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November 16, 2015

Dear Chairmen Godshall and Daley:

As per Dick Gmerek's conversation with Chairman Daley, attached you will find the PA Beer Alliance's written testimony on HB 1620 that we would like to submit to the record of the public hearing conducted by the House Consumer Affairs Committee on October 21, 2015. I am aware that the Brewers of Pennsylvania submitted similar testimony so I felt it necessary to share our position from the family-owned wholesale beer distributors of Pennsylvania.

Again, I want to thank you for allowing us the opportunity to submit this testimony for the record and ask that you contact us with any further questions pertaining to beer franchise laws and the Liquor Code.

Sincerely,

Jay Wiederhold, President  
PA Beer Alliance

*11-23-15 cc: Amanda & Stephen & H. Archives*

*"Family Businesses Distributing America's Beverage"*



**Testimony Submitted by Jay Wiederhold, President, Pennsylvania Beer Alliance**

**Representing the Family-Owned Wholesale Beer Distributors of Pennsylvania**

Chairman Godshall, Chairman Daley, and members of the committee, thank you for the opportunity to submit testimony to the record of the public hearing conducted by the House Consumer Affairs Committee on October 21, 2015. I represent the Pennsylvania Beer Alliance, the trade group representing the family-owned wholesale beer distributors of Pennsylvania.

In Pennsylvania the wholesale beer distributors are the middle tier of the 3-tier system of alcohol regulation. The wholesale beer distributors are independent, family-owned businesses, often multi-generational, and are the backbone of the distribution system. They build beer brands: They put the “feet on the street” selling beer in bars and restaurants, running on-premise promotions, and convincing licensees to buy a few cases of the newest craft beer or put it on draft. They also employ the people who make promotional signs and deliver the freshest product in a safe, efficient way.

Since the Pennsylvania Legislature first enacted a liquor code, the distribution system has evolved to meet changing market and regulatory needs. Pennsylvania’s Liquor Code legal guidance is the result of decades of opinions issued by the Supreme Court of Pennsylvania and all the lower courts, attorney general opinions, decisions of administrative law judges, and binding legal interpretations issued by the LCB Office of Chief Counsel. This established jurisprudence gives predictability and advance notice of what is expected of the businesses operating under it.

This established body of law – legislative, judicial, and administrative – is based upon certain policy concerns unique to alcohol. Alcohol is not just another product to be regulated like breakfast cereal or hamburgers. It is obviously a product presenting significant risk if not properly used or if used by those of insufficient age. The policy and regulatory issues at the heart of the Liquor Code make alcohol laws about much more than business affairs.

In light of this long established body of law and predictability, we suggest that any effort to regulate alcohol in another code of Pennsylvania’s laws makes no sense. Such a situation would result in great confusion and ultimately re-litigation of all the settled issues to determine the correct result.

We recognize that the Brewers of Pennsylvania (BOP) is advocating that beer distribution

*“Family Businesses Distributing America’s Beverage”*

agreements be covered by the regulatory scheme proposed in HB 1620. The BOP, representing 93 of the 256 breweries licensed in Pennsylvania as of October, 2015 takes exception to the principle of honoring the contracts they signed if they no longer want to adhere to them. Contrary to the keystone of the BOP's position, Pennsylvania brewers DO NOT have to use a wholesale distributor to get their products to market. The Liquor Code treats in-state brewers more favorably than out-of-state brewers, and permits in-state brewers to self-distribute their products. If a Pennsylvania brewer has entered into a contract that gives contract rights to a wholesale distributor, it has been done because it was in the best interest of the Pennsylvania brewer to do so. By giving a contract to a wholesale distributor that can be broken for "good cause" (defined in the Liquor Code), the wholesale distributor has become a partner with the brewer and has an incentive to invest in the brand. The wholesale distributors are the brand builders who take an unknown product and, by virtue of marketing and promotion, turn the product into a household name with greatly increased market value. Yes, the brewer's product must be a quality product correctly positioned for the market, but without the "brand builder" selling it to the world, only the brewer's family and friends will know about it.

The results of the Pennsylvania beer distribution system are striking. Pennsylvania is recognized as one of the top five craft beer states in the United States. The selection is arguably the best in the country and prices are very competitive. The benefits of the Pennsylvania system can be most strikingly seen when you go to a Wegman's or other beer store and compare the variety and selection with the variety and selection seen in the soda aisle of the same store. The contrast could not be more striking.

For these reasons, the Pennsylvania Beer Alliance requests that HB 1620 be amended to exclude any business transactions governed by the Pennsylvania Liquor Code.

Thank you for the opportunity to be heard on this issue. We stand ready to assist you on this. Please contact me if you have any questions.

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