being sold. I can only speculate that this tip came from
2 another bars' competitor who maybe did not get one of these
3 great brands or one of these off brands that the craft brewers
4 are brewing and there was a case of sour grapes.

5 Armed officers were deployed to check on registration
6 papers. Those raids occurred on the 4th of March. Four days
7 later on the 8th, my warehouse was also raided. News of these
8 raids spread like wild fire. The story had been given great
9 prominence by local Philadelphia print, radio and television
10 and it had been picked up by national and international wire
11 services. I happened to be on a business trip in Nashville,
12 Tennessee while all of this was going on.

13 Fellow distributors from all over the country
14 approached me, wondering if I was going to lose my license,
15 what did we do wrong, what protocol did we not follow.

16 In subsequent days, my management team and I were fully
17 engaged fielding calls from the press, our suppliers and
18 customers about the raid. I was personally embarrassed and my
19 employees, whose dedication cannot be called into question,
20 were demoralized.

21 For more than 75 years, the Origlio name has had an
22 excellent reputation in the community and has stood for
23 superior products and customer service. The entire
24 organization was reeling. Many of them asked, what have we or
25 the company done to deserve this kind of treatment? Still,

1 others were concerned that they would lose their jobs.

2 Clearly, I had some damage control to deal with.

3 And, quite simply, a phone call to my organization by
4 either the LCB or the LCB agents, or whoever is in charge, say,
5 you might be selling some beers that are not registered, we'll
6 solve the problem. We would have taken them off of the trucks
7 that day, put them aside and mark sold.

8 The agents who came to my warehouse directed our
9 attention to five brands: Russian River Supplication,
10 Hacker-Pshorr, Monk's Café Ale, and I don't need to name the
11 rest of them. They produced a list containing the names of
12 these beers as proof that they were not registered. As I
13 stated earlier, some of these brands had not been properly
14 registered with the State. To make matters even more
15 difficult, the list the State Police were working from was
16 inaccurate. Beers that were registered -- beers that were not
17 registered were removed, but beers that were registered may
18 have had semantics in the name, Café, Pshorr and I think I said
19 Sour Ale or something like that. We were asked to put them on
20 the side and not sell them, which we did. Someone failed to
21 type out the full name of the beer on the website.

22 Duvel, which is a well-known Belgian beer in the craft
23 and especially in the community. We've been selling that for
24 years. Just because they had changed the label and failed to
25 register the new label with the LCB, we were asked not to sell

1 it until that was rectified.

2 As of now, they still have Russian River Supplication
3 impounded and we have since sold the other beers that were put
4 aside because we have had their registrations fixed.

5 As I stated earlier, I support the work of our State's
6 Liquor Control Board. There is a need to know what products
7 are sold within our borders. Pennsylvania consumers enjoy
8 unequaled choice, value and safety thanks to the three-tier
9 system and the chain of custody it creates. As was
10 demonstrated earlier in my testimony concerning the Boston Beer
11 recall, the system works to protect consumers by keeping beer
12 safe and, of course, fresh.

13 But something is amiss when armed Pennsylvania Police
14 Officers are sent to rectify clerical errors and simple brand
15 registration slip-ups based upon an anonymous tip. And there
16 are a lot of unanswered questions that need to be addressed.
17 Many of my customers want to know who would file such a
18 complaint against a retailer. Was it just a matter of sour
19 grapes from the anonymous caller who did not receive these
20 limited production beers?

21 What would have happened if a bar's patron was running
22 from the police at the time and thought the agents were after
23 him? Big things could have gone wrong and I think a few simple
24 phone calls could have rectified the situation. The situation
25 didn't warrant an "element of surprise."

1 To put it mildly, I think there is a huge disconnect
2 between the Liquor Control Board and the State Police that
3 enforces the laws, resulting from the elimination of the Malt
4 Beverage Compliance Unit, which used to report directly to the
5 LCB's Board Secretary.

6 I have attached an opinion by Faith Diehl, Chief
7 Counsel of the LCB, about the Malt Beverage Compliance Unit.
8 I'm not going to read the whole thing to you, but, basically,
9 it says that she recommended that the Malt Beverage Compliance
10 Unit be the enforcing law and that they would be given a period
11 of 24 to 72 hours to notify someone who is out of compliance to
12 get in compliance before there would be any action taken to it.

13 My question is, if that was what the Malt Beverage
14 Compliance Unit was allowed to do in 24 to 72 hours, why
15 wouldn't the State Police do the same thing?

16 Today, I have taken the time to specifically address
17 the now infamous Philadelphia beer raids. But I would be
18 remiss without mentioning what I believe is the underlying
19 cause of these regulatory and enforcement problems.
20 Pennsylvania's beer industry is regulated by its competitor,
21 the Liquor Control Board, a state run corporation which sells
22 wine and liquor.

23 The Board consists of three members appointed by the
24 governor. To my knowledge, not one of the sitting members has
25 any experience with the intricacies of selling beer in the

1 Commonwealth. I ask you all to please consider the wisdom of
2 requiring that one of the members be a representative of the
3 state's beer industry or, at the very least, someone who is or
4 has a working knowledge of the beer industry.

5 CHAIRMAN DONATUCCI: Thank you. Chairman Taylor.

6 CHAIRMAN TAYLOR: Thank you, Dominic. Going back
7 to the manufacturer issue. How do you think it would occur if
8 a manufacturer who you've been selling their products for
9 years, what happens that they become unregistered? Is there
10 something that you have to do every year?

11 OWNER ORIGLIO: It's my understanding -- and I
12 don't know because it's not our responsibility -- is that they
13 are supposed to renew that license every year for a \$75 fee.

14 CHAIRMAN TAYLOR: What process would you use if it
15 was a new supplier, a new brewery that contacted you that
16 wanted to get their product at your warehouse?

17 OWNER ORIGLIO: Well, what we're required to have
18 is a written agreement between the supplier and the
19 distributor, which we make sure of, that the brands that they
20 sell to us and the designated territorial are listed and the
21 areas are listed, but there was never any mention of chucking
22 brand registrations. We have always assumed that that was
23 something that the manufacturer did as a matter of course.

24 Now, we have a policy in place. When we have new
25 suppliers, we need to check the website. We do that now after

1 March 8th, as my letter indicates.

2 CHAIRMAN TAYLOR: I think you've heard Leigh's
3 testimony, where she talked about the term, strict liability,
4 and I can't tell you whether or not that's in the code
5 anywhere. Do you have an understanding of that because you
6 said about that being the manufacturer's responsibility because
7 they are the ones that have to do it? They all have a chain,
8 they all have a strict liability that these beers have to be
9 registered. In the case of Memphis Tap, they didn't go outside
10 the system, they bought right in the chain.

11 OWNER ORIGLIO: Correct, as did I. I bought from
12 a registered manufacturer that was registered in the state of
13 Pennsylvania, assuming that they beers were registered. But
14 there were some semantics issues too where it was not exactly
15 the same on the registration as it was on the label. But
16 again, I don't know.

17 I'm pretty up to date on the code. We have a fairly
18 sizable business and I make it my business to know what's going
19 on in the code. This is something that completely escaped by
20 me. But now, we do it as a matter of course.

21 CHAIRMAN DONATUCCI: Thank you. Representative
22 O'Brien.

23 REPRESENTATIVE O'BRIEN: Thank you, Mr. Chairman.
24 Good morning, Mr. Origlio. Would you been willing to share
25 with us, what were your gross sales last year?

1 OWNER ORIGLIO: 230 million.

2 REPRESENTATIVE O'BRIEN: \$230 million dollars.

3 And how long would you say that you have been in business?

4 OWNER ORIGLIO: Since the end of prohibition.

5 REPRESENTATIVE O'BRIEN: Since the end of
6 prohibition. So it's safe to say that you are a major business
7 in the Commonwealth, you're not a mom and pop shop?

8 OWNER ORIGLIO: No.

9 REPRESENTATIVE O'BRIEN: And since prohibition,
10 have you ever been raided before?

11 OWNER ORIGLIO: No.

12 REPRESENTATIVE O'BRIEN: No. So you have
13 conducted a safe, wholesome profitable business in the
14 Commonwealth of Pennsylvania for 80 years?

15 OWNER ORIGLIO: We've tried, yes.

16 REPRESENTATIVE O'BRIEN: Thank you, sir. I have
17 nothing more.

18 CHAIRMAN DONATUCCI: Thank you. Senator Fontana.

19 SENATOR FONTANA: Thank you. You mentioned that
20 some beers weren't registered and it's -- who's responsibility
21 to register those beers or they should have been registered?

22 OWNER ORIGLIO: By the manufacturer.

23 SENATOR FONTANA: So when you get your beer
24 delivered to you, you assume that they're registered?

25 OWNER ORIGLIO: I always have in the past. I now

1 don't take that assumption.

2 SENATOR FONTANA: So now what do you do?

3 OWNER ORIGLIO: I'm including a level of recent
4 planning, that we have 68 of them, but we have to. Before we
5 start selling that beer, we would have to check on the website
6 to make sure that it is registered.

7 SENATOR FONTANA: There are a lot of new beers and
8 as you said, there is some discrepancy maybe in how you have
9 the same bands, but different kinds under that and the
10 abbreviations might be confusing. How is that --

11 OWNER ORIGLIO: It's a nightmare. That's the best
12 that I can sum it up. We have 1100 different products now
13 because we've known that the beer distributors is changing,
14 like the group that had testified earlier. There's a lot of
15 different brands out there, there's a lot of different off
16 brands, there's --

17 SENATOR FONTANA: So what is your solution to this
18 then as far as registration is concerned? Do you have a
19 solution or opinion?

20 OWNER ORIGLIO: Do you mean what would you guys do
21 --

22 SENATOR FONTANA: Well, how would you rectify the
23 --

24 OWNER ORIGLIO: There's got to be an easier way to
25 register the products for manufacturers. I think they've got

1 to be registered or there's got to be a brand family that's
2 registered because being under Russian River, they might have
3 30 different --

4 SENATOR FONTANA: But you think that they all
5 should be registered, though? You're not saying --

6 OWNER ORIGLIO: I believe they all should be
7 registered, yes.

8 SENATOR FONTANA: The previous speaker mentioned
9 that -- it seemed to me that there was some lack of trust or
10 they felt there was no consistency of opinions from -- about
11 the law, I guess, itself. There's a disconnect between the LCB
12 and the State Police; do you concur with those?

13 OWNER ORIGLIO: I do.

14 SENATOR FONTANA: Thank you very much.

15 CHAIRMAN DONATUCCI: Thank you, Senator. Senator
16 Farnese.

17 SENATOR FARNESE: Thank you, Mr. Chairman. Mr.
18 Origlio, something that I'm trying to get my arms around was
19 brought up by our first speaker and yours as well, too, and my
20 colleague, Representative O'Brien did a very clear and
21 articulate job of clarifying both you and the first testifier
22 have done everything you possibly can to comply and are clearly
23 doing your job under the laws as you understand it. You're
24 doing exactly what you're supposed to do.

25 The trouble that I'm trying to get my arms around was

1 brought up by your testimony is what you've had to deal with
2 since this incident, in terms of the negative effects on the
3 business and I know it's in your testimony, but I just want to
4 get some clarification. Before I get there, my problem is that
5 you have to deal with this, and so did the first speaker, yet
6 the content that I see, and it was brought up by the first
7 speaker, that at the same time, we have nuisance bars that are
8 sort of to stay open during an appeal process when we know
9 there there's bad activity, yet openers, operators,
10 distributors like yourself are doing everything by the book.
11 You're doing your job the way you're supposed to, yet you have
12 to deal with these negative effects while other people clearly
13 aren't obeying the rules and they're allowed to be open. Can
14 you just explain how this has affected your business?

15 OWNER ORIGLIO: Well, I think that stems from the
16 problem that the State Police or the Liquor Board or whoever
17 the enforcement arm is will investigate any tip. It doesn't
18 matter well. I can call up tomorrow and say St. Mary's Church
19 is selling fifths of vodka out the back door, they are going to
20 investigate it. So that's the main problem is that every
21 anonymous tip, I believe, is investigated without there even
22 being some level of investigation first.

23 As far as how it's affected us, I mean, it was an
24 embarrassment to me personally, but we strive everyday to run a
25 good legal, ethical business and that when you read in the

1 newspaper and that the headline is "Philadelphia beer
2 distributor get raided," people have visions of agents coming
3 in with hatchets looking for Al Capone's beer and some barrels,
4 you know, it's crazy. So yeah, it's embarrassing. Does it
5 really have a long term effect on our business, probably not,
6 but it's something that we shouldn't have to deal with quite
7 frankly.

8 SENATOR FARNESE: The beer distributors and bar
9 owners and tavern owners that are working 80 hours a week,
10 maybe we should, instead of enforcing them pick up the phone,
11 maybe, like you said, a phone call could be made and
12 clarification.

13 OWNER ORIGLIO: There's easier ways of handling
14 that, yes.

15 CHAIRMAN DONATUCCI: Thank you, Senator. Thank
16 you for your testimony. Senator Stack.

17 SENATOR STACK: Thank you. Good morning. Thank
18 you for being here today, Mr. Origlio. And I want to thank the
19 Chairman of the Senate Committee and the House Committee for
20 convening this session. I did come in a little late because I
21 was attending another committee hearing.

22 I'm here to just tell the folks on the committee and in
23 this room and whoever else that might be watching that you, one
24 of my constituents, represent a tremendous business, Origlio
25 Beverage, you're a family business with your wife, Maryanne,

1 who is wonderful, you're a job creator, you're a union
2 employer, you are involved in the community, Northeast
3 Philadelphia and Philadelphia and Southeastern Pennsylvania,
4 and I can tell everyone here from my own personal knowledge
5 that you are an outstanding corporal citizen, as well as an
6 outstanding citizen. So I appreciate you being here. And I
7 know the most important thing is, not what's happened in the
8 past, but how do we fix what's going on in the future?

9 So without going into details, I'm glad you're here. I
10 just want to tell the members of the committee and you,
11 personally, I look forward to working with you and continuing
12 to have your input on how we can best go forward in the future
13 because we also have outstanding State Police. We appreciate
14 the great job they're doing, the key is that we all get on the
15 same page and make sure that the industry functions the best
16 possible way and that we protect community. So I, once again,
17 appreciate you being here getting. Thank you, Chairman and
18 thank you, Members of the Committee.

19 CHAIRMAN DONATUCCI: Thank you, Senator. Senator
20 Stack, if you're from Southeastern Pennsylvania, everybody knew
21 Origlio. They have more trucks running around than whoever,
22 but I'm telling you, everybody knows the Origlio name,
23 everybody knows from Philadelphia what kind of business you do
24 and I want to commend you on that.

25 One more, Senator Pippy.

1 CHAIRMAN PIPPY: Thank you, Mr. Chairman. In the
2 interest of time, I'll be very brief. First, I appreciate the
3 testimony. It's very detailed and we'll be using that. I was
4 just wondering, you checked that website --

5 OWNER ORIGLIO: Now, I do.

6 CHAIRMAN PIPPY: Why wouldn't it just be easy to
7 -- when people register, whatever the change to that
8 registration process, they can picture and e-mail what the
9 registration -- and the fees and all of that we'll discuss, as
10 was mentioned at the craft breweries.

11 I don't understand, and this is a question more
12 for the LCB, the type of response. That's what kind of shocked
13 me and I think that's part of your testimony. From the
14 recognition point of view, we don't need someone to come in,
15 just take a picture of it and would that be -- does that make
16 sense to you, someone that has 11,000 or --

17 OWNER ORIGLIO: I think that in today's world, my
18 distribution tier were two sophisticated as a manufacturer, so
19 we could really release it with a simple e-mail, a picture and
20 a copy of the registration. It wouldn't be that hard for us
21 because we would not order the beer from the manufacturer
22 unless we get the documentation first. So I think that would
23 be a very easy fix, yes.

24 CHAIRMAN PIPPY: I'll follow-up later with you and
25 your staff and I appreciate the work that you do.

1 CHAIRMAN DONATUCCI: Thank you for your testimony.

2 OWNER ORIGLIO: Thank you.

3 CHAIRMAN DONATUCCI: Welcome, Senator Conti. Can
4 you have your board identify themselves?

5 CHIEF OPERATING OFFICER CONTI: Thank you. Yes.
6 Director Jerry Waters, Office of Regulatory Affairs and Deputy
7 Chief Counsel Rob Teplitz. We do have prepared comments and in
8 the interest of some of the prior comments, I would like to go
9 through them. I'll do them as quick as possible and
10 paraphrase, but I think real quick. I understand, Chairman.

11 We all know why we're here, the raids. Both state and
12 federal law require that all brands of malt or brewed
13 beverages, which include beer, must be registered prior to
14 being sold in Pennsylvania. Federal law provides that no
15 manufacturer, wholesaler or importer of beer may sell, ship,
16 deliver or introduce in interstate or foreign commerce any beer
17 in containers unless the beer is packaged, marked, branded and
18 labeled in conformity with regulations promulgated by the
19 Alcohol and Tobacco Tax and Trade Bureau, which we know as TTB.
20 Federal regulations include: The brand name of the beer; the
21 class designation of the malt or brewed beverage; the name and
22 address of the bottler or importer; the net contents or size of
23 the bottle; and the alcohol content.

24 So in compliance with that federal mandate, section 445
25 of the Liquor Code and section 9.108 of the Liquor Code

1 Regulations require that all beer be registered with the Board
2 prior to it being offered, sold or delivered. Registering a
3 beer in Pennsylvania consists of filling out the application,
4 paying the appropriate fee, providing a copy of the federal
5 Certificate of Label Approval or, a different kind of cola than
6 we're used to, and providing a copy of all territorial
7 agreements affecting the beer.

8 Certificate of Label Approval is required by federal
9 law prior to the sale of any beer and the Board is provided a
10 copy of the Certificate when the brand is registered in
11 Pennsylvania. However, there is very little guidance on what
12 constitutes a brand name; nor does there appear to be any
13 strict rules as to the conformity between the actual name
14 registered and the name on the label. Provided with my
15 testimony this morning, you should have received an example,
16 which has been mentioned many times today, of "Monk's Café"
17 beer. I would like to draw your attention to the handout you
18 will see the Certificate for Win-It-Too Inc., which has
19 registered the "Monk's Café".

20 As you can see, the various problems here and there,
21 were the name, "Monk's Café", "Flemish Sour Ale" and I'm sure
22 they make other ales. And with the explosion of craft beers, I
23 think the 2800 registered now in the state of Pennsylvania
24 total number of years, about ten percent have been registered
25 since the raids, which lets you know that there was some

1 slippage through the crack. But, may I also point out, look at
2 the top of this example. It is a Department of Treasury form,
3 not a PLCB form, very important to note.

4 So there's no particular reason why the label differs
5 from the brand registration and, more importantly, there is no
6 way to be completely confident that the brand name and the
7 label name are referring to the same thing other than by
8 looking at the actual copy of the label. The Board has no
9 independent authority to question whether the brand name listed
10 on the Certificate is accurately reflected on the attached
11 label.

12 Unregistered beer present in the Commonwealth is
13 problematic for a number of reasons. First, without
14 confirmation that the beer has a valid COLA issued by TTB, the
15 Board has no way of knowing whether the contents of the
16 container conform to what is represented on the bottle. TTB
17 has noted that label approval has the primary function of
18 protecting the public by assuring that alcoholic beverages sold
19 in the United States are properly described on the label.

20 We just have to reflect the E.coli outbreak of spinach
21 years ago. Hundreds of people got sick. Probably within
22 hours, working with Mr. Origlio, we could find an awful lot of
23 contaminated beer. The only source that we couldn't find would
24 be retail sales, but we can certainly pull things off the shelf
25 within hours because of this registration process. So the

1 difficulty of encounter would not have been found because of
2 the brand registration.

3 Further, if a licensee is in possession of
4 unregistered beer, there is a strong likelihood that the beer
5 has been illegally transported into the Commonwealth. The
6 Liquor Code prohibits such activity. We want to collect the
7 taxes, which you all know is very important.

8 The law further requires that manufacturers, importers,
9 distributors and retailers keep detailed records reflecting the
10 type and quantity of beer sold in the Commonwealth. These
11 reports must be submitted monthly to the Pennsylvania
12 Department of Revenue. Unlawful importation of beer is a
13 misdemeanor offense under the tax law.

14 So you can see the various reasons why we have to
15 register beer. It's a federal mandate. You see the forms that
16 we have to use. I would now like to have Director Waters give
17 some testimony to the specifics of the instances involved.

18 DIRECTOR WATERS: Chairman Donatucci, with the
19 essence of time, I'm going to say the salutation has been given
20 to all, good morning.

21 My purpose in speaking with you today is to provide you
22 with the facts and circumstances surrounding the enforcement
23 action taken on March 4, 2010.

24 It is important to note at the outset that it is the
25 Pennsylvania State Police, Bureau of Liquor Control Enforcement

1 and not the Pennsylvania Liquor Control Board that enforces the
2 Liquor Code. Part of that enforcement authority includes the
3 power to investigate alleged illegal activities under the
4 Liquor Code and the Board's Regulations. While the Board is
5 often called upon to provide information to the BLCE to assist
6 in its investigations, the Liquor Code does not authorize the
7 Board to take an active role in enforcement actions.

8 By way of background, on January 25, 2010, an Officer
9 with the BLCE, e-mailed an employee within the Board's Bureau
10 of Licensing, asking for assistance in an ongoing, preexisting
11 investigation regarding a licensee who had been purchasing
12 unregistered beer. The Officer sought confirmation that 51
13 beers he had attempted to cross-reference on the Board's public
14 website were, in fact, not registered. In a subsequent e-mail
15 dated February 12, 2010, the Officer asked for help on three
16 additional lists of brands, totaling 46 beers. In total, after
17 taking into consideration duplicative requests, approximately
18 90 brands were reviewed

19 While Licensing has previously provided BLCE
20 information regarding brand registration issues, Licensing had
21 never previously been asked to review such a large number of
22 brands simultaneously. As Mr. Conti alluded to earlier in
23 discussing Brand Registration, determining the actual brand
24 name of a particular beer can be confusing. Without comparing
25 a questioned label with a label contained in the Board's files,

1 it is difficult to determine whether a particular brand of beer
2 has been registered. This label comparison becomes even more
3 problematic when the beer in question is in a keg rather than a
4 bottle.

5 Nonetheless, the Licensing employee attempted to review
6 the registration status of the brands in question based on the
7 titles provided to him via e-mail. He quickly established that
8 the vast majority of the brands in question appeared to be
9 registered, but with names that were somewhat different than
10 the names provided. He was unable to determine whether certain
11 brands were registered and, as we later came to learn, the
12 employee did not recognize a small number of brands as being
13 properly registered.

14 BLCE acted within its discretion and seized the
15 questionable beer during an inspection of three retail
16 establishments on March 4, 2010. Contemporaneous with those
17 inspection, BLCE called Licensing to confirm the status of
18 certain brands. This approach unfortunately did not give the
19 Licensing employee much time to review the information
20 provided.

21 Subsequent to the investigations in question, the Board
22 was asked to certify that certain brands that had been seized
23 were not, in fact, properly registered. At the same time,
24 counsel for some of the affected licensees attempted to provide
25 information establishing that certain brands were registered

1 and began re-registering other brands. As an aside, the Board
2 has, in fact, received approximately 320 brand registration
3 requests since March 4, 2010; no doubt in part due to the
4 publicity involved in this matter.

5 Ultimately, the Board requested that the BLCE provide
6 photocopies of the actual labels from the confiscated beer.
7 The Board subsequently compared those photocopies with the
8 labels of the registered brands contained in the Board's files.
9 Based upon this review, the Board's records should now be
10 accurate with regard to the confiscated beer.

11 This matter has highlighted some issues with the manner
12 in which registration information has been recorded. Increased
13 variation in brands and an expansion of craft beers has made
14 the task of keeping accurate registration records more
15 challenging. It is estimated that there are currently 2,800
16 brands registered for sale in the Commonwealth.

17 In an effort to prevent any future confusion regarding
18 which brands are properly registered in the Commonwealth,
19 Licensing is currently engaged in a process of modernizing its
20 records related to brand registration. As part of this
21 modernization, Licensing is scanning into a searchable database
22 each original brand registration application, the TTB COLA and
23 a copy of the approved label for all 2,800 brands. It is
24 anticipated that once completed, this searchable database will
25 allow both the BLCE and licensees with the ability to access,

1 not only a listing of registered brands, but also view scanned
2 copies of the actual brand labels. While this matter is now a
3 priority, staffing and technological limitations will cause
4 this modernization effort to take roughly 60 calendar days to
5 complete.

6 In addition, the Board is considering the effort of
7 extending the current brand registration from one year to two
8 years and allowing registrants to renew their registrations
9 online. This would help eliminate those instances when the
10 lack of re-registration is an oversight by requiring such
11 registration less often. It should be noted that any extension
12 would require a statutory change.

13 Finally, this matter has reinforced the need for
14 cooperation and clear communication between both agencies as it
15 relates to such investigations and enforcement actions.

16 At this time, Mr. Conti and I would be happy to answer
17 any questions that you may have regarding this matter.

18 CHAIRMAN DONATUCCI: Thank you. I have a
19 question. You mentioned about the time limit. I understand
20 today some beers, they age before they sell it or whatever the
21 upper end beer is. They might be two years old or even older
22 and if we register that, let's say this year, 2010, then they
23 decide to sell the tavern four years from now, it's no longer
24 registered and why? Once it's registered, it should be
25 registered.

1 DIRECTOR WATERS: Chairman Donatucci, that's
2 because the statute requires that.

3 CHAIRMAN DONATUCCI: The other question is,
4 there's a lot of confusion about the label. One label will
5 look like this label, that label, or whatever. Yesterday, I
6 went into the supermarket. There was a clerk going around with
7 a scanner going over barcodes. Why can't something like that
8 be done for the LCB? If they do make an inspection, they go up
9 to the product and just say yes, it is, no, it isn't because
10 one-way manufacturers make labels, similar names, similar
11 colors, this is going to be a problem.

12 The other question that I have is, why is, if there's a
13 federal mandate, why doesn't the state require it too? I know
14 you're going to say that we did it, but is this a reason for
15 that?

16 CHIEF OPERATING OFFICER CONTI: When you say, "we
17 did it," do you mean the general assembly?

18 CHAIRMAN DONATUCCI: Right.

19 CHIEF OPERATING OFFICER CONTI: That was done
20 decades ago. So I don't think we could go back and understand
21 why there was a federal mandate. It is clear that we have a
22 federal mandate. We're doing the best we can with it. We have
23 to improve. We definitely want images of labels to be where
24 with the fine people of enforcement, when they go out in the
25 field next time so they can look at the label, they can look at

1 the bottle, they can get something quick. Your idea of a
2 scanner is something that we should look into. It's a great
3 idea.

4 CHAIRMAN DONATUCCI: Thank you. Senator Pippy.

5 CHAIRMAN PIPPY: Thank you, Mr. Chairman. A
6 couple of quick questions. I'm glad to see that you've
7 included the scanning idea of the photo in your testimony. We
8 were all thinking alike.

9 Is the software that you have, you mentioned being able
10 to do it online, one thing that comes out of this meeting is a
11 desire to update our system and our capabilities, making it
12 user friendly, have the protections in place, the requirements,
13 federally, but also look at ways to grow the craft industry in
14 Pennsylvania in particular.

15 Do you currently -- is your system currently capable of
16 doing all the things that we want it to do, i.e., online
17 registration, searchable database according to based on bran
18 type, attachments of files that actually show registration and
19 labeling, how we deal with the keg issue. If it's not capable,
20 then what steps do we need to do? What regulatory or statutory
21 steps do we need to make to allow you to do that?

22 CHIEF OPERATING OFFICER CONTI: The answer is a
23 clear no. We had scheduled -- the website that we keep talking
24 about is an award winning website, way ahead of its time, five
25 years ago, and now it needs a refresh. And we're planning a

1 refresh a year or two from now. So the whole system is going
2 to get a refresh in a year or two.

3 We will not be able to do as much as we would like to
4 do until that's done. I don't think there's really any statute
5 necessary to do that. That's a funding issue. And some of the
6 difficult things with -- the economy produced a limits on
7 hiring and some of the investments, frankly, just delayed. So
8 this was an instance where we were delayed and we have to get
9 to it and we will get to it. That's why we'll have to do the
10 imaging first. My assumption is the scanning idea of Chairman
11 Donatucci maybe able to be done, but with new technology.

12 CHAIRMAN PIPPY: Thank you, Mr. Chairman. I have
13 no further questions.

14 CHAIRMAN DONATUCCI: Thank you. Senator Fontana.

15 SENATOR FONTANA: Thank you. I want to commend
16 you on your proactive approach to the problem and finding
17 solutions. I'm still a little confused though about, I mean,
18 obviously, the consent seems to be there should be
19 registration, first of all. And the responsibility of the
20 registration is the manufacturers first and foremost. But yet,
21 if it doesn't -- if the beer doesn't get registered and there's
22 a raid to the distributor or to the bar, what's the consequence
23 to the manufacturer?

24 It seems like all of the embarrassment and all of the
25 problems trickle down to maybe the distributor or the bar owner

1 or the tavern owner or the restaurant owner. What about the
2 manufacturer?

3 CHIEF OPERATING OFFICER CONTI: I think I will
4 refer to the counsel in answering that question, but let me
5 just introduce his answer by saying, we probably need a work
6 session to see what the code says. I happen to think it's the
7 manufacturer and the ID, who the distributor is responsible,
8 but it is a three-tier system. It is called that for a reason.
9 The responsibility is probably ultimately shared by the
10 manufacturer and the distributor and the licensee.

11 SENATOR FONTANA: It just seems like nothing
12 happens to the manufacturer. And in this particular instance,
13 the embarrassment went to the distributor and to the bar owner.
14 Nothing seemed to happen to the manufacturer.

15 CHIEF OPERATING OFFICER CONTI: Right. Good
16 question. And I'll refer to Counsel.

17 CHIEF COUNSEL & POLICY DIRECTOR TEPLITZ: Thank
18 you. The short answer is that our statute requires the
19 manufacturer that probably registered the beer before it sold
20 into Pennsylvania. So they do bear sort of the amount of the
21 responsibility.

22 SENATOR FONTANA: But nothing happened. What
23 happens to them if they don't? You find some that aren't
24 registered, what's their consequence?

25 CHIEF COUNSEL & POLICY DIRECTOR TEPLITZ: Well,

1 they could either be cited if they feel they are the ones
2 responsible for importing the beer into Pennsylvania, they
3 could be cited for that. And the beer is contraband. So there
4 are consequences to them.

5 SENATOR FONTANA: Do they lose their license? Do
6 they get fined?

7 CHIEF COUNSEL & POLICY DIRECTOR TEPLITZ: Yes.
8 Well, any citation due to the enforcement action in addition to
9 the seizure of all of the beer would expose the entity to a
10 fine and/or suspension of a license. A fine mostly in this
11 case because, obviously, they manufacturer doesn't have a
12 license from us.

13 SENATOR FONTANA: It just seems, I guess, a little
14 unfair in my estimation here, how this worked out. It seemed
15 like the distributor and the bar owner took most of the hit
16 here.

17 CHIEF OPERATING OFFICER CONTI: We understand your
18 observation, Senator.

19 SENATOR FONTANA: Thank you.

20 CHAIRMAN DONATUCCI: Representative O'Brien.

21 REPRESENTATIVE O'BRIEN: Thank you, Mr Chairman.
22 Good morning, gentlemen. I've got to tell you, I am deeply
23 honored to work with the Pennsylvania State Police when we have
24 nuisance bar issues that we have to deal with. And as we are
25 dealing with these issues we go through probable cause, we go

1 through due process, we go through humans before the court. We
2 need to close down an establishment where people are dying,
3 where people are being raped and the Pennsylvania State Police
4 does a magnificent job, an absolute magnificent job and I thank
5 them for their service.

6 But I got to tell you fellows, I can't understand --
7 and maybe you can help me get my head around this -- if this is
8 a Department of Treasury issue, you pointed out, Mr Chairman,
9 why are we dispatching the Pennsylvania State Police on, what
10 seems to me, to be in attendance to the teacup issue and not
11 regulations? How can I get my head around that?

12 CHIEF OPERATING OFFICER CONTI: It's a very simple
13 answer. The code was changed in 1987 that gave a fortune to
14 the State Police that the mandates would be handled that way.
15 We would be willing to discuss compliance versus enforcement.
16 The State Police will like to discuss that. It's a
17 conversation that should be had, certainly not this morning in
18 the interest of time. I don't even want to try to get into it,
19 but you raised great questions. We're willing to participate
20 in those discussions whenever the chairs want to do it.

21 CHAIRMAN DONATUCCI: Thank you. Senator Farnese.

22 SENATOR FARNESE: Thank you, Mr. Chairman. Thank
23 you for coming in, gentlemen.

24 Real quick, Mr. Waters, on page 1 and 2 of your
25 testimony, you referenced the Officer that sought confirmation

1 that 51 beers had attempted to cross-reference and you used the
2 Board's website. Did that Officer -- do you know in his or her
3 investigation whether they also reviewed the websites of the
4 different bar owners and taprooms that were ultimately raided?

5 DIRECTOR WATERS: Senator, I have no knowledge of
6 the activity.

7 SENATOR FARNESE: On the second page, you
8 referenced to an employee that the Board used a website to
9 determine whether a small number of brands were being properly
10 registered. Again, do you know what website that was referring
11 to?

12 DIRECTOR WATERS: Yes, I do. They used our
13 internal website that we have and he tried to, with the e-mail,
14 match those that were questioned those that we had on our
15 website.

16 SENATOR FARNESE: As you heard the testimony, the
17 first testifier brought up the fact that they use abbreviations
18 on their website for beers that may not actually match. So
19 clearly, there's some kind of, as you bring out, a discrepancy
20 and an inability to match up the beers.

21 DIRECTOR WATERS: Senator, it's my understanding
22 with the first individual that testified that they were
23 alluding to their website, not our particular website. So the
24 Liquor Control Board would have no authority, with respect, to
25 how they -- I'm not sure if I understand your question.

1 SENATOR FARNESE: My question, actually, is, if
2 the investigated officers are using, in their own
3 investigation, websites and trying to cross-reference and
4 they're not being able to match up, but if they're using this
5 as a basis of their investigation, a website of a bar owner,
6 which may abbreviate, but not clearly identify, they may come
7 up to the erroneous conclusion that that beer is unregistered
8 at that particular establishment; isn't that correct?

9 DIRECTOR WATERS: That's a good observation that
10 you make. I would like, again -- I have no knowledge as to how
11 they determine, from the enforcement side determination,
12 whether there was a questionable registration.

13 SENATOR FARNESE: It's an observation that I make,
14 but it's certainly based upon the testimony of someone that has
15 been in the industry and who works very, very diligent at it.

16 Again, I appreciate you coming in and I appreciate your
17 hard work. And as you know, Mr. Conti, we've had -- my
18 district alone had 326 licenses. They were the largest number
19 of licenses anywhere in the Commonwealth of Pennsylvania. So
20 the issues that we are dealing with here today are extremely
21 important to me.

22 And I understand, from your testimony, you say that the
23 unregistered beer is important. This is an important issue.
24 And I leave you with this: I understand that that's an
25 important issue, but equalling important -- even, sometimes in

1 my opinion, more important in some instances -- is the issue
2 that was alluded to one of the testifiers today that what we
3 are going through and putting these people through are hurting
4 their businesses when they're trying to do the right thing,
5 going through these difficulties.

6 We also have at the same time, nuisance bars throughout
7 Philadelphia, throughout Pennsylvania. People are being shot
8 and killed and drugs are being sold. And these people that are
9 coming in today are good establishment people. They are
10 working hard, they are doing their job. They realize that
11 they're the good guys in this and that there are bad guys out
12 there that are out utilizing the system in an unfair way.

13 So I look forward to working with you and I want your
14 support that laws that I'm talking about, where a nuisance bar
15 can remain open during an appeal process. I would like your
16 support, the Board's support in agreeing with me that this
17 needs to be changed and we shouldn't allow that kind of process
18 because, in my opinion, we put people on death row in
19 Pennsylvania that appeal their cases. They don't get to go
20 free. Yet, there's people that have people being shot at their
21 bars, at their nuisance bars, that are allowed to be open. To
22 me, it sounds like there's some kind of problem here.

23 I would like your support to work with us to change
24 these laws because not only are they antiquated, but, Mr.
25 Conti, with all do respect, I think they are unfair.

1 CHIEF OPERATING OFFICER CONTI: Our Board is
2 always a resource to you and the committee to change the
3 statutes that you are requesting. And on the federal mandate,
4 the federal requirement of the beer registration, we would work
5 with you to improve that.

6 May I just share a brief comment because some things
7 were mentioned earlier? We do help licensees a little bit more
8 than what we're given credit for. Our licensee line is opened.
9 It's only opened Monday through Friday from 9:00 to 5:00, but
10 you can leave a message and we'll get back to you right away.

11 It is mandated that all transfers to new licensees must
12 go through an orientation program. They began to have the
13 privilege of being a licensee here in Pennsylvania. We have
14 quarterly licensing seminars in every region of this state.
15 The last one was held in the fall of 2009 in Southeastern
16 Pennsylvania. Counsel Teplitz, to my left, spoke to an earlier
17 testifier when he received a call earlier this month.

18 I did this. It's one of the toughest business in the
19 world. That's why I'm a bureaucrat now. It is a tough
20 business. And you go through RAMP training, you go through all
21 the things that we mandate and you don't get a reduction in the
22 liquor or liability insurance. That's something that we should
23 work on today. There's a lot to work on. There's a lot
24 modernize. We're a resource to you and we can't wait to work
25 with you.

1 SENATOR FARNESE: Thank you, Mr. Conti, for
2 clearing that one point out. I think it was my very, very
3 first question and my colleagues were quick to jump on me, but
4 it is 24 hours a day, 7 days a week, like an Apple computer.
5 It's not thank you for clarifying that.

6 CHIEF OPERATING OFFICER CONTI: Yes, or you can
7 leave a message and we'll get back to you.

8 CHAIRMAN DONATUCCI: Thank you. Representative
9 Burns joined us. Representative Payne.

10 REPRESENTATIVE PAYNE: Thank you, Mr. Chairman.
11 Real quickly, Mr. Waters, Senator Conti and Mr. Teplitz, thank
12 you for being here today and thank you for your input. A
13 couple of quick items, just three of them. We've heard
14 compliance and enforcement. I would like to add a third word,
15 an educational process, an education compliance enforcement.

16 Clearly, the bar owner that was here doesn't belong to
17 the Tavern Association or a lot of the groups. She didn't feel
18 comfortable in the education process on where we could get her
19 answers without opening herself up to maybe an enforcement
20 problem.

21 I would really like to work with the Board to see how
22 we can -- if it's extra funding to provide that education to
23 the Tavern's Association and the restaurants, I think we have
24 to do it. I would rather spend the money in educating people
25 than having a bar raid or having a nuisance bar.

1 Second, was the bar code. Having worked for Hershey's
2 Chocolate for almost 30 years, every product that we made, and
3 there were thousands, I mean, five or six thousand products
4 that we made that had a bar code on it, you didn't have to
5 worry if they would change the Hershey bar labels to a
6 different color or to celebrate an anniversary or for whatever
7 reason it wasn't the label. The bar code didn't lie, the
8 scanner didn't lie, the computer didn't lie and it's instantly
9 to be put online that this is exactly what the owner is selling
10 and you might have five ales and it wouldn't matter. The label
11 could look very similar and it wouldn't matter because the bar
12 code would be there.

13 And then finally, I really look forward to hearing your
14 input on the upgrades that we need on our very antiquated,
15 inadequate laws to support legal establishments. I've heard
16 the senator down in front here complain several times about
17 nuisance bars, and I personally had that experience. And it is
18 frustrating.

19 When you have a bar that is serving to underage,
20 serving intoxicated, the bar owner himself is arrested for
21 driving while intoxicated and the bar can remain open through
22 all of these series of events, and yet, we raid an
23 establishment that, quote, has been a good corporate citizen
24 for years and years in the family.

25 It certainly looks to many of us that we need to

1 redirect that emphasis and I'm sure, Senator, you'll be able to
2 tell us whether it's in that legislation and that's the reason
3 those nuisance bars can stay open time and time and time again.

4 I'll look forward to that in the next meeting and the
5 next hearing so we can get that input. Thank you very much for
6 being here today and thank you for everything you do.

7 CHIEF OPERATING OFFICER CONTI: Representative,
8 very quickly, and I know we're running behind, in the education
9 component, one of the most important things that we want to do
10 for the licensees is our licensees service center. We don't
11 want them to buy out of the back door of our retail store. We
12 want to get them a site where they are our number one customer.
13 They're about 20 percent of our business, we should treat them
14 better. That's an opportunity for us to educate because these
15 folks who have testified earlier are too busy to do it on their
16 own. But we'll get them when they come in to get their
17 products, we're on that.

18 The bar code is interesting. A substantial number of
19 wines do not have bar codes. It's completely from a different
20 culture, but that's a great one and we'll look into it. Just
21 leading into the next testifiers, the glass has been half empty
22 most of the day. I know it's an ongoing investigation and they
23 would ge very hesitant to come up, but a significant portion of
24 the boor was unregistered, one way or the other.

25 CHAIRMAN DONATUCCI: Chairman Logan.

1 CHAIRMAN LOGAN: Thank you, Chairman. I don't
2 want to belabor the point and I'm glad, Senator, that you
3 brought up all of the different avenues that folks are educated
4 and licensees are educated, but I've got to give you an
5 opportunity to dispel the notion that if a licensee calls the
6 LCB to ask a question and that they're going to be
7 investigated, I mean, I don't want people out there -- that
8 notion is just troubling to me. I know it's not true, but if
9 somebody calls with a question about whatever, do you take that
10 and say, we're going to stick it to that licensee?

11 CHIEF OPERATING OFFICER CONTI: Our board and our
12 whole agency works informally with the BLCE. That is totally
13 their matter. We do not give tips to them. Now, as far as
14 relying on the advise given by Counsel, I'll turn it over to
15 Counsel to answer that.

16 CHIEF COUNSEL & POLICY DIRECTOR TEPLITZ: Senator
17 Logan, as you know, we have an enforcement bureau and they are
18 different from us. And the legislature changed the law so that
19 we could give licensees some St. Harbors if they come to us.
20 We get about 1800 written requests for advise in the course of
21 the year. Several hundred of those are from licensees, others
22 are from people who are interested.

23 The reason we copied the State Police in our answers
24 isn't because we're trying to alert them, it's because we're
25 letting them know that we looked at it. We're okay with this.

1 Guys, if there's a question, we've looked at it, we're okay,
2 we've signed off.

3 I spoke with one of the testifiers earlier on the issue
4 of the spigots and the question was whether or not they could
5 create their own spigots and we went through the statute. The
6 statute dealer requires that it put people on notice. And so
7 the question was, as long as you're putting people on notice,
8 you're okay.

9 Having said that and being aware of what has
10 transpired, if you want something in writing, if you want
11 something that protects the other agency that's going to look
12 at that, you just need to write in to us, not because we want
13 to tell them to come -- not to give them a heads up to go after
14 you, but to let them know that everything is okay and we'll
15 just have to try harder to convey that to people so it's not
16 seen as, oh, we're going to get ourselves in trouble, but what
17 it was intended to do, which is to help people go through the
18 very difficult Liquor Code and Board regulations.

19 CHAIRMAN LOGAN: Thank you.

20 CHAIRMAN DONATUCCI: Thank you. Senator Pippy.

21 CHAIRMAN PIPPY: Thank you, Mr. Chairman. What
22 would prevent you on your website from having a frequently
23 asked questions list so that when you do give recommendations,
24 for example, on spigots or any type of common request? With
25 1800 a year, we must be broken down into categories. Is there

1 something that prevents you from providing that or do you
2 do that or --

3 CHIEF OPERATING OFFICER CONTI: We have it and our
4 new website is coming out in -- well, I can't say when -- a
5 couple of months because the technology keeps delaying. So
6 we're currently refreshing all of the components that will come
7 out on the new website. We did have -- if it's taken down,
8 it's just for construction issues -- but we do have frequently
9 asked questions.

10 CHAIRMAN PIPPY: For the licensees?

11 CHIEF OPERATING OFFICER CONTI: It's in our office
12 of Chief Counsel. So it's not -- you have to hunt for it a
13 little bit.

14 CHAIRMAN PIPPY: You may want to update that. The
15 second question, and I just want to make sure as Senator Logan
16 said, the reason that you provide written explanation is so
17 they would have something documented just in case a BLCE
18 Officer comes in to the establishment and asks that question.
19 Is that the purpose of the written versus the verbal? I'm
20 assuming that you were the person that they said that gave a
21 particular answer.

22 CHIEF COUNSEL & POLICY DIRECTOR TEPLITZ: Yes. I
23 assume I was the person and, ma'am, I wasn't trying to -- I was
24 just trying to be helpful. If it came off that way, I'm sorry.
25 The reason that it's in writing is because the statute says if

1 it's in writing, it acts as a defense. The reason that we send
2 it to the State Police is so they understand that we've looked
3 at it, don't bring the citation. As long as everyone -- it's
4 to be helpful.

5 CHAIRMAN PIPPY: Thank you, Mr. Chairman.

6 CHAIRMAN DONATUCCI: Thank you. Representative
7 Quigley.

8 REPRESENTATIVE QUIGLEY: Thank you, Mr. Chairman.
9 Mr. Waters, in your testimony, we've talked at the brand
10 registration and how many have come in since this incident took
11 place in March. Prior to this -- these raids taking place, was
12 brand registration an oppressing problem or an issue as far as
13 you were concerned with enforcement?

14 DIRECTOR WATERS: It was not. I believe in five
15 years we've had four issues with respect to brand registration.
16 And the resources that I have to use to do -- for my bureau
17 licensing due to the entire state with respect to regulations,
18 it was not an oppressing issue.

19 As CEO Conti has said, I have had a number of
20 initiatives on the book in our strategic plan that's been
21 presented to the Board and waiting -- not waiting, but the
22 timeline with the respect to the entire agency's strategic
23 plan. So it was something that this caused it to kind of boil
24 up and we began to work on that.

25 Resources are somewhat of an issue with hiring freezes

1 and with retirements, but we're dealing with it and I think
2 most of the representatives here and the senators here know
3 that we've lost our licensing search engine about two years now
4 and it's been a wide success. I have initiatives to move on
5 that as well.

6 As technology is available and our CEO here will be
7 happy to tell you that I'm probably one of the executive
8 directors who tries to use as much technology as we can and I'm
9 trying to get as much information to the public as we can. So
10 I look forward to discussing matters that have become before
11 this body and to work with my CEO and Board to accomplish
12 what's in the best interest of the constituents of
13 Pennsylvania.

14 REPRESENTATIVE QUIGLEY: Thank you.

15 CHAIRMAN DONATUCCI: Thank you. Representative
16 Waters.

17 REPRESENTATIVE WATERS: Thank you, Mr. Chairman.
18 I want to just thank you for being here and I've got a couple
19 of questions. One is, your requirement to register beer, is
20 that the same in all the states as it is here in Pennsylvania
21 or do all of the other states do it?

22 DIRECTOR WATERS: I think that I can answer that.
23 All other states are required by the federal to have some type
24 of brand registration. With respect to other states, I don't
25 particularly know what the requirements are.

1 REPRESENTATIVE WATERS: The requirement to
2 register the beer as you are currently doing, is that the same
3 requirement for Wine and Spirits?

4 CHIEF COUNSEL & POLICY DIRECTOR TEPLITZ:
5 Representative Waters, if I could jump in reel quick. The
6 federal requirement is, if you're going to sell a brand of beer
7 at the federal level, it's registered. The reason that we
8 register brands here is because all the beers come in through a
9 three-tier system, to a territorial agreement. So you need to
10 identify what beers are subject to one agreement.

11 Wine is done differently. It goes to the state store
12 system, so there's no need to register the because the health
13 issues that Senator Conti mentioned before, we know where the
14 wine is going because it's coming from us. So there's no
15 parallel requirement.

16 REPRESENTATIVE WATERS: But even know they do
17 change their product in the Wine and Spirits, they might add
18 another flavor or maybe change the volume or something, that
19 kind of stuff does happen underneath certain labels. But the
20 requirements that are done is not the same for beer.

21 CHIEF OPERATING OFFICER CONTI: There's no federal
22 regulation, there's no federal mandate. Our office of
23 marketing does have their own protocol for listing, which
24 includes two samples of every product and we have the labels on
25 record and we check -- we used to have a lab in the agency

1 years ago that actually tested each bottle. Decades ago, we
2 got rid of that. But there is a protocol in our office of
3 marketing that every bottle of Wine and Spirits goes through
4 something approaching the beer registration.

5 REPRESENTATIVE WATERS: And this is a follow-up on
6 an earlier testifier, Origlio. In a case of someone like him
7 or the other lady that was up testifying and they found out
8 that there was a glitch in the system that caused them to be
9 raided, is there anyway for you to make that establishment
10 whole again? The raid probably could have caused some damage
11 to their reputation. Is there anything in place to try and
12 reverse that?

13 CHIEF OPERATING OFFICER CONTI: Not to our
14 knowledge.

15 REPRESENTATIVE WATERS: Would you think it would
16 be a good idea if they are to try to make sure that -- because
17 a lot of times, Lobasso hits the press on page 1, but the
18 reverse of it never shows up on page 1, it usually shows up on
19 page 39.

20 CHIEF OPERATING OFFICER CONTI: I could answer as
21 a citizen of the Commonwealth with you that I agree with the
22 motion of the statement. As far as our laws, an agency to
23 administer the Liquor Code, I don't know if I can give you an
24 answer. Think our board would be more appropriate. Jerry, do
25 you know?

1 DIRECTOR WATERS: Well, I would actually say that,
2 Representative Waters, that the Pennsylvania State Police Beer
3 Liquor Control Enforcement has an ongoing investigation and it
4 would probably be proper to ask that question to them and not
5 the Pennsylvania Liquor Control Board.

6 REPRESENTATIVE WATER: Okay. Thank you.

7 CHAIRMAN DONATUCCI: Thank you for your testimony.

8 CHIEF OPERATING OFFICER CONTI: Thank you, Mr.
9 Chairman.

10 CHAIRMAN DONATUCCI: We're really looking forward
11 to working with you. The Pennsylvania State Police, Major
12 Lutz. Good morning. And I don't have to tell you that we're
13 way behind so --

14 MAJOR LUTZ: I'll be fast, Representative.

15 CHAIRMAN DONATUCCI: Thank you.

16 MAJOR LUTZ: Good morning, Chairman Pippy, Logan,
17 Donatucci, Taylor, and Members of Senate Law and Justice and
18 House Liquor Control Committees.

19 My name is Major John Lutz and I serve as the Director
20 of the State Police Bureau of Liquor Control Enforcement. With
21 me today is Captain Thomas Butler, Director of the Operations
22 Division of the Bureau of Liquor Control Enforcement.

23 We are here today in regards to an investigation
24 recently conducted by the Philadelphia District Enforcement
25 Office of the Bureau and the resulting seizure of beer from

1 four licensed establishments. Although this investigation is
2 not yet concluded, in my testimony today, I will provide an
3 overview of the facts surrounding this investigation. I also
4 look forward to answering your questions and to address what I
5 believe is some misinformation, which has been publicly
6 circulated over the past few weeks.

7 First, it is important to note that section 4-445 of
8 the Liquor Code states, "No brand or brands of malt or brewed
9 beverages shall be offered, sold or delivered to any trade
10 buyer within this commonwealth unless the manufacturer thereof
11 shall first submit an application in the form and manner
12 prescribed by the Board for the registration of the said brand
13 or brands of malt beverages..." This is a statutory
14 requirement found in the Liquor Code. While the responsibility
15 for registering beer rests with the manufacturer, the Liquor
16 Code makes it unlawful for a licensed establishment to offer
17 unregistered beer for sale.

18 Enforcement of the beer registration laws, while not a
19 frequent violation, is also not unheard of. In 1997, the BLCE
20 seized 207 cases of unregistered beer in the Pittsburgh area.
21 In 2007, we seized 610 cases of unregistered beer in the
22 Philadelphia Area. In 2008, we conducted a lengthy
23 investigation in the Philadelphia Area that resulted in the
24 seizure of over 4700 cases of unregistered and illegally
25 imported Korean beer, wine and liquor.

1 This investigation was initiated after the BLCE
2 received a complained which included specific, detailed
3 information regarding a number of alleged violations by a
4 liquor licensee at three different licensed establishments.
5 Those allegations included -- and I'm paraphrasing the
6 information -- No. 1, the licensee was selling a significant
7 number of beers which were not registered in Pennsylvania and
8 not available for sale anywhere else in Pennsylvania; No. 2,
9 the licensee was likely going out of state to purchase some of
10 all of those beers; No. 3, in doing so, the licensee had gained
11 a competitive edge over other licensees in the area and his
12 actions further resulted in Pennsylvania losing tax revenues.

13 In September 2009, this same licensee had been the
14 subject of another investigation by the Bureau that revealed
15 the licensee had illegally purchased beer out-of-state. As a
16 result of that investigation, in November 2009, the Licensee
17 had been given a written warning for that violation and
18 provided with instruction regarding how beer was required to be
19 purchased in order to conform with the Liquor Code. When
20 viewed in context with the prior violation history of the
21 licensee, further investigation of this complaint was clearly
22 warranted.

23 CHAIRMAN LOGAN: Mr. Lutz -- Mr. Chairman, can I
24 just further interject? Can I just ask for a clarification?
25 When you're saying, "licensee," somebody at home might be

1 thinking that you're referring to Origlio. At this point,
2 you're not referring -- when you say, "licensee," you're not
3 referring to Origlio.

4 MAJOR LUTZ: I am not.

5 CHAIRMAN LOGAN: I just wanted to make that
6 clarification. Thank you.

7 CHAIRMAN DONATUCCI: Okay. Thank you.

8 MAJOR LUTZ: This complaint was assigned to a
9 Liquor Enforcement Officer on January 4, 2010.

10 CHAIRMAN DONATUCCI: Senator Pippy.

11 CHAIRMAN PIPPY: I just want to make it very
12 clear, you're referring to the bars that were raided, the
13 establishment that was raided --

14 MAJOR LUTZ: I am, Senator.

15 CHAIRMAN PIPPY: -- for this testimony?

16 MAJOR LUTZ: I am. Obviously, this was prepared.
17 Initially, I wasn't quite sure who was testifying. So there
18 wasn't an intend to single them out individually as being a
19 problem bar or a bad bar, but that --

20 CHAIRMAN PIPPY: Right.

21 MAJOR LUTZ: -- not includes in the testimony.

22 CHAIRMAN PIPPY: I understand. Okay, thank you.

23 MAJOR LUTZ: This complaint was assigned to a
24 Liquor Enforcement Officer on January 4, 2010. On January 25,
25 2010, the Officer provided a written list of beers from one of

1 the licensed establishments to the PLCB for a determination of
2 whether the beers being offered for sale were registered. The
3 list contained 51 different brands of beer. On January 27,
4 2010, the Officer received a written response from the PLCB,
5 listing 20 of the 51 brands as unregistered. On February 12,
6 2010, the investigating Officer provided a second written list
7 containing 46 brands of beers being offered for sale at the two
8 other licensed establishments owned by the same licensee. On
9 February 17, 2010, the PLCB provided a written response to a
10 second request indicating that 19 of the advertised beers were
11 not registered.

12 On March 4, 2010, four officers from BLCE went to
13 each of the three licensed establishments to perform an
14 administrative inspection and seize any unregistered beers.
15 While reviewing the inventory at the licensed establishments,
16 the officers discovered a number of brands being sold, which
17 had not been reviewed by the Pennsylvania Liquor Control Board.
18 As a result, the investigating officer contacted the Board from
19 the licensed establishment to verify the registration status of
20 those beers. Any beers confirmed as unregistered were seized.
21 Any beers for which determination could not be made by the
22 Liquor Control Board were left behind.

23 CHAIRMAN DONATUCCI: Can I stop you right there?
24 What you're saying is, when you were doing the inspection, you
25 called the Board and the Board said that they weren't

1 registered?

2 MAJOR LUTZ: That's correct, Representative.

3 CHAIRMAN DONATUCCI: And they were registered?

4 MAJOR LUTZ: Afterwards, we discovered that seven
5 of those brands were registered, but that was already after we
6 taken them -- seized them and put them in our property.

7 CHAIRMAN DONATUCCI: Okay. Thank you.

8 MAJOR LUTZ: As a result, three-quarter kegs,
9 one-sixth keg, and 317 bottles of beer were seized. Based upon
10 records obtained from the three bars, on March 8th, officers
11 visited an importing distributor where they seized 14 cases of
12 additional unregistered beer.

13 Oh that same day, the investigating officer was
14 contacted by the Board, who advised of a potential problem
15 regarding Monk's Café Ale, which had initially been determined
16 to be unregistered. The investigation officer advised he would
17 provide a complete written list of seized beers to the Board
18 and at the same time requested court attestations for each
19 unregistered beer.

20 Shortly after receiving those attestations, the
21 investigating officer was re-contacted by the Board and advised
22 of the possibility of some additional problems regarding the
23 registration information. The Board performed another review,
24 at which time, the Bureau learned that five brands of beer,
25 amounting to 72 bottles, previously listed as unregistered

1 were, in fact, registered. As a result, the licensee was
2 contacted, and advised the beer would be returned. The five
3 brands were returned on March 13th.

4 On Friday, March 12th, representatives from the Bureau
5 of Liquor Control Enforcement met with the Liquor Control
6 Board, during which the Liquor Control Board advised of the
7 potential of additional problems regarding the registration
8 information. In an effort to eliminate any additional errors,
9 the Bureau of Liquor Control Enforcement took a digital photo
10 of each beer being held, which was provided to the PLCB. That
11 process resulted in two additional brands totaling 44 bottles,
12 which were determined to be registered, and which were returned
13 on March 15th.

14 On April 1st, the Bureau received another set of
15 attestations which reflected updated and different information
16 from those previously received, dated March 12, 2010.

17 The investigation remains ongoing. However, I can
18 assure members of these committees that, although the Bureau
19 holds licensees strictly accountable to comply with the law, we
20 are committed to a fair, professional and impartial enforcement
21 program. All the facts will be thoroughly reviewed in
22 determining what actions, if any, will be taken upon conclusion
23 of this investigation.

24 Before closing, I would like to take a moment to speak
25 on behalf of the officers involved in this investigation. The

1 officers treated this investigation in the same manner as they
2 do with each investigation. Throughout this investigation, the
3 officers acted professionally, competently, and in good faith.
4 They also carried out their duties to enforce the laws as they
5 are sworn to do.

6 That concludes my testimony and I will now address any
7 questions you may have.

8 CHAIRMAN DONATUCCI: Thank you. Major, I've been
9 Chairman of this committee for about 14 years now and one thing
10 that I've got to say for the record is that the enforcement was
11 not only cooperative with my office or anybody in our caucus
12 when they are in a problem and we've done only on a first class
13 manner and done correctly.

14 So that being said, I just want go to the point of when
15 the inspection occurred. Everybody on this committee and
16 probably in the room read the paper, heard the reports of it on
17 the news. Exactly how did the agents conduct themselves?
18 There were talks of guns and so on and so forth. Basically,
19 how is it done? Let the committee -- let us know, when they
20 talk guns, that is very scarey.

21 MAJOR LUTZ: First of, all they are law
22 enforcement officers, so they are required to be armed. That's
23 part of their responsibility and that's part of their training.
24 So when they're out working either undercover or when they're
25 not undercover, they're going to be that one in capacity. And

1 their uniform includes a weapon and they're trained in the use
2 of that weapon.

3 When they arrived at those three establishments, four
4 officers went to each establishment. They were armed as they
5 typically would be. They were wearing, what we call, detail
6 jackets. It says State Police Liquor Enforcement on them,
7 which clearly advertised who they are and making them a
8 potential target.

9 With all do respect to these three bars, there are a
10 lot of bars that we go into that may not have that particular
11 clientele and there was danger. So our standard procedure is
12 for those officers to be armed. Typically, when we're working
13 undercover, we don't put multiple officers in the bar at the
14 same time, but when we come out from cover and we are going in,
15 it's not unusual, once again, in an urban to send three or four
16 officers in together. That guarantees, not only the public
17 safety, but there's an officer safety issue there with the
18 volatility of alcohol being served and a large group of people
19 in these bars.

20 I think most of you have seen the articles and
21 certainly heard the stories about the bars that we went to and
22 the amount of guns that we pulled out of those bars. As I
23 often say, we are probably not the only ones in those bars that
24 are armed at any given time.

25 There was a comment that was made earlier that I would

1 like to address. It was a comment about, God forbid, if
2 somebody ran away and these officers were armed. I believe it
3 is unfair to our officers who are trained in the use of force
4 and the use of deadly force when it's appropriate.

5 CHAIRMAN DONATUCCI: The other question that I
6 have is basically the talk about complaints. There was a
7 comment that one of the testifiers made and that was when
8 someone makes a complaint, they should give their name. I
9 don't know if you have the number on this or you can give me an
10 idea. Out of all the complaints that you get, how many would
11 give you their name?

12 To be honest with you, I know, as a matter of fact,
13 that in Philadelphia I have a lot of people who will complain
14 if they see someone breaking into the car and when they call
15 911, their name comes up and they won't call no more. And
16 basically, if we get to a point that you won't take an
17 anonymous complaint, how many -- will it work? Will people
18 make the complaint?

19 MAJOR LUTZ: Obviously, a significant percentage
20 of the complaints we received are anonymous and I don't think
21 there is a professional law enforcement organization in this
22 country that doesn't investigate anonymous complaints.

23 You're often going to find people who don't want their
24 name known for whatever reason, no association with the
25 investigation, prior employees, those kind of things.

1 Another issue that I would like to address. We do
2 occasionally get individuals who make multiple anonymous
3 complaints and I think it's been someone who's insinuated that
4 we'll continue to go out and investigate the same complaint
5 repeatedly when there's no violation, and that's simply not
6 true.

7 I'm personally familiar with a noise complaint that we
8 received in Pennsylvania in a certain part of this state. We
9 went out and investigated it. There was no violation. Whoever
10 the complainer was continued to make complaints via either our
11 hotline or our website, I don't recall how they were coming in,
12 and we obviously indicated that we had conducted an
13 investigation and the violation didn't exist.

14 CHAIRMAN DONATUCCI: Thank you. Chairman Taylor.

15 CHAIRMAN TAYLOR: Thank you, Mr. Chairman. Major,
16 I would agree with what Chairman Donatucci said about the
17 outstanding good work in Philadelphia and throughout the
18 Commonwealth on a lot of enforcement issues. I would say in
19 this one, there's no other way to say it, but you and your unit
20 were wrong. And I'm not surprised that you come in and say how
21 correct this is.

22 Representative Payne talked about some of the buzzwords
23 today, one being compliance and enforcement and he added
24 education. I would just ask that we add a fourth component to
25 what we do around here, and that is common sense.

1 The particular place that you went into with four armed
2 agents with jackets on that said, Liquor Enforcement, is about
3 15 by 57 and I would hope that your agents do understand the
4 difference between a major nuisance bar and a law-abiding beer
5 business in the community. They knew when they were going in
6 there that they did not four armed agents to go in there. A
7 teenager with a clipboard could have done what they needed to
8 do. And I'm concerned for a few reasons.

9 First of all, I would be worried that the Liquor
10 Enforcement Office was manipulated here to go in and hassle
11 somebody, hassle a good, law-abiding business, actually, two of
12 them. They were manipulated to hassle them. I think we all up
13 here would love to get the same ability to manipulate when we
14 have a nuisance bar that we do -- that we don't have to comply.

15 Secondly, again, it's just an overuse of force for this
16 type of thing. And I'm worried that the Agency is looking for
17 the low hanging fruits. You use that many agents to do this
18 kind of thing on this particular type of violation is wrong.
19 And I think that at least all of the us from Philadelphia have
20 given you plenty of stuff to do.

21 If you have four agents to go into a bar three times,
22 then there is something wrong with that management system at
23 that agency. And we could all talk privately about places
24 where we would love for you to go. So to come in and kind of
25 dig in and say everything was completely legitimate and we

1 right here, you weren't.

2 MAJOR LUTZ: Thank you, Representative. With all
3 do respect, I continue to disagree with that. First of all,
4 the majority of the beers were not registered. I don't write
5 --

6 CHAIRMAN TAYLOR: And I say so what.

7 MAJOR LUTZ: I don't write the law, we enforce the
8 law.

9 CHAIRMAN TAYLOR: So what. Use a clerk to do
10 that.

11 MAJOR LUTZ: Our clerks are not authorized to take
12 enforcement action. There was one officer who was assigned
13 this investigation up to the night that we went to those bars.
14 Four officers were used, not just for the safety component, but
15 also for the fact that, I realize these bars -- and I don't
16 know them personally, but maybe they are small. But if you're
17 bringing five or six or eight or ten kegs out, you're probably
18 going to need more than one officer to bring them out. So they
19 were also brought in there to help with the investigation.
20 That's why it was done.

21 CHAIRMAN TAYLOR: It further makes my point that
22 they would --

23 CHAIRMAN DONATUCCI: Thank you. Chairman Pippy.

24 CHAIRMAN PIPPY: A couple of questions. I
25 understand the safety aspect. My question is, why would we, if

1 we acknowledge that there are unregistered beers and that there
2 is an issue as far as the inability to follow the statute, why
3 would we first seize them? I'm trying to understand, why seize
4 first and then confirm? Why would we go in and document what
5 we believe is unregistered? Take photos of it and then come
6 back and send it to our office, as mentioned earlier, and then
7 seize. We've already identified how much is there, what's
8 wrong. Is there something that I'm missing? I'm trying to
9 understand the seizure aspect.

10 MAJOR LUTZ: I understand. That's a relevant
11 question. The bottom line is, because it's not registered,
12 it's contraband. I think that one thing that hasn't been said
13 here is, had we received a complaint of unregistered beer --
14 people had consumed that beer and become ill -- and we failed
15 to do an investigation, we might be having hearings today to
16 find out why we failed to act on unregistered beer being sold
17 in our bars.

18 CHAIRMAN PIPPY: And I understand that, and that,
19 I think, is a legitimate argument. My question -- taken here
20 was Monk's Ale, and that is one that you had to return. That
21 is a brand that's relatively familiar in the region. But there
22 isn't a question as to the safety or was mentioned earlier by
23 the CEO that there could be some health risks. Are you
24 required to seize first and confirm or is that just the
25 decision based on experience?

1 That, I think, out of all of them -- I understand
2 officers being armed and I expect you to be armed. I expect
3 you to be fully protected because we don't want that one in a
4 million chance. My question, though, stems on the why do we
5 have to seize? Why couldn't we just call the independent
6 distributor and say, okay, we've hit these bars and they said
7 that they bought it from you. Give us the information, if you
8 don't, we will come in. I'm just -- where is that enforcement,
9 versus confirmation, versus --

10 MAJOR LUTZ: I think, historically, if you look at
11 the way these investigations were handled in the past, the beer
12 was always seized. Hindsight being 20/20, now that we know
13 that the registration process was clearly not what it should
14 be. I think we could all look back and say, it would have been
15 easier if the beers were all somehow set aside. And basically
16 that's what we did at Origlio's.

17 The one beer that we took from Origlio's, which was
18 supplication, was not registered, but there was some additional
19 beers there that were questionable and we said, just set these
20 aside and don't sell them. But I think it confused the
21 officers. They just didn't know that going in and they
22 believed that they were taking the unregistered.

23 CHAIRMAN PIPPY: And the purpose of this hearing
24 is to find out the information and the reason for the actions
25 and hopefully make -- look at the changes that we have to make.

1 So I appreciate it. Thank you, Mr. Chairman.

2 CHAIRMAN DONATUCCI: Thank you. Chairman Logan.

3 CHAIRMAN LOGAN: Thank you, Mr. Chairman. Just to
4 help me on the allegations that were made, and you listed them
5 on page 4, were those proven to be true and can you give me the
6 details in terms of No. 1, you talk about beer that were not
7 registered. How many brands were not registered?

8 MAJOR LUTZ: 201 bottles. I do not have the
9 brands, but 201 of the 317 were not registered.

10 CHAIRMAN LOGAN: Bottles? So it could be 2
11 brands, it could be 50 brands.

12 MAJOR LUTZ: And I can get you the number of
13 brands if you like. I just don't have that information readily
14 available. Also, the three kegs of Monk's Ale, which have been
15 discussed, kind of present a different issue. You know, the
16 Board brought those up also. It appears that they kind of have
17 a separate problem, which is, they were just mislabeled, and
18 that's more of a federal violation, which has been turned over
19 to ATF. So that's a little different from the registration.

20 CHAIRMAN LOGAN: And was the licensee going out of
21 state, No. 2?

22 MAJOR LUTZ: Actually, in this investigation,
23 there is no indication that the licensee was going out of
24 state. As the licensee testified, when we got there, we
25 determined that the beer was being purchased through, I think,

1 it was three different employing distributors, back in
2 September, obviously. We have previous instances where they
3 have gone out of state and I think that's what landed some
4 additional credibility of the complaint when we came in.

5 CHAIRMAN PIPPY: So you're saying that this
6 organization was already investigated? Under your testimony,
7 you said that you already gave them a warning about is this
8 before.

9 MAJOR LUTZ: Yes, sir.

10 CHAIRMAN PIPPY: And that they were actually going
11 out of state to buy beer?

12 MAJOR LUTZ: They have gone out of state to
13 purchase beer in Baltimore and we received a complaint on that
14 and we've conducted an investigation and they received a
15 warning for it. They weren't cited. They were warned and told
16 that you have to purchase through a three-tier system in
17 Pennsylvania.

18 CHAIRMAN PIPPY: Thank you.

19 CHAIRMAN LOGAN: Has there ever been an instance
20 where you get a tip or complaint or whatever of an unregistered
21 brand that you do the investigation in some other manner, a
22 phone call, or do you always send in agents to do the
23 investigation in the manner that this one was?

24 MAJOR LUTZ: For the most part, phone
25 investigations are not considered to be the most legitimate

1 investigations. Where possible, we intend to assign it to an
2 officer to do the legwork. Some things can be done by phone,
3 but usually not everything.

4 CHAIRMAN LOGAN: And when we talk about the agents
5 were armed, were there firearms drawn? I've heard the whole
6 gambit, so I would just like you to expound on that a little
7 bit. I don't know what the truth is. I've heard they went in,
8 in a cowboy fashion and I've heard differently. So no offense
9 to cowboys.

10 MAJOR LUTZ: Actually, their firearms were never
11 drawn, there was no force used. I've heard the term, an
12 excessive use of force. The only force that was used was on
13 lifting the bottles. There was no force used and I think the
14 licensee themselves have testified that the officer were
15 professional and that they engaged in conversation with some of
16 their employees. So I think that that's one of the
17 misconceptions that's been out there. There were no axes,
18 there was nothing that was broken up, it was done more as an
19 audit than it was anything else.

20 CHAIRMAN LOGAN: And when you did the
21 investigation in September of '09 of this licensee, was that
22 information shared with the LCB? I'm just looking for a
23 mechanism that the two agencies get together and help the
24 licensee. Maybe they didn't know that they were doing it and
25 they can't use that as a defense, but was your information,

1 since the LCB shares information with you, was your information
2 shared with the LCB so maybe somebody from the LCB could have
3 personally reached out to the licensee to say, this is the
4 issue?

5 MAJOR LUTZ: Senator, because it's a written
6 warning rather than an actual citation, I don't believe that
7 the Board would have been aware of it.

8 The licensee did bring up a point. One of the things
9 that we do and leading to the fact that in conversations with
10 our personnel, we do try to educate licensees as to what's
11 permitted and not permitted.

12 In particular, the licensee in this case was committing
13 -- she called after this investigation broke and there was a
14 discussion and it became apparent that there was a violation
15 with regards to how she was conducting happy hour in her bar.
16 The Sargent advised her what to do to come into compliance and
17 told her that she would not be cited as a result of it. It was
18 a question that she had and she was not clear on it.

19 We try to send a message to our officers that when any
20 of our licensees have questions, obviously try and answer the
21 question. If it gets beyond of what an officer can provide
22 then we'll direct it to the Board for what we refer to as a 211
23 or an advisory.

24 CHAIRMAN LOGAN: Thank you, Major. Thank you,
25 Mr. Chairman.

1 CHAIRMAN DONATUCCI: Thank you. Senator Farnese.

2 SENATOR FARNESE: Thank you, Mr. Chairman. Major
3 Lutz, I understand your testimony and I understand that when
4 your officers go into it the situation, they really don't know
5 what they're going to find and I understand that you have to
6 have your procedures and I understand Mr. Origlio's testimony
7 and I understand that there's two sides to every story. And I
8 also do understand my colleague's frustration. I've shared his
9 frustration too because he's worked with establishments.

10 Maybe what we're looking for, as I read the testimony,
11 I think, of Mr. Waters, it seems that in this particular
12 investigation -- it says, on January 25th, an Officer e-mailed
13 an employee within the Board's Bureau of Licensing, asking for
14 assistance. Maybe, at that point, the individual with the
15 Bureau of Licensing could have given that Officer the
16 information, at least with regard to these two establishments.

17 Look, you're dealing with smaller good establishments.
18 They've never had a problem before, they're law-abiding. Maybe
19 giving your officers an idea of what they're walking into,
20 maybe that's where we -- maybe the problem really lies with the
21 Board there, with that person on the other end not giving the
22 information or not being in a position to give your officers
23 the information that they need to arm themselves. And same
24 issue, let them know that they're going into an establishment
25 that has been raided numerous times, that they have issues of

1 gun violence, that they have issues of homicides, drugs.
2 Again, giving your folks as much information as they have.

3 I think that I sort of follow with Representative
4 Taylor. There seems to be a communication problem here when
5 you folks walk into a bar that's never had a problem before,
6 four officers, armed to the teeth. Maybe there's somewhere
7 where we can share information.

8 There's a million ways to do your job and I'm not
9 saying that you're not doing it, but maybe the problem lies,
10 not with your officers, but with the Board in their ability for
11 competency to give the information to your officers. That's
12 just a -- and I see here by reading Mr. Waters' testimony and
13 hearing the response.

14 Again, I understand what you guys are doing and I think
15 you're doing a fantastic job. And second of all, my second
16 point is this: You commented that on numerous occasions, your
17 officers have to walk into bars that have a history of people
18 with armed to the teeth with gun violence and homicides.

19 My position is, you shouldn't have to be doing that
20 over and over again. And my problem with that is, what has
21 been noticed here is these nuisance bars. Because, on many
22 occasions, we are sending your officers into harm's way in
23 situations where we know there's problems. We know that there
24 have been one or two homicides already and your officers are
25 going in again on a bar that already should be closed and

1 you're going in again during the appeal process.

2 I'm going to ask at least a comment on that because I
3 know that you do not want to put your officers in harm's way
4 and we do not want to either.

5 MAJOR LUTZ: Thank you, Senator. We're as
6 frustrated about the nuisance bar issue as everyone else
7 including -- I mean, there's a majority of the big issues that
8 come to my attention.

9 The process is lengthy and, unfortunately, I think it's
10 too lengthy because, as you know, in order to build a case up
11 in a nuisance bar, we have to show a history of violations,
12 well, within our Bureau, a history of problems within the
13 police departments locally and then a history of complaints or
14 disruption within the local community. And then the action
15 much be brought within Common Pleas court usually by the
16 District Attorney.

17 The process is very lengthy and as you noted, in the
18 mean time, these bars stay open.

19 SENATOR FARNESE: And then there's the possibility
20 where you have to investigate again, another complaint, where
21 we're sending you folks in again to a situation where it's
22 hostile.

23 MAJOR LUTZ: We don't have the authority to close
24 the bar down on the spot. I mean, in Philadelphia, we work
25 close with licensing in an inspection and they actually do have

1 the greater authority. If they see a code violation, they can
2 close the bar down and we often use that. One of the details
3 we're doing now is, Operation Pressure Point, where we work
4 hand-in-hand with a number of agencies down here. But the
5 process is very frustrating because the results are slow to
6 come about.

7 REPRESENTATIVE FARNESE: And I commend you on the
8 Pressure Point, as well as the District Attorney's office.
9 You're doing excellent work.

10 MAJOR LUTZ: Thank you, sir.

11 CHAIRMAN DONATUCCI: Just a comment on the
12 nuisance bar. As you know, we made a long road and, believe
13 me, the nuisance bars are really, really cut down. But a lot
14 of the problem with the nuisance bars, real quickly, is the
15 city problems, enforcement on that and we know, we've had
16 hearings on this.

17 In the last, I want to say four or five years, the
18 problem is still there, but it's a lot better. And I want to
19 commend all the work that you have put into this and the City
20 of Philadelphia. They basically got on the Board and, like you
21 said, they're doing what they have to do. Nuisance bars, we
22 pass legislation and it was kicked out of the court. But the
23 message was sent and they really cut down and, like I said, I
24 want to commend you on that.

25 On that note, Representative Waters is our last.

1 REPRESENTATIVE WATERS: Thank you, Mr. Chairman.
2 And thank you to the officers who are here. I want to also
3 thank you for the work that you have done over the years. I
4 know it's not easy to try to eliminate all of the complaints
5 that you get about nuisance establishments and, in particular,
6 because of the large amount of licenses that exist in the
7 region of Philadelphia, I'm sure you get many complaints from
8 that area.

9 As Chairman Donatucci just spoke on the issue of the
10 nuisance establishments, we have had a history of problems in
11 Philadelphia with the, so called, "stop and goes" and other
12 nuisance establishments there.

13 To you, have your complaints about nuisance
14 establishments changed at all, coming of this city to first
15 class? Do you have any information about that?

16 MAJOR LUTZ: Representative, I think it's fair to
17 say that the complaints on what we referred to as the "stop and
18 goes" have dropped a bit over the past couple of years.
19 However, the complaints on the nuisance bars -- and I don't
20 have the exact statistic in front of me -- but I suspect there
21 is as many of those, if not, more and usually it's because we
22 do programs like Operation Pressure Point, where we are going
23 into those neighborhoods and we are going into those bars on a
24 regular basis. Once we identify a nuisance bars, we put it on,
25 what we call, the nuisance bars list where we try to build the

1 case, which we need to take to the District Attorney in order
2 to close up work.

3 REPRESENTATIVE WATERS: One of the concerns that
4 some of the restaurants had was that some places that are not
5 bad operators will be caught up in what we are trying to
6 accomplish. We were targeted, but they were concerned that
7 some officers maybe will take a lighter challenge than a more
8 difficult one and I don't know if that's what we're seeing here
9 well, obviously, there some of the complaints about the -- I'm
10 not that familiar with the establishments that were here today,
11 but it appears that they are not actually bad operators and
12 they have been challenged. A couple of the complaints that
13 I've heard, and a couple of us have been working on this -- at
14 the end of the day, it kind of reminds me of what I've heard,
15 what the possibilities were that were going to come out of
16 that.

17 Earlier I asked a question about what is the recourse
18 -- what is any responsibility at all that they could
19 attributed? I thought that the Liquor Control Board maybe
20 would have some obligation there, but now, they disclose to you
21 when a person is wrongfully attacked or somebody makes
22 complaints about his establishment and you go in and find out
23 that there was no real justification for it.

24 Do you feel that there's something that should be done,
25 maybe up until a public apology to say that this establishment

1 was found to be a legitimate, outstanding citizen business
2 corporate person in our community and unfortunately, there was
3 a raid made here and we want to make sure that the public
4 understands. What was done was maybe unwarranted.

5 MAJOR LUTZ: I think with regards to -- you asked
6 a question with regards to bars being classified in a certain
7 category. I think one of the things that we've tried to be
8 clear about in this case that no one has accused Origlio's or a
9 licensee of whoever testified today as being in that category
10 of bad bars.

11 The Liquor Code covers a wide span of requirements that
12 they have to comply with. And some of them are more of a
13 compliance issue and a regulatory issue, including some of
14 them, such as service to minors or service to visibly
15 intoxicated persons, can put them in a category of that bar and
16 I would hope that we hadn't -- it didn't appear that those
17 licensees today would be placed in that category in any way.

18 REPRESENTATIVE WATERS: Thank you. I just want
19 you to -- I don't know if you had a chance to look at this, but
20 there's a House Bill 1547. I want to ask you to look at it and
21 give us your opinion -- of course, not now -- but come back and
22 let the chairman of the Liquor Control Board, Donatucci or
23 Taylor, know about how you feel about House Bill 1547 because
24 what you mentioned earlier is included in this bill. I would
25 like to get your feelings on it to help you with your efforts

1 to be more effective in closing down nuisance establishments.
2 Thank you.

3 MAJOR LUTZ: Thank you.

4 CHAIRMAN DONATUCCI: Thank you. Major Lutz, I
5 know in the future you'll be happy to come back. On that note,
6 we appreciate your testimony and we have one more person to
7 testify and that is Artie Tafoya, Director of Operations. I
8 know I'm asking you a big favor to be as short as possible.

9 PRESIDENT TAFOYA: You got it.

10 CHAIRMAN DONATUCCI: Thank you.

11 PRESIDENT TAFOYA: I think I have the shortest
12 testimony today and I'll try to keep it brief.

13 Representative Donatucci and Senator Pippy and all of
14 the Committee Members, my name is Artie Tafoya and I represent
15 many of the small brewers in this fine state. I would like to
16 thank you for the opportunity to provide testimony concerning
17 brand registration and the recent Philadelphia Beer Raids.

18 From our perspective, the Philly Beer Raids were in
19 part due to the fact that many beer consumers in this state
20 want innovation and brand diversity. Leigh and Brendan were
21 trying to fill the never-ending search by many of our customers
22 to find that next great beer. This has led to a state brand
23 registration system that has become confusing and somewhat
24 cumbersome.

25 With the being said, we believe the State has every

1 right to know what licensed or restricted products are being
2 sold within its borders. We also understand that requiring
3 registration of all brands is perfectly reasonable, especially
4 if the beer requires tracking through the three-tier system.
5 The reason for brand registration in Pennsylvania must be
6 clearly defined in order to creat a system that is easier, more
7 fair, and less troublesome.

8 In terms of ease, we would like to suggest online
9 registration -- that's registered through the actual brands
10 that were registered and being able to do that online would be
11 very beneficial to us -- with clear and concise representation
12 of the brewery and brand being registered.

13 For example, if the brewery is Appalachian Brewing
14 Company and the beer is Hoppy Trail IPA, the designation to
15 accommodate current regulations by the PLCB and the BLCE should
16 read: Title: Manufacturer/Franchise; Brand Name -- and I will
17 say that the manufacturer sometimes is a corporate name with
18 DBA or some sort of confusing style of title that may not be
19 reflective of the actual beer company. So that's something
20 that I believe needs to be addressed. The brand name, the
21 state, the country -- and the state is important because that
22 -- these are things that are on the label for you to be able to
23 determine what the right item is -- and there's a DBC number,
24 which, I guess, is the brand code, I believe.

25 Currently, many brand names and brewery names are

1 combined on the list, making it difficult to discern if it is a
2 brand, brewery, or both.

3 The PLCB's front page should have a quick link to
4 registered brands. The online Registered Malt or Brewed
5 Beverage Brands page should have search element by
6 manufacturer, state, country of origin, or brand name. Also, a
7 separate page for On-Premise Only beers -- something that
8 hasn't been mentioned here -- would alleviate confusion on the
9 list for both retailers and BLCE officers. The OPO list, for
10 your information, is an On-Premise Only. That's a beer that we
11 might to produce and sell in pubs, but would never go outside
12 onto the outside market. Lastly, a listing of currently
13 registered brands in PLCB's Wine and Spirits & Beer Quarterly
14 Magazine would allow those without internet access to have
15 information on registered brands. That is a key element that
16 goes out to all licensees.

17 In terms of fairness, we pay the same registration fee
18 if we sell 4.5 barrels of a specialty beer or if we are mega
19 brewery and we sell 500,000 barrels per year. Let's say we
20 make two 4.5 barrel batches at our group pub in Camp Hill.
21 It's a \$75 fee, which makes up \$8.33 in the cost of that beer
22 per barrel. In comparison to a large brewery, that would make
23 up 1.5 thousands of a cent in cost per barrels sold. One of
24 our partner breweries registers 20-30 brands per location.
25 They have 60-70 brands registered, which produce a total of

1 5,000. Compared to a large brewery, which produces millions of
2 barrels per year, it may only have as many as 5-10 beers that
3 are registered, and that's less than \$1,000.

4 We are not implying that an incredibly higher fee would
5 apply to mega breweries, but some sort of sliding scale should
6 take into account the small batches craft brewers produce.
7 Most small batch products are served on-premise or
8 inter-company only. And to clarify that, that might be at one
9 of our brew pubs that we had. And they only ever produce in
10 batches of 5-100 barrels.

11 One possible solution would be to have a sliding scale.
12 1 million barrels or above would be a \$250 registration fee.
13 100,000 to 999,999 would be \$150 and so on as you can see if
14 you're producing 100 barrels of a batch of beer, maybe it would
15 just be registered and not necessarily go through a big
16 process. One of the reasons for that is because it tends to
17 diminish what we try to do and it actually keeps down our
18 creativity. If we think we're only going to do a small batch,
19 we may not produce it because of the fee that we would have to
20 pay to do it. And that doesn't help our customers at all. We
21 believe this formula to be Granholm compliant.

22 A few other issues that were brought up -- and I'll
23 skip forward a little bit -- basement age beers have become
24 more prevalent now and it was mentioned earlier. Sometimes
25 these beers are aged two, three, four, months and that's

1 becoming actually more popular with some breweries that are
2 producing these very large, very complexed beers. That would
3 be somewhere where we would have to be able to determine if
4 it's a 4-year-old beer, do I have to keep registering it,
5 especially if you're an out-of-state brewery and let's say you
6 don't even sell beer in the state any longer, that beer
7 wouldn't be registered when an Enforcement Officer came into
8 your bar. That beer wouldn't be registered, definitely.

9 In comparison -- and this is from my source, please
10 tell me if I'm wrong here -- the PLCB "registers" wines to be
11 sold by state stores for a onetime listing fee of \$150. The
12 change of vintage is by notification only, no fee if you go
13 from a 2003 to a 2004 or whatever.

14 Also what needs to be determined is: When is a beer a
15 different beer? Many small brewers produce beers that started
16 out as one beer and ends up another beer after an ingredient is
17 added. Take, for example, Susquehanna Stout. Once a year we
18 add espresso to the Susquehanna Stout -- which we do have to go
19 through the verification process, through the TTB -- they tell
20 us that we need to call it, "Susquehanna Stout with espresso
21 added." Now, does that mean that that Susquehanna Stout on the
22 keg label or whatever is a different beer than a beer that may
23 be Susquehanna Stout sitting next to it if a bar tends to be
24 selling both? I think that's something that just needs to be
25 determined.

1 In conclusion, many small breweries are becoming a part
2 of Pennsylvania's culture. We have many great breweries
3 producing great craft beer. The diversity of what we produced
4 has placed Pennsylvania in the forefront of beers produced
5 throughout the world. Please consider our industry and our
6 suggested improvements when establishing registration
7 guidelines and controls over those of us producing and selling
8 malt beverages.

9 I'll take any questions that you may have.

10 CHAIRMAN DONATUCCI: Thank you. Basically, your
11 testimony was very helpful and we hope to be in touch with you
12 for any questions that we may have when we put this altogether
13 and resolve the problem. Talking to Chairman Pippy and
14 Chairman Taylor and Senator Logan, we are going to be doing
15 something about these by us and we're going to try and correct
16 it. Sometimes when we do stuff, it doesn't always work out
17 that way, but we will try and we will get back to you. Thank
18 you for your testimony.

19 Does any of the chairs have a comment that they would
20 like to make.

21 CHAIRMAN PIPPY: I just want to thank Chairman
22 Donatucci and the Members of the House. It's always a pleasure
23 working with them. As mentioned, we appreciate the details and
24 we'll be following up with you as we are working together to
25 address a bunch of these issues.

1 PRESIDENT TAFOYA: Thank you.

2 CHAIRMAN DONATUCCI: Thank you, Chairman Pippy.
3 Senator Farnese.

4 SENATOR FARNESE: I just want to thank Chairman
5 Donatucci, Chairman Pippy and Chairman Logan for allowing me to
6 sit on the committee today. Thank you on behalf of my
7 constituents in Philadelphia, these issues are very important
8 to us and we sincerely appreciate the opportunity that you've
9 given me to participate today and sit in on this very important
10 discussion. Thank you very much. Thank you on behalf of the
11 constituents and the first district.

12 CHAIRMAN DONATUCCI: On that note, hearing
13 adjourned.

14 (The hearing concluded at 12:40 p.m.)
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1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me on
3 the within proceedings and that this is a correct transcript of
4 the same.

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9 Kelsey J. Dugo
 Notary Public
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