

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

LIQUOR CONTROL COMMITTEE
PUBLIC HEARING

SPOONWOOD BREWING COMPANY
5981 BAPTIST ROAD
PITTSBURGH, PENNSYLVANIA

TUESDAY, APRIL 23, 2019
2:00 P.M.

BEFORE:

HONORABLE JEFF PYLE, MAJORITY CHAIRMAN
HONORABLE DANIEL DEASY, MINORITY CHAIRMAN

MEMBERS PRESENT:

HONORABLE VALERIE GAYDOS
HONORABLE BARRY JOZWIAK
HONORABLE JOSHUA KAIL
HONORABLE NATALIE STUCK-MIHALEK
HONORABLE TIM O'NEAL
HONORABLE FRANCIS RYAN
HONORABLE DAVID M. DELLOSO
HONORABLE MARYLOUISE ISAACSON
HONORABLE MALCOLM KENYATTA
HONORABLE STEVEN RICHARD MALAGARI
HONORABLE ADAM RAVENSTAHL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

TESTIFIERS

* * *

<u>NAME</u>	<u>PAGE</u>
ANDREW MOSER DIRECTOR OF LEGISLATIVE AFFAIRS, PA DEPARTMENT OF REVENUE.....	9
MIKE WOOD POLICY DIRECTOR, PA DEPARTMENT OF REVENUE.....	11
ADAM HARRIS DEPUTY EXECUTIVE DIRECTOR, BREWERS OF PA.....	22
BRIAN EATON GRIST HOUSE CRAFT BREWERY.....	25
MATT KATASE BREW GENTLEMAN.....	29
TOM TYLER VICE-PRESIDENT, PA LICENSED BEVERAGE AND TAVERN ASSOC.....	54
MELISSA BOVA VICE-PRESIDENT, PRLA.....	63
JOE HOLSTON PA COUNSEL MILLERCOORS.....	68

SUBMITTED WRITTEN TESTIMONY

* * *

(See submitted written testimony and handouts
online.)

P R O C E E D I N G S

* * *

1
2
3 MAJORITY CHAIRMAN PYLE: The hour of 2:00
4 having arrived, I convene this meeting of the
5 House of Representatives Liquor Control
6 Committee. By way of introduction, my name is
7 Jeff Pyle. I come from the 60th Legislative
8 District, not too far from here, in Armstrong,
9 Butler and Indiana Counties.

10 I get the honor of doing the housekeeping
11 ahead of time. We want to thank Grant and Mary
12 Lou here at Spoonwood. What a fabulous facility.
13 I wish you much, much success. Had a couple of
14 minutes to talk with those guys. They're doing
15 it right down here. As you can all see, it's a
16 beautiful facility; and we thank you very much
17 for your hospitality.

18 We're going to keep it short. We've got
19 a lot of testifiers today and a lot of questions.
20 To my right, my Democratic counterpart, Chairman
21 Deasy. Here in a second, I'm going to turn it
22 over to him.

23 If I could, could I have the Republicans
24 from over here on my left end -- we'll start with
25 Jozwiak and go down the line. Tell us where

1 you're from and your district number, please.

2 REPRESENTATIVE JOZWIAK: Craig Jozwiak
3 5th District, Berks County, which is the Reading
4 area.

5 REPRESENTATIVE RYAN: Frank Ryan, Lebanon
6 County, the 101st District.

7 REPRESENTATIVE STUCK-MIHALEK: Natalie
8 Mihalek. Welcome to the 40th District.

9 MAJORITY CHAIRMAN PYLE: I hear this is
10 home.

11 REPRESENTATIVE STUCK-MIHALEK: It is.

12 MAJORITY CHAIRMAN PYLE: Outstanding.

13 REPRESENTATIVE GAYDOS: Valerie Gaydos,
14 44th District, Pittsburgh Airport.

15 REPRESENTATIVE KAIL: Josh Kail, 16th
16 Legislative District, parts of Beaver and
17 Washington Counties.

18 REPRESENTATIVE O'NEAL: Tim O'Neal, 48th
19 District in Washington County.

20 MAJORITY CHAIRMAN PYLE: Chairman Deasy,
21 could I impose and have your guys introduce
22 themselves?

23 MINORITY CHAIRMAN DEASY: Absolutely.

24 REPRESENTATIVE DELLOSO: Dave Delloso,
25 Legislative 162, Delaware County.

1 REPRESENTATIVE ISAACSON: Mary Isaacson

2 --

3 MAJORITY CHAIRMAN PYLE: I was going to
4 say, Representative Delloso may win the man mile
5 award today. He came from almost in Maryland and
6 Delaware.

7 REPRESENTATIVE ISAACSON: Thank you.
8 Mary Isaacson, 175th District, Philadelphia
9 County.

10 REPRESENTATIVE RAVENSTAHL: Adam
11 Ravenstahl, 20th District, Pittsburgh and
12 northern suburbs.

13 MAJORITY CHAIRMAN PYLE: Thank you very
14 much.

15 Two seats down on my left is Michael, who
16 serves as the Executive Director on the
17 Republican side; and to the right of Chairman
18 Deasy is Lynn, who does the same in the Democrat
19 Caucus.

20 Subject of today's meeting is micro brews
21 and fair taxation. On that note, I'm going to
22 turn it over to the lady from the 40th District,
23 the lady who was so kind as to set this all up
24 for us, Representative Mihalek.

25 Take it away.

1 REPRESENTATIVE STUCK-MIHALEK: Thank you,
2 Chairman. Good afternoon, everyone, and welcome
3 again to Bethel Park.

4 Thank you again to Spoonwood, Mary Lou
5 and Grant Scorsone, for doing such a great job
6 being such a fantastic partner in the community
7 and to their head brewer, Steve Helnicki, for
8 brewing some of the best beer in the
9 Commonwealth.

10 Thank you to Chairman Pyle and Chairman
11 Deasy for letting me take the lead on this issue.
12 Looking around the room, the fact that so many of
13 you are gathered here today just tells us how
14 important an issue it is, that we're here on a
15 beautiful Tuesday afternoon inside. I know that
16 there are, you know, probably a dozen or so
17 brewers present today.

18 For many of you, the stakes are high.
19 And I know it's very, very personal. Because of
20 that, we want you to know -- and I think it's
21 evidenced just by holding this hearing today --
22 that we as the Liquor Committee and as members of
23 the General Assembly are delving into this issue
24 in a thoughtful and deliberate manner.

25 we thought it was necessary to bring

1 together industry-wide stakeholders so that we
2 could have all of the relevant information at
3 hand before deciding how we want to move forward.
4 In full disclosure, I just wanted to explain how
5 I came to the seat and how this issue came on my
6 radar. I started a charity event about five
7 years ago, where several of our local craft
8 brewers are the centerpiece of the event. Over
9 the years, I've gotten to know the brewers, the
10 business owners, and I call them community
11 partners. They're always willing to lend a hand,
12 to volunteer their time and donate their product.

13 It was through these relationships that I
14 learned about the tax bulletin and the effects
15 that it would have on the locally owned
16 businesses. I got to thinking about those five
17 years, when many of those breweries were brand
18 new and the impact that they've had in such a
19 short time on our communities and on the economy.

20 Wanting to get the full picture, I found
21 myself knee deep in Tax Code and liquor law. And
22 to the liquor law attorneys in the room, my heart
23 goes out to you. I thought I had it bad in
24 criminal court.

25 The year was 1959. Eisenhower was

1 President. Hawaii became the 50th State. The
2 Adolph Coors Company introduced beer in a can. I
3 will venture to guess that many of us in the room
4 weren't even born yet, but the language we are
5 all -- except for you, Frank.

6 MAJORITY CHAIRMAN PYLE: Did you say
7 1858?

8 REPRESENTATIVE STUCK-MIHALEK: -- the
9 language we are all looking to in the Tax Code
10 was, in fact, written in 1959. Needless to say,
11 a lot has changed in 60 years; most rapidly in
12 the last 10. In 2012, Pennsylvania had about 100
13 craft breweries, and today we have over 350. The
14 market is being driven by consumer trends and
15 tastes. And right now, if you can imagine it,
16 you can probably make a beer out of it, which
17 from a consumer standpoint is great to have so
18 many options to compliment the traditional
19 American brews.

20 with the changing landscape, the numerous
21 stakeholders involved and the potential to find a
22 solution that is fair to all players, I'm
23 thankful to you all for being here to share and
24 listen. So let's get into the testimony.

25 First on the list is the Department of

1 Revenue, and we have with us Andrew Moser and
2 Michael Wood. So I don't -- Mr. Moser, are you
3 first up?

4 MR. MOSER: Sure. Kind of a joint -- we
5 appreciate your time and the opportunity to be
6 before you and offer some testimony from the
7 Department of Revenue and the administration's
8 perspective. Again, I'm Andrew Moser, Director
9 of Legislative Affairs for the Department of
10 Revenue. This is Michael Wood, the Policy
11 Director from the Department.

12 And as the Representative so greatly
13 summarized, the law, as written, has been around
14 since 1959. Per some of the research we did, our
15 bulletin that we issued was there to help clarify
16 the tax that has been in existence since 1959.
17 So it's not a new tax. The bulletin didn't
18 create a new tax. It's been there for years, 60
19 years.

20 If you go back into the books, which I
21 know Mike and I both did, literally, the language
22 written in 1959 verbatim, word for word, is
23 what's in the tax law today. Nothing has
24 changed. While the Liquor Code has changed
25 drastically in the last three to five years, if

1 you want to go back even further, it's
2 drastically changed in the last 15 years. The
3 landscape is completely different.

4 So with that, we had -- after the Liquor
5 Code changes happened, the Department of Revenue
6 was asked by some people in the industry to --
7 there was some confusion with all of the
8 different licensing changes and the privilege
9 changes that are granted to the licensee. They
10 were just not understanding the tax law in
11 relation to these new changes. So we came out
12 with our sales tax bulletin that came out in 2018
13 and it had an effective date for the end of 2019,
14 which we then extended due to allow the industry
15 to try to come into compliance with the tax law.

16 And that's really what the effective date
17 does. There was, again, some confusion there,
18 that it's not like they were exempt up until that
19 date. That's not true. We were giving you time
20 to come into compliance without being penalized
21 by the Department because we know there's some
22 confusion and it takes time to update your POS
23 systems and that kind of thing. So we wanted to
24 give the industry plenty of time to ask
25 questions, talk with the General Assembly if the

1 General Assembly felt that this is something that
2 needed to be changed. You know, we just
3 administer the law as written, and that's what
4 we're trying to do as best as we can in a fair,
5 equitable way. And that's where us in the
6 administration are coming from and are happy and
7 would be open to discussing this with the
8 industry to work out some sort of solution that
9 works for all parties that works on a fair
10 playing field for everyone.

11 I don't know, mike, if you have anything
12 that you want to add to that, but --

13 MR. WOOD: I think you actually -- thank
14 you.

15 MR. MOSER: So I mean, that -- I think
16 the Representative summarized it greatly. That's
17 kind of where we're coming from. And what we're
18 trying to do is we're open, and I know we've had
19 discussions and we look forward to further
20 discussions with you and the industry to, you
21 know, come to some sort of outcome, if that's
22 warranted.

23 MR. WOOD: I guess just one other piece
24 on that. With the bulletin, the way the bulletin
25 ended up being written, where the sales tax would

1 be collected on the retail price, was what we
2 were -- with the way that the law is currently
3 written was the interpretation -- the only way
4 that we could do it with the current law. In
5 other parts of sales tax, there's a thing called
6 a constructive purchase price that we use for
7 manufactured housing, but that's in the law
8 itself and it's detailed about how that's done.
9 We didn't have that option with beer.

10 MAJORITY CHAIRMAN PYLE: Great. Thank
11 you, gentlemen.

12 We're going to open it up for questions
13 from our members now, if you can give us your
14 time a little bit.

15 Questions? Going around. We're going to
16 start off with the lady from the 40th
17 Legislative --

18 REPRESENTATIVE STUCK-MIHALEK: So as I,
19 you know, had already said about all of the
20 changes in the industry, I know that in 2015,
21 there was a letter issued from the Department of
22 Revenue. And I believe 2015 was the same year
23 that the breweries were allowed to sell on site
24 without the couplet licensing and the -- the
25 opinion letter stated that they were not

1 responsible for remitting the bar tax.

2 Can you explain what changed in those
3 three years or why it took three years to reverse
4 course?

5 MR. WOOD: The letter that was issued was
6 a private letter and it wasn't an overall, like,
7 ruling that would be a public ruling. And it was
8 a snapshot in time. And then, when further
9 changes happened within the Liquor Code in 2016,
10 and then recently with the questions in 2018 that
11 we were asked again by further breweries in the
12 industry, the Department re-looked at the new
13 landscape and the further changes with
14 cross-selling.

15 Now, breweries can sell PA-licensed
16 wines, spirits and other brewery products. And
17 now. Brewpub licenses are truly not even a thing
18 that we need anymore. They're going out --
19 they're ready to be lapsed and people can use
20 their brewery store licenses as further retail
21 locations. We re-looked at everything and kind
22 of said, hey, this is the way the law is written,
23 and that's why we issued the bulletin which
24 supercedes any previous private letters that are
25 private, literally, private positions.

1 So that's where we're at with that, and
2 that's why we put the bulletin in to further out
3 of an effective date to allow, like, look, this
4 needs to be looked at. A lot of changes have
5 happened and the Tax Code never caught up to
6 where the Liquor Code is.

7 MR. WOOD: And there was also another
8 issue with, I think, the bulletin coming out with
9 the way that -- if you would like follow through
10 on the idea that brewpubs wouldn't have to
11 collect sales tax, that was a part of the
12 industry where the rest of the industry was
13 paying sales tax on some part of the beer sale.
14 At some point in the system, it was being taxed,
15 whereas on a brewery, then they wouldn't be if
16 they were selling it directly. And we just
17 didn't have that -- looking at the law more
18 closely, we just didn't have that authorization
19 to provide that kind of exemption.

20 REPRESENTATIVE STUCK-MIHALEK: Can I just
21 have one more follow-up question?

22 MAJORITY CHAIRMAN PYLE: It's your
23 meeting, ma'am.

24 REPRESENTATIVE STUCK-MIHALEK: So the
25 constructive purchase price, that wasn't made to

1 be an available option -- and I think that I'm
2 going to state it correctly from your testimony,
3 but please correct me if I'm wrong -- cannot use
4 the constructive purchase price as an option
5 through the tax bulletin because, in other
6 industries, it's actually written into statute?

7 MR. WOOD: Correct. It's in the Tax Code
8 directly, and we would need some sort of
9 authorization like that to be able to do that.

10 REPRESENTATIVE STUCK-MIHALEK: Okay.
11 Thank you. That's helpful.

12 MAJORITY CHAIRMAN PYLE: Any other
13 questions for the panel?

14 Representative Ryan, take it away.

15 REPRESENTATIVE RYAN: Both of you, thank
16 you so much for being here. I'm asking this
17 question as a CPA and a small business owner.

18 Is there a better process that you think
19 that we can employ in the Commonwealth between
20 the Department of Revenue and the legislature to
21 insulate the community from these kinds of
22 issues?

23 I go back to Revenue Bulletin 2017-02 on
24 bonus depreciation, and I worry that the message
25 that's being sent to people is be really careful

1 about investing in Pennsylvania because
2 midstream, we may change the rules on you. And
3 this is a big deal in terms of the tax. And I do
4 appreciate that you're between a rock and a hard
5 place. The law is written the way it is.

6 And as a relatively new legislator, one
7 of the concerns that I have is, in my private
8 business, if I make a mistake, I do a pen and ink
9 change and go, oops, and fix it. For us, that
10 could be a four-year process, two-year process,
11 depending.

12 Is there a better process, so that we can
13 insulate the consumer and the business community
14 from this type of variability with this going on?

15 MR. MOSER: That's certainly a very good
16 question. I think the best thing we can
17 immediately employ is just better communication
18 between the agency and the administration and the
19 legislature, things that we see that might be
20 cropping up, either Federal changes that might be
21 happening or changes elsewhere in the laws that
22 might end up affecting parts of the Tax Code,
23 which are ancient compared to what's happening in
24 today's marketplace.

25 I think that's even a prime example with

1 online selling. I know you're intimately
2 familiar with the Finance Committee and how
3 that's completely changed. We're still playing
4 catch-up on a lot of things that have changed. I
5 think just better -- better dialogue with
6 everyone to, you know, maybe get ahead of it
7 before it creates ripple effects.

8 REPRESENTATIVE RYAN: Does it make sense
9 to consider a process change where we get
10 together with the administration and you and the
11 legislature to say that we would have hearings
12 before we would put the taxes into effect, as
13 opposed to doing it -- because apparently the law
14 was on the books since 1959. And yes, I was
15 around at that time, including 1859; that was an
16 even better year.

17 But I just -- I just worry that people
18 that are trying to make an investment are in this
19 predicament. And all of a sudden, we change the
20 rules and it might take two years to fix it, but
21 their business model could get decimated in the
22 process with an entire impact on the community
23 and us, as well.

24 MR. WOOD: Well, I think one thing -- and
25 maybe this bulletin might be a way of -- a good

1 sign of this is where you end up having an
2 effective date that's far enough out that we say,
3 hey, here's an issue that we came across that we
4 don't have a way to fix with the current law, and
5 this is what -- the way we have to interpret it
6 based on the way things are written, the way the
7 Department sees it. And then we have an
8 effective date that gives some time for people to
9 like look at it and try to understand, what does
10 this do to the industry and, you know, what would
11 be the effects of it?

12 Could we make it better by a legislation
13 change or something like that, and then having
14 some time to discuss it before it actually goes
15 into effect. And I think in this case, we at
16 least have until July 1st to take care of some of
17 the issues with this.

18 REPRESENTATIVE RYAN: Thank you very
19 much.

20 MR. WOOD: Certainly.

21 MAJORITY CHAIRMAN PYLE: Thank you.

22 we're joined by two other
23 Representatives, Representative Kenyatta and
24 Representative Malagari. Thanks for coming.

25 Up next, Representative Gaydos. Take it

1 away.

2 REPRESENTATIVE GAYDOS: Thank you,
3 Mr. Chairman. And thank you, Representative
4 Mihalek for bringing this to light. I also agree
5 with Representative Ryan. You know, as a
6 business owner myself, you know, this is the
7 challenging environment that, you know, when we
8 find a business, we tend to like figure out a way
9 to tax them.

10 So the question is, how much revenue is
11 currently being collected; and how much revenue
12 do you anticipate being collected, because
13 obviously, you've figured out what those dollars
14 are?

15 MR. WOOD: In terms of with the bulletin
16 change, we don't have a dollar amount that we
17 think that we're going to collect from it. It
18 was not really looked at as a revenue raiser.
19 It's a tax fairness thing, in terms of making
20 sure that sales tax is being collected everywhere
21 in the process. And one other issue that we had
22 was that within the breweries themselves, we had
23 some that were collecting tax and some that
24 weren't.

25 One thing that we have an issue with,

1 looking at -- going in to look at who remits
2 sales tax returns, you know, to see who is
3 collecting it on beer sales or not, is most
4 breweries end up having some sort of food sales
5 and it all ends up being reported as, we have
6 taxable sales of X amount of dollars. It's not
7 really broken down into what the parts are.

8 So with that, and the fact that we know
9 that some were collected and some weren't, we
10 were not really able to come up with a reasonable
11 estimate of how much revenue we were looking at,
12 but it was supposed to be, in terms of what the
13 impact of it was in dollar amount, was relatively
14 small, like millions, like 8 million or something
15 like that.

16 REPRESENTATIVE GAYDOS: How much?

17 MR. WOOD: Maybe a million or something
18 like that. It was not --

19 MR. MOSER: Yeah, it was certainly not
20 something we were trying to dig super deep to put
21 a number to it, because it's not about the
22 number. It's about part of the industry is
23 collecting; part of the industry isn't
24 collecting; part of the industry isn't even aware
25 they needed to collect. And with the Liquor Code

1 changes and, you know, the way the beer system,
2 the three tier system is set up, it was
3 manufacturer to the distributor to the public.
4 And now that the manufacturer can do all of these
5 cool things -- and I'm not speaking to that's
6 good, bad or indifferent -- it's just they can
7 now do X, Y and Z, which was what retail
8 licensees could or could not do, and there's
9 still a sales tax obligation in that chain, and
10 it's now been flipped on its head just because of
11 Liquor Code changes. And the Tax Code never
12 changed with it, and I think that was kind of
13 forgotten in the consumer-friendly part of the
14 reforms that were thought of.

15 REPRESENTATIVE GAYDOS: Sure. I mean, I
16 recognize the intent of that, but looking at how
17 we can spur business, that maybe this is
18 something that we could look at, that every penny
19 is important for these early-stage businesses and
20 in order to spur business, this is maybe
21 something we should look at to forgive, perhaps.

22 Thank you.

23 MAJORITY CHAIRMAN PYLE: That's an
24 excellent point, Representative.

25 For those not aware, Pennsylvania now

1 leads the nation in microbreweries. We're
2 finding some really, really good results and we'd
3 like to keep that rolling.

4 Thank you very much, Mr. Moser.

5 Mr. Wood, appreciate your testimony.

6 I've been remiss, not recognizing my
7 friend, the gentleman from Chester County, John
8 Lawrence. I'm sorry, John.

9 Next up -- next up at this hearing, we
10 have Mr. Adam Harris, the Deputy Executive
11 Director of the Brewers of Pennsylvania.

12 Mr. Moser, you might want to check out
13 that ice cream sandwich menu over there. Let me
14 know. Yes, let me know.

15 MR. HARRIS: Mr. Chairman, I have two
16 breweries that are going to join me, if that's
17 okay.

18 MAJORITY CHAIRMAN PYLE: I think that's a
19 great idea.

20 MR. HARRIS: I would like to say thank
21 you to all of you.

22 Sorry.

23 MAJORITY CHAIRMAN PYLE: Press the
24 button, Harris.

25 MR. HARRIS: Thank you. I'm a little

1 rusty.

2 Thank you all for coming out. This is an
3 incredible turnout. I was talking to the members
4 last night. And I said, you know, there's been a
5 really heavy voting schedule in the last couple
6 months. We weren't sure how many members we were
7 going to get. This is incredible. We want to
8 say thank you.

9 We have brought along -- if we could have
10 all of our brewers back here give us a wave.

11 MAJORITY CHAIRMAN PYLE: How's it going?

12 MR. HARRIS: These are people that make
13 their livelihood doing this. This means a lot to
14 them. It means a lot that you're here. So thank
15 you.

16 Chairman Pyle, Chairman Deasy, with me
17 this evening, I have submitted some official
18 remarks, but I would like to turn it over to the
19 people that this is really going to affect their
20 livelihood. They've invested in their
21 communities. These are the people you want to
22 hear from. And I have two amazing success
23 stories with me here today, and I want you to
24 hear about their stories.

25 First, we have Matt Katase, who is from

1 Brew Gentleman, started a business when he was in
2 college because he had a dream, not only to do
3 something he loves, but to make his community
4 better.

5 And we also have Brian Eaton from Grist
6 House with us, another gentleman that's put his
7 heart and soul into this because he believes in
8 what he's doing. And what we want is simple. We
9 just want clarity. We want to know what the
10 rules are going forward, and we want to be
11 treated fairly. And it's quite confusing
12 because, as those of you know who are from
13 Philadelphia and Allegheny County, there are some
14 different rules in our cities on those ends.
15 They have drink taxes.

16 We're not sure how we're going to be
17 treated under those drink taxes. Is this going
18 to be a tax on top of a tax on top of another
19 tax? It's very daunting, and it's very scary.

20 So I will just -- if I could just
21 conclude, obviously, I'm an ex-member. I am
22 unable to comment specifically on legislation,
23 but I do just want to say on behalf of the
24 Brewers of PA how important taxation is to us.
25 And I look forward to my year expiring, when I

1 can talk in a little bit more detail.

2 But what I've been doing is going around
3 the State, meeting with our various guilds. The
4 Pittsburgh guild met last night. They have a
5 tremendous guild here in Pittsburgh. They have
6 their own website. They're doing annual
7 meetings. They get together and they talk about
8 these issues because they're important. So I've
9 been going around the State talking to our
10 brewers and they're very scared about this
11 uncertainty, and we just really need to come to
12 some kind of conclusion with this, whether it's
13 an agreement with the Governor's Office. The
14 Governor has been great. We've had an open door.
15 We've had a lot of great discussions.

16 But we really need to come to a head on
17 this issue so we know where we can go forward.
18 We've had, as we all know, an explosion since
19 2015, and it's been great. But we need to know
20 what the rules of the game are going forward, so
21 we can have that certainty. So with that, I will
22 go ahead and turn it over to Brian for some
23 remarks. And we very much appreciate everyone's
24 attendance today.

25 MR. EATON: Good afternoon, Chairman

1 Pyle, Chairman Deasy, members of the Committee.
2 Thank you for allowing me the opportunity to
3 speak with you today about the taxation of beer
4 sold by breweries in Pennsylvania. My name is
5 Brian Eaton. I'm the chairman of the Pittsburgh
6 Brewers guild and also the co-owner of
7 Pittsburgh's Grist House Craft Brewery.

8 Grist House is one of the 34 small
9 independent breweries currently operating in
10 Allegheny County. Like many of these breweries,
11 we are family-owned and operated. My
12 brother-in-law and I started Grist House five
13 years ago with a passion to bring high quality
14 and well-crafted beer to the people of
15 Pittsburgh. We have slowly grown over the years
16 and we currently employ 25 people.

17 If the taxation of the beer sold by
18 breweries goes into effect as proposed by the
19 Department of Revenue, my small business will see
20 an additional tax burden of \$80,000 to \$100,000
21 per year. This is a burden that I will either
22 have to pass onto my customers, which will most
23 certainly lead to a reduction in sales, or eat
24 the cost of the tax, which means less money to
25 reinvest in my growing business.

1 The letter that was brought up
2 previously, that was sent by DOR, myself, along
3 with many other breweries in Pennsylvania, took
4 the Department of Revenue at their word in that
5 letter and relied upon that letter when growing
6 our businesses. You will undoubtedly hear today
7 testimony calling for fairness and a level
8 playing field. If breweries are required to
9 collect sales tax as proposed, we would be paying
10 a rate of four to five times that of restaurants,
11 bars, taverns, grocery stores and convenience
12 stores. That is neither fair, nor creating a
13 level playing field.

14 Let me explain why. Currently, retail
15 licenses, i.e. bars, restaurants, taverns pay
16 sales tax on the wholesale price of kegs when
17 they are purchased from a distributor or directly
18 from a brewery. If you look at your next bill at
19 a restaurant, you'll see no sales tax is charged
20 on any beer purchase you made because taxes were
21 already paid on the beer when bought from the
22 wholesaler, either from a distributor or from a
23 brewery like myself.

24 So let me throw out an example. Let's
25 say a retail licensee purchases a keg of beer for

1 \$100. At that time of purchase, they will pay
2 sales tax of 6 percent, which is a total of \$9.
3 They will pay that \$9 tax only one time. If the
4 new Department of Revenue bulletin takes effect
5 on July 1st, 2019, breweries, and only breweries,
6 would be required to collect that 6 percent sales
7 tax on each individual pint sold to a consumer.
8 If we are charging \$5 per pint -- and many of our
9 beers retail for more than that -- that means we
10 have to collect \$36 in sales tax on the exact
11 same volume of beer.

12 Another way of putting that is to say
13 that my customers would be paying four times the
14 amount of sales tax, simply because they chose to
15 enjoy beer right from the source at my brewery.
16 As I previously stated, if this sales tax change
17 goes into effect on July 1st, as currently
18 proposed, I'm essentially left with two options,
19 either eat the cost of this new tax, which will
20 greatly affect my bottom line and my future
21 business decisions, or pass it directly onto my
22 customers and risk alienating the very people
23 that have made my beer and my business such a
24 tremendous success.

25 Also, since myself and 33 other craft

1 breweries have the good fortune of operating in
2 Allegheny County, we are acutely aware of the
3 local drink tax. There exists the possibility
4 that the total tax burden on each pint of beer we
5 sell could consist of a 6 percent State sales
6 tax, 1 percent Allegheny sales tax, plus an
7 additional 7 percent Allegheny County drink tax,
8 totalling a whopping 14 percent tax on every beer
9 we sell at our breweries, and this also doesn't
10 include the PA excise tax that we currently
11 submit.

12 In closing, all we as brewers in
13 Pennsylvania ask for is clarity and equality on
14 this issue. We greatly appreciate the House
15 Liquor Committee taking the time to hear our
16 concerns today. Recently, we have been working
17 close with the Governor's Office and we
18 appreciate the willingness of the administration
19 to hear our concerns and work towards a fair
20 solution to this issue.

21 Thank you again for allowing us to
22 participate today, and I will gladly answer any
23 questions that you may have.

24 MR. KATASE: Good afternoon, members of
25 the House Liquor Control Committee. I really

1 appreciate you guys taking the time to come out
2 to Pittsburgh to hear our stories. My name is
3 Matt Katase. I'm the co-founder of Brew
4 Gentleman and I serve on both the Board of the
5 Brewers of Pennsylvania and the Pittsburgh
6 Brewers guild.

7 Brew Gentleman s located in historic
8 Braddock, which is home to now Lieutenant
9 Governor Fetterman -- or John Fetterman. It was
10 started in 2014 by myself and Asa Foster. We're
11 actually both young transplants. I'm originally
12 from Hawaii, and Asa is from Boston.

13 We came to Pennsylvania to go to school
14 and graduated in 2012. While in school, we were
15 developing the business plan for the brewery, and
16 we made the decision early on to make
17 Pennsylvania home and contribute to its rich and
18 diverse history.

19 Brian covered the bulk of the tax issues.
20 And to reiterate his point, we'd like clarify and
21 parity. I'd like to now explain to you the
22 effect that this tax could have on us. We just
23 publicly announced our expansion, where we will
24 be investing over a million dollars into building
25 a new production facility in the building

1 adjacent to us in Braddock.

2 If the tax on beer sold by breweries goes
3 into effect, my small business will see an
4 additional tax burden equal to three full-time
5 jobs we planned on hiring for, and that's just in
6 year one. As we grow, we will have less capital
7 to hire and bring more brewing jobs to an
8 underserved community.

9 I'm proud to be a part of the Braddock
10 community, and I'm sure every Pennsylvania
11 brewery would say the same of where they call
12 home. Most of you probably have a brewery in
13 your district, or multiple. We all hope that we
14 can be able to invest back in each of our
15 communities, create new jobs in agricultural
16 manufacturing and attract other investments to
17 our areas. This tax will hurt our ability to do
18 so.

19 Again, we hope to find a solution that
20 brings clarity and parity. We are pleased to be
21 working closely with the administration and the
22 General Assembly to come to an equitable solution
23 before the deadline and appreciate the
24 opportunity to share all of this with you. Thank
25 you for allowing me to participate. And happy to

1 answer any questions, as well.

2 MAJORITY CHAIRMAN PYLE: I'm going to use
3 my chairmanship to lead off here.

4 Now, we're talking about roughly \$1
5 million dollars a year or \$8 million?

6 what was the big number?

7 MR. EATON: My individual brewery would
8 pay or --

9 MAJORITY CHAIRMAN PYLE: No. What I'm --
10 I shouldn't really show all of my cards,
11 but I happen to agree with your perspective. If
12 everybody else is going to be taxed one way,
13 there has to be a uniformity and a flat field for
14 everybody to play on.

15 MR. EATON: We agree.

16 MAJORITY CHAIRMAN PYLE: Okay. What I am
17 asking is, what was that number, I don't have my
18 -- \$1 million?

19 (Inaudible.)

20 MR. EATON: Correct.

21 MAJORITY CHAIRMAN PYLE: Okay. I just
22 needed a little bit of clarification. I was
23 confused on the numbers. I'm a lot better at
24 test driving your beer.

25 Representative Mihalek, take it away.

1 It's all yours.

2 REPRESENTATIVE STUCK-MIHALEK: I just
3 want to clarify for myself and the other members
4 present, we -- so you as brewers, you pay a
5 Federal tax, a Pennsylvania excise tax, the 1
6 percent county tax in Allegheny County, and then
7 the 7-percent drink tax -- and that's before
8 we're having a conversation about this potential
9 6 percent retail tax -- am I correct on that
10 assessment?

11 MR. EATON: It would just be 7 percent
12 Allegheny drink tax that we submit to Allegheny
13 County.

14 REPRESENTATIVE STUCK-MIHALEK: Seven and
15 then the 1 percent tax?

16 MR. EATON: That would be on top of the
17 sales tax if it went into effect, 6 percent for
18 Pennsylvania, 1 percent for Allegheny County.

19 REPRESENTATIVE STUCK-MIHALEK: Okay. So
20 just the 6 percent tax alone on, say, it was --
21 you're selling it to a distributor, \$150 a keg,
22 it's \$9. And that distributor is then going to
23 sell it to a restaurant to be poured in their
24 facility and they are not submitting a second
25 tax. They're paying the tax on the distributor,

1 correct?

2 MR. EATON: Correct.

3 REPRESENTATIVE STUCK-MIHALEK: Okay.

4 Conversely, we're not doing a keg price. We're
5 dog a pint price because of the way that the
6 language is, that it's per use, I think is the
7 correct terminology, if I'm not mistaken. So at
8 \$5 a pint, 6 percent, you're looking at \$36 a
9 keg. However, not all kegs are created equal.
10 Not all beers come in a pint glass. Some come in
11 stout glass. Some come in much fancier glasses
12 that I'm sure you know way more about than I do.

13 So have you looked at a range of prices,
14 not just the \$36, but what would it be on the low
15 end, and then what would it be on the high end
16 for some of the beers that are in the high, you
17 know, high ABV?

18 MR. EATON: If the tax is, as the
19 Department of Revenue has put forward, for my
20 brewery in particular, as I mentioned, the burden
21 going off of my 2018 sales numbers would be
22 between \$80,000 and \$100,000.

23 REPRESENTATIVE STUCK-MIHALEK: And that's
24 the variation in the different styles of beer?

25 MR. EATON: Correct.

1 REPRESENTATIVE STUCK-MIHALEK: Okay, the
2 80 to 100.

3 And in your brewery, Matt, you said that
4 that would be the equivalent of three full-time
5 jobs?

6 MR. KATASE: Yes, similarly. With kind
7 of our expansion plan, you know, you forecast
8 growth and you forecast additional revenue. That
9 would come directly out of what we had set aside
10 for hiring, so --

11 REPRESENTATIVE STUCK-MIHALEK: Okay.
12 Thank you.

13 MAJORITY CHAIRMAN PYLE: I can't speak
14 for everybody, but I think I echo a common
15 concern. We would rather have the jobs. Okay.

16 On that note, we're going to recognize
17 Representative Ravenstahl.

18 REPRESENTATIVE RAVENSTAHL: Thank you,
19 Chairman Pyle. I'll be loud.

20 Thank you. So you kind of mentioned
21 expansion, and this goes towards Brian. I've
22 been to Grist House. And if I'm not mistaken,
23 over the past couple months, there's a plan for
24 you guys to expand. I'm just kind of curious.

25 And also to Adam, how has this

1 uncertainty kind of changed your plans in terms
2 of future expansion or any brewers, you know, or
3 is it kind of a holding period to see how this
4 all plays out before you're, you know, willing to
5 commit to future expansions?

6 MR. EATON: For our current expansion, we
7 had already purchased a building and, you know,
8 started on demo and all of that before news of
9 this bulletin came through. It has given us some
10 pause, especially since our plans for a
11 production facility do include a tap room. So
12 that would mean more beer being sold across the
13 bar, which would then increase our tax burden.

14 So we haven't made any concrete plans yet
15 because we don't know how this is planning on
16 shaking out. We're hoping that you folks will be
17 able to make a change to this. But right now,
18 we're still moving forward on our expansion
19 plans, but we are very acutely aware that by
20 opening a second tap room, that means increased
21 beer sales across the bar, which means a higher
22 tax burden.

23 MR. HARRIS: I would say I probably get
24 two to three calls a week -- and I think the term
25 you used was holding pattern. They're not

1 investing. They're not hiring new people. And
2 then, just for the record also, to make this a
3 little more complicated, Philadelphia has a 10
4 percent drink tax and then the additional 2
5 percent sales tax.

6 So it gets really convoluted and
7 confusing when we start talking about lumping
8 these taxes on top of other taxes.

9 REPRESENTATIVE RAVENSTAHL: Thank you.

10 And just one follow-up, if I could, Mr.
11 Chairman. I've been to Grist House, like I
12 mentioned.

13 Could you guys just touch on the impact
14 you have within the community? I mean, I know
15 that your facility is almost, in my opinion --
16 and I don't represent Millville, but I've been
17 there several times -- kind of like a hub, you
18 know. I know that you're allowed to have pets
19 there.

20 If you guys could just kind of touch on
21 the impact that you believe you have on the
22 community, not just economically, but in general.

23 MR. EATON: Yeah, sure. So we opened up
24 Grist House in 2014 in Millville, which if you're
25 not familiar with the area was devastated by a

1 terrible flood in 2004. The majority of their
2 businesses had left. And they're right across
3 the river from Lawrenceville, which everybody,
4 probably, at this point has heard of with the
5 economic boom that they've seen.

6 So Millville, you know, welcomed us with
7 open arms and we've seen a lot of expansion in
8 Millville, community gardens, they installed
9 their first library. We've helped with bike and
10 ride share programs in town. We've seen four
11 additional restaurants, who I know personally,
12 all the business owners. And we've talked about
13 how, you know, they only looked at Millville
14 because, you know, of the increased activity that
15 was occurring in the town because we were there.

16 MR. KATASE: I would echo those comments.
17 We found our building in Braddock in 2012, right
18 after finishing up school. And that was when
19 Mayor Fetterman was still on a very strong
20 campaign to attract people to Braddock because of
21 its rich history, kind of small enough to make an
22 impact, but large enough to have a platform.

23 And there have been a number of other
24 businesses that have opened up in town since that
25 directly state us as the inspiration for picking

1 Braddock, seeing that we could be a success story
2 in an underserved community. And one of them
3 being Superior Motors, which was just named on
4 Times list of 100 Best Places in America. So
5 we're starting to see, you know, the snowball
6 effect of it. This would kind of slow that down
7 for us.

8 REPRESENTATIVE RAVENSTAHL: Thank you,
9 guys.

10 MAJORITY CHAIRMAN PYLE: That's
11 outstanding.

12 what the two gentlemen are bringing up --
13 before I go back to Representative Mihalek -- is
14 something that we picked up in our studies.
15 We've seen in Pennsylvania that loyalty to a
16 neighborhood brewpub, microbrewery, is very
17 strong. And frequently, you won't be able to
18 draw customers from more than a 20-mile radius.
19 People are loyal to their home guys.

20 And when I hear stories of you guys
21 rebuilding Millville and rebuilding Braddock,
22 that's exactly what we had hoped would happen.

23 We're going to go back to Representative
24 Mihalek now.

25 REPRESENTATIVE STUCK-MIHALEK: Not the

1 humanity story, but back to the numbers. I'm
2 sorry to get boring on everyone. So if it's
3 \$80,000 to \$100,000 for it being taxed on a \$5
4 pint, could you tell me what your burden would be
5 if we were -- if there was to be a tax at the
6 wholesale keg level?

7 MR. EATON: Sure. For our 2018 numbers,
8 if the tax was on the wholesale level, we
9 predicted we'd be around the \$20,000 level as a
10 tax burden; \$17,000 of that would go to PA;
11 \$2,900 of that would go to Allegheny County.

12 REPRESENTATIVE STUCK-MIHALEK: So you're
13 looking at a difference of \$20,000 to \$80,000 to
14 \$100,000.

15 MR. EATON: Yep.

16 REPRESENTATIVE STUCK-MIHALEK: Okay.
17 Thank you.

18 MAJORITY CHAIRMAN PYLE: Then, we're
19 coming back to Representative Ryan.

20 REPRESENTATIVE GAYDOS: So you outlined
21 all the different taxes that you've got to keep
22 track of.

23 How do you do that?

24 MR. EATON: I was fortunate enough to be
25 great friends with an accounting major in college

1 who is now one of our silent investors. He's in
2 the room with us, and he practices as a tax
3 accountant/CPA. So I lucked out in that burden.
4 I've never really had to do our taxes or our
5 payroll, luckily. So Tom keeps track of all of
6 that, but we've had many discussions because
7 there was confusion when we first opened.

8 He had, actually, to make a call when we
9 decided to sell our first keg in 2014 because it
10 wasn't clear where tax was supposed to be
11 remitted at the time. And so, you know, we
12 eventually got that sorted out. And then six --
13 well, I guess it would be eight months later, the
14 Department of Revenue letter came out, which did
15 help clarify things, but that's also why we're in
16 this, kind of this conversation today, because
17 that then got reverted back last year.

18 REPRESENTATIVE GAYDOS: So in other
19 words, you're spending time trying to figure out
20 what the Tax Code is instead of selling beer?

21 MR. EATON: Yeah. Even though I'm not
22 doing it directly, just figuring out how much
23 we're selling, you know, because Tom is not on
24 premise every day, you know, between finding out
25 what we're selling, what we're producing, filing

1 our TTB, which is the Tax and Trade Bureau for
2 the Federal government, the excise tax that we
3 owe for that, then plus what we owe for the
4 State, then plus our Allegheny County drink tax.
5 I spend at least a good half a day at least once
6 a month just trying to wrap my head around what
7 we owe to different entities across the State.

8 REPRESENTATIVE GAYDOS: Yeah. And that's
9 not something that, you know -- we should have
10 businesses focus on selling their product and not
11 dealing with the confusion of taxation.

12 Thank you.

13 MAJORITY CHAIRMAN PYLE: Representative
14 Malagari.

15 REPRESENTATIVE MALAGARI: Thank you,
16 Mr. Chairman. Really appreciate it.

17 Adam, Brian, Matt, thank you for being
18 here. Really do appreciate it.

19 Just quick background information. I
20 come from the wholesale beer distributor end of
21 the market, and I understand wholeheartedly where
22 you come from. I was an on-premise sales rep, so
23 I know exactly where the impact would be when it
24 comes to this particular tax being put in effect.

25 My question really stems from -- and it's

1 not really a question; it's more of a statement
2 that I want you to understand. I full -- I agree
3 with Chairman Pyle that we need to make sure that
4 we continue to invest in the jobs and continue to
5 invest in the company's growth and expansion. A
6 lot of these breweries -- and I have three, four,
7 actually within my district and two distilleries,
8 as well, that are now economic -- they're
9 potentially areas of so much growth and economy
10 and downtown revitalization. They're the
11 economic hubs of the area.

12 And like we were saying, not a lot of
13 individuals come from very, very far distances to
14 go there. It's very local, and it's very loyal.
15 And I think we need to realize that any kind of
16 negative impact that we put on your companies or
17 your breweries, is going to be devastating to
18 those local areas that are -- have been dying to
19 have some kind of revitalization efforts for so
20 long.

21 Now we're seeing them actually happen,
22 and we're talking about fairness. And I believe
23 that it would be fair that we treat the
24 microbreweries and the breweries of Pennsylvania
25 in the same way as we treat every other

1 individual in the wholesale level and not tax you
2 right at the pint. If any other individual is
3 doing that, which they're not, then okay, but we
4 need to set the precedent that it should be fair.
5 I think this is the right approach. I just want
6 to thank you all for actually being here and
7 coming before us.

8 And I thank you for doing this.

9 MR. EATON: Thank you, because we
10 completely agree over here. That the fairness --
11 if it's not across the bar, looking at it on the
12 wholesale keg side would make a lot more sense to
13 us because that's what the bar down the street
14 has to do.

15 MR. KATASE: And to add to that, to your
16 point about it being a huge hub for
17 revitalization, there's actually a town a couple
18 towns over from us in Braddock that put a bid out
19 for a brewery to come into town. They were
20 looking for a brewery to invest in their area
21 because they saw the impact that it had in so
22 many of the other neighboring neighborhoods,
23 so --

24 MAJORITY CHAIRMAN PYLE: That's an
25 outstanding effect.

1 We're going to go to Representative Ryan
2 and then back to Representative Kenyatta.

3 REPRESENTATIVE RYAN: I just have a
4 couple quick questions. And I apologize for some
5 of the questions in the sense that I have been on
6 the Liquor Control Committee since January, and I
7 don't drink, so it's something that -- by the
8 way, Chairman Pyle said I will by the end of the
9 two years.

10 MAJORITY CHAIRMAN PYLE: I've got that.

11 REPRESENTATIVE RYAN: And I'm confident
12 that that will happen. So I apologize for the
13 questions. And if they come across like he
14 doesn't know what he's talking about, that's very
15 likely. For your CPA, one of the things that I
16 get concerned about is that I'm finding the chain
17 of communication, when there's a revenue bulletin
18 is actually sporadic, and that he may not see it
19 until well after a comment period.

20 When did you, in terms of time frame --
21 this came out in July of 2018.

22 Do you know about when you heard that
23 this was going to come to pass?

24 MR. EATON: For me, and probably Matt,
25 around the same time, actually. It was very

1 shortly after the bulletin came out because the
2 Brewers of Pennsylvania are keeping tabs on stuff
3 like this for us.

4 REPRESENTATIVE RYAN: So it was pretty
5 quick, Adam?

6 MR. HARRIS: Yeah.

7 REPRESENTATIVE RYAN: Okay. The second
8 question is a little bit different in this
9 context. If I understand it correctly, if you
10 were to sell a keg to somebody that's not related
11 to you, you're going to pay -- they're going to
12 pay the sales tax at the wholesale level and that
13 would be built into the price of the keg?

14 MR. EATON: Yeah, we would collect sales
15 tax on that transaction.

16 REPRESENTATIVE RYAN: So I'm going to ask
17 the question that if you were to --
18 hypothetically, if you were to separately
19 incorporate your brewery and sell to your wife,
20 who happened to own the restaurant, would that be
21 taxable at the wholesale level?

22 MR. EATON: I believe so, yes.

23 REPRESENTATIVE RYAN: This is insane that
24 we don't fix this.

25 MAJORITY CHAIRMAN PYLE: That's why

1 Representative Mihalek wanted us here.

2 We're going to go to Representative
3 Kenyatta, please.

4 REPRESENTATIVE Kenyatta: Thank you so
5 much. And Adam, Brian and Matt, thank you for
6 being here.

7 You know, it's nothing like a small
8 business coming into a neighborhood and helping
9 to be a part of that revitalization. I'm from
10 Philly. And so I can't speak to all the
11 specifics, but I know a little bit about
12 Braddock, probably in large part due to our
13 Lieutenant Governor, who I've known for many
14 years.

15 Can you talk about how many people both
16 of your breweries currently employ?

17 And specifically, in Braddock city, it's
18 about 70 percent black; how many people of color?

19 MR. KATASE: So our current operation, we
20 have five full-time and five part-time. We are
21 planning on, within the first six months of our
22 expansion, needing to hire an additional 10
23 people. And we've already spoken with community
24 members to work on hiring people locally,
25 especially with, both opening up an outdoor

1 space, needing additional servers and bartenders
2 there, but then also in production, as well.

3 REPRESENTATIVE Kenyatta: So how many of
4 those employees, how many people of color?

5 MR. KATASE: Currently, just one.

6 MR. EATON: Currently, we have 25 part
7 and full-time employees. And currently, a
8 minority of a minority. However, we do have 10
9 female employees.

10 REPRESENTATIVE KENYATTA: Okay. Thank
11 you. And I would just say, particularly, listen,
12 I want you all to be successful. I want you to
13 thrive. And folks in communities like Braddock,
14 specifically, which I know more about -- not to
15 pick on you -- you know, they certainly need
16 those jobs. And with a city that's 70 percent
17 black, you know, I would hope that that's
18 something that's a priority for you moving
19 forward.

20 MR. KATASE: Absolutely.

21 MR. HARRIS: And Mr. Chairman, if I
22 could, I'd like to put a plug in for these
23 gentlemen. The Pittsburgh Brewers guild is the
24 only gild that I'm aware of that has their own
25 website. These gentlemen put a lot of effort

1 into it. And since we have a captive audience
2 here, and you're in Pittsburgh, if you wouldn't
3 mind checking out the website.

4 Actually, I'll go ahead and have Brian
5 maybe talk a little bit more about the effort
6 that went into that. It can take you on a beer
7 trail later.

8 MAJORITY CHAIRMAN PYLE: We have one more
9 question.

10 Representative Delloso had something he
11 wants to ask.

12 REPRESENTATIVE DELLOSO: Thank you,
13 Mr. Chair.

14 Forgive me for trying to simplify this.
15 I mean, ultimately, you'd be satisfied if you
16 just paid the keg tax?

17 MR. EATON: Yes, sir.

18 REPRESENTATIVE Delloso: That having been
19 said, being as how you're the brewer, and you
20 sell kegs to a distributor, there's obviously a
21 mark-up there.

22 Now, when you claim your keg cost, would
23 it include that mark-up or are you going to claim
24 your kegs at make-cost, because there's a revenue
25 -- there's a potential loss of revenue to the

1 State there?

2 If you make a barrel of beer for \$100 and
3 sell it for \$125, obviously, we get 6 cents on
4 \$125. But you made it for \$100. If you sell it
5 to yourself for \$100, when the State gets --
6 there's a shortfall there between the retail
7 mark-up and then the actual brewer's cost.

8 Would you consider assessing yourself the
9 retail cost?

10 MR. EATON: We will go at the direction
11 of the Department of Revenue on how you decide to
12 do that. You know, we're at your guys' whim on
13 this, but currently, if it was on the across the
14 bar, as you know, the different there would be
15 huge. As far as we know, there has been talk of
16 potentially this, what they're calling a sniff
17 test.

18 As long as you're charging what you would
19 charge wholesale out to accounts, then that's
20 what you should be charging if you're selling to
21 yourself, which yeah --

22 MR. KATASE: Yeah. I think the tough
23 situation here is there's so many different
24 brands, especially with breweries that are coming
25 out with two, three different beers every week.

1 How do you set the price for each?

2 For some of the larger breweries that
3 have been in the game for a long time, they have
4 kind of established prices that they work with
5 with their distributors. They have distributor
6 sales sheet, which advertise that pricing. So
7 for them, it's very easy to calculate.

8 For us, it's, you know, we came up with
9 two new beers just this week. So establishing
10 that and spending the time to establish that for
11 every brand is also very difficult.

12 MAJORITY CHAIRMAN PYLE: Thank you.

13 Chairman Deasy.

14 MINORITY CHAIRMAN DEASY: Thank you very
15 much. I appreciate you being here today. My
16 question is -- I don't know if you'll be able to
17 provide this or not.

18 would you be able to know, like, what
19 percentage of your members sell their product
20 wholesale, could you estimate?

21 MR. KATASE: We actually went around the
22 room last night at our Pittsburgh Brewers guild
23 meeting, and I believe every -- of the 34
24 members, everyone self-distributes, so does
25 wholesale. There are a couple that have a

1 distributor partnership, but there are only a few
2 that were tap room only, so I think one or two.

3 MAJORITY CHAIRMAN PYLE: Mr. Harris, can
4 you maybe give us that website one more time?

5 MR. HARRIS: I'm going to go ahead and
6 have Brian put the full plug in, if you don't
7 mind because they put a lot of effort into this.

8 MAJORITY CHAIRMAN PYLE: That would be
9 great. Thank you.

10 MR. EATON: So the Pittsburgh Brewers
11 Guild came about when the PA -- I believe it's
12 called the Malt Beverage Promotion Board put out
13 the call for grants. And so we came together, as
14 I mentioned, the 34 breweries in Allegheny County
15 to submit for a grant and to put together,
16 essentially, an ale trail. I'm sure a lot of you
17 have heard of ale trails in different cities.
18 The most famous one is the Bourbon trail down in
19 Kentucky.

20 We wanted to help increase tourism to
21 Pittsburgh and to the great beer that's being
22 made here in Allegheny County. So we were
23 awarded a \$30,000 grant and within almost eight
24 months, I think our turnaround time was, we had a
25 full interactive website where you could go on,

1 learn more about all of the breweries in
2 Allegheny County, create your own map. It has a
3 very neat filtering system, where you can say, I
4 want to go to a brewery that has food trucks, is
5 open right now and is dog friendly, and it will
6 create a trail for you.

7 And we also did a physical passport that
8 people can purchase and take around and get a
9 stamp for each of their breweries. And if they
10 collect 30 stamps, they receive a prize at the
11 end. We've seen a tremendous response from it.
12 Thousands of visitors, you know, weekly and
13 people from all over the country, but a lot of
14 visits from New York, Ohio, surrounding states.
15 So it is driving tourism here into Allegheny
16 County. And we have a great partnership with
17 Visit Pittsburgh, who has made it a priority this
18 year to focus on the craft beer being created in
19 the Pittsburgh region.

20 So the website is pghbrewery.com. We
21 would love if you guys check it out.

22 MAJORITY CHAIRMAN PYLE: Thank you very
23 much. Gentlemen, we appreciate your testimony
24 today. Thank you.

25 Next up -- excuse me. The eyes aren't

1 what they used to be.

2 Next up we have Tom Tyler, the
3 vice-president of the Pennsylvania Licensed
4 Beverage and Tavern, and also the owner of
5 McStew's Irish Pub.

6 welcome, Tom. How are you?

7 slight misunderstanding. Who else are we
8 having up here?

9 Oh, you expect me to actually read an
10 itinerary? Come on, man.

11 We have a couple of people joining you,
12 Mr. Tyler. Melissa Bova, who is the
13 vice-president of government affairs of the
14 Pennsylvania Restaurant Lodging Association, and
15 Joe Holston, Pennsylvania counsel for
16 MillerCoors.

17 Sorry about that, guys. No slight
18 intended.

19 I would never talk to you like that,
20 Bova.

21 Is this one of those things where they
22 ask for volunteers and everybody else steps back
23 and -- yeah. Whenever you're ready, sir.

24 Tap it.

25 MR. TYLER: Chairman Pyle,

1 Chairman Deasy, members of the Committee, good
2 afternoon. Again, my name is Tom Tyler. I am
3 the vice-president of the Pennsylvania Licensed
4 Beverage and Tavern Association association and
5 also, the owner of McStew's Irish Pub in
6 Levitstown, Bucks County. So I know
7 Representative Delloso came a long way, but I am
8 right next to the Delaware River. I drove a long
9 way today.

10 Let me begin by thanking you all for
11 inviting the Pennsylvania Licensed Beverage and
12 Tavern Association to testify today about beer --
13 taxes on beer. We appreciate being here and the
14 opportunity to share our thoughts. The Licensed
15 Beverage and Tavern Association represents more
16 than 500 small business taverns, pubs and
17 restaurants across the State.

18 In a nutshell, our membership is
19 primarily the small business R and H licenses,
20 which are often family operated, like mine. We
21 are your local bars, taverns, pubs, grills, et
22 cetera. Each and every one of our members pays
23 their taxes on beers upfront on the wholesale
24 price, as you've already heard. It does not
25 matter who made the beer. It does not matter

1 what distributor delivered the beer, the tax is
2 paid upfront. This has been the way it's been
3 done in the business, per State laws, for
4 basically many, many years.

5 The Licensed Beverage Taverns Association
6 supports a level playing field and consistency in
7 taxation. However, that playing field will
8 eventually be defined by you folks. We know that
9 the Pennsylvania brewers have a unique situation
10 in that they are both manufacturing and selling
11 at retail. At this time, we do not necessarily
12 have a position on whether the tax should be paid
13 upfront or whether it should be tacked onto the
14 patron's bill, but taxes on beer should be
15 equivalent for all licensees across the board.

16 But we also believe that, should other
17 regulatory and safety requirement which are costs
18 to the retailer and other benefits in purchasing
19 and sales, which impact our market at our
20 upcoming board meeting in May, well be discussing
21 this further and would be glad to share our
22 thoughts with you at that time.

23 Again, in either case, we support a level
24 playing field for all licenses. That level
25 playing field has slowly eroded with time and,

1 frankly, is not existent for the small business
2 taverns, pubs and bars since Act 39 went into
3 effect and created advantages for several new
4 types of licenses.

5 I'd like to tell you my personal story
6 about the impacts of Act 39 on my business, since
7 we're talking about small business and
8 family-owned business. Like many tavern owners,
9 I made an investment into a specific license many
10 years ago because that license came with certain
11 exclusive rights and ownership, and for me to be
12 able to sell and operate in a specific
13 environment.

14 The right to sell six-packs, the right to
15 sell growlers, and the right to offer on-site
16 consumption are my primary source of business.
17 The investment was made for my future, much like
18 any retirement investment. I had hoped with some
19 hard work, over the decades of ownership, the
20 value of my license would increase, helping me
21 later in life with retirement. I'm no different
22 in these regards when compared to thousands of
23 other R license owners across the State. Every
24 one of us, like every businessman or woman hoped
25 that the value of their license would increase

1 over the decades of work. And in fact, many,
2 like me, still use their R licenses as part of
3 their retirement planning.

4 Like my fellow tavern owners, I entered a
5 business believing I would have a valuable asset.
6 But now, frankly, I'm holding on for dear life.
7 An extreme reduction in beer-to-go sales as a
8 result of Act 39 is seriously hurting my business
9 and my future and my family's future. I will
10 share some actual figures with you from my
11 business to make the point.

12 For the 12 months prior to Act 39 in
13 August of 2016, I sold beer-to-go for a total of
14 \$652,500. In the 12 months following Act 39,
15 September '16 to August '17, that figure had fell
16 to \$598,100. And that was just the first year,
17 as people were entering the market:
18 supermarkets, distributors, having six-packs and
19 single cans to go. As the consumer was learning
20 of the changes in the industry, they were
21 adjusting their buying habits.

22 Now that these players are entrenched and
23 are growing every day, I can tell you my sales
24 from September of '17 to August of '18 were
25 \$525,655. Two short years, they fell over

1 \$125,000 due to the additional competition. And
2 it's only continuing to get worse.

3 For the seven months from September of
4 '18 through March of '19, take-out sales were
5 only \$238,800. And I project for the entire
6 fiscal year calculation to be about \$445,000.
7 Losing the exclusive right to sell six-packs to
8 go that was once promised to me when I purchased
9 the license -- and that's how I purchased the
10 license, and the specific location was based on
11 those laws and those rules at the time -- has
12 devalued my business and my license.

13 Act 39 has changed the industry in
14 Pennsylvania. Once unique benefits to the R
15 license owners no longer exist. While Act 39
16 benefitted many others, it really hurt
17 independent small business establishments like
18 mine. To be clear, I don't want to give the
19 impression that I am against competition. I am
20 all about competition.

21 I am a competitor, and I am a pure
22 capitalist. But legislatively-created
23 competition that gives to some but not to all, in
24 my opinion, creates unbalanced competition. My
25 establishment is truly a family business with my

1 son and my daughter and my wife. My son and
2 daughter earn their living from the business. My
3 son, in particular, never intended to enter the
4 business.

5 when I purchased the business, he was in
6 college at Penn State and then he entered his
7 chosen field of work, where he remained until
8 2013, when I asked him to come back and work in
9 the business because things were going so well.
10 I needed the additional help. I told him how he
11 would be able to earn more money in the long run,
12 would ultimately take over when I stepped away.
13 And now I don't know if I'll be able to keep my
14 promise to him or my daughter, who has worked for
15 me from the day I purchased the business, when
16 she turned 18. She's now about to celebrate her
17 30th birthday.

18 Additionally, she decided to attend
19 culinary school at that point. And she is now in
20 charge of the front and back of the house
21 operations for us. As a father, I'm more
22 concerned with what is happening to my children's
23 future, frankly, than I am my own. I'm also
24 concerned about the 14 remaining employees I have
25 at this point, which at one time was 25.

1 My story is just one of many. If you
2 consider this on a much larger scale, in January
3 of 2019, our Association conducted a Pennsylvania
4 bar and tavern business survey. Both members and
5 nonmembers of our Association were included in
6 the survey that had a 10-percent margin of error
7 with a 95-percent confidence level.

8 Just over 75 percent of those surveys
9 said that they had seen a drop in sales of a
10 six-pack and beer-to-go since Act 39. Nearly 63
11 percent said they were seeing increased
12 competition from grocery stores, convenience
13 stores and beer distributors; and nearly 42
14 percent say they were seeing increased local
15 competition from brew pubs, et cetera.

16 And if you've seen the recent auction, we
17 know have Target, Walmart who have purchased
18 licenses, our licenses, who will be entering the
19 arena, I'm sure. Our survey also found that many
20 small businesses and family-operated
21 establishments are seeing delayed beer deliveries
22 and fewer delivery date options. Nearly 35
23 percent of us say they've run out of certain malt
24 beverages and had to wait for a delivery.

25 This shouldn't be a surprise, considering

1 Act 39 significantly increased retail options for
2 six-packs and singles. One of the unintended
3 consequences is that the malt beverage delivery
4 is becoming problematic for small business owners
5 like me. We believe that needs to be addressed
6 by allowing tavern owners the right to pick up
7 their own malt beverages when they're between
8 delivery dates from a distributor and run out of
9 supplies.

10 Getting back to beer and taxes, with
11 Act 39 chipping away at the rights of tavern
12 owners and creating an unbalanced playing field,
13 it is our hope that as we move forward, our State
14 legislature will not put Pennsylvania family R
15 licenses at future disadvantages. We are
16 certainly not asking for an advantage over any
17 other type of license when it comes to paying
18 taxes.

19 In conclusion, all we are asking for is a
20 level, consistent playing field on this issue and
21 others in which your local bars, taverns and pubs
22 can be successful with some hard work. Again,
23 thank you for the opportunity. And if you have
24 any questions, I will be happy to provide my
25 thoughts.

1 MAJORITY CHAIRMAN PYLE: Thank you,
2 Mr. Tyler.

3 Take it away, Ms. Bova.

4 MS. BOVA: All right. Good afternoon,
5 everyone.

6 Chairman Pyle, Chairman Deasy, thank you
7 so much for allowing me to provide testimony
8 today. I am going to delve into some, I think,
9 items that came up before and outlay PRLA's
10 position on this issue because we do have a
11 position as it relates to this topic of sales tax
12 on malt and brew beverages.

13 PRLA is unique in this discussion. We
14 represent over 2,500 businesses in the State of
15 Pennsylvania and that ranges from your
16 independent restaurants, your brands, your
17 hotels, your attractions, but also, we represent
18 a number of breweries because, over the years,
19 breweries have gotten into the space of the
20 restaurant field. They are selling food. They
21 are selling for on-premise consumption.

22 So we really do represent kind of the
23 entirety of the people that are before you today.
24 One of the items that really led us to where our
25 testimony came from today is the system has

1 changed in the past few years, the past five
2 years specifically. Historically, breweries
3 couldn't sell for on-premise consumption unless
4 they had a couplet license, which was their
5 manufacturer and either a restaurant license or a
6 brew pub license. They could not sell like a
7 restaurant could without purchasing that
8 secondary license.

9 In 2015, the code has changed to allow
10 them to allow for on-premise consumption. And
11 then in 2016, it was further clarified that
12 breweries, distilleries and wineries could sell
13 each other's Pennsylvania products for on-premise
14 consumption. We believe that they are very
15 clearly now in the realm of the restaurant
16 industry. They are operating like restaurants.
17 They are providing on-premise consumption. And
18 we do believe that they should be collecting and
19 remitting tax at a wholesale cost.

20 And this is primarily, I think from some
21 of the feedback you got before, because of those
22 local drink taxes. If you do not assess sales
23 tax at the wholesale level, breweries will
24 actually have an advantage over restaurants. And
25 I'll explain why that is, and I'll use Allegheny

1 County as an example.

2 Currently, when a restaurant purchases
3 our beer, our wine, our spirits, we're paying
4 sales tax on that wholesale rate. And then, when
5 we're selling it to you the consumer in
6 Pittsburgh, we are assessing the 7 percent
7 Allegheny County drink tax. So we pay 7 percent
8 sales tax, 7 percent drink tax.

9 Because of the way the law was written --
10 and I know there was confusion -- you can't tack
11 the two together. The law is very clear. If the
12 sales tax is assessed, the drink tax cannot be
13 assessed. So if you say that breweries have to
14 remit sales tax at the retail level, now we're
15 paying sales tax at the wholesale and the drink
16 tax at the retail, and they're only paying sales
17 tax at the retail level. So we're essentially
18 paying 14 percent, and they would still be paying
19 that 7 percent.

20 So we really do think that to clarify
21 that, they should be figuring out what that whole
22 cost -- and I'll go into some of our position on
23 that -- and then paying that drink tax,
24 especially when it comes to Allegheny; it's 7 and
25 7, but in Philadelphia, it's 8 and 10. There is

1 a disparity between the two bases of taxes in
2 Philadelphia. And we really think that if you're
3 going to operate like a restaurant, you need to
4 remit taxes; the sales tax at the wholesale
5 level, the drink tax at the retail level when you
6 sell it to the consumer.

7 with that being said, I know that there
8 was some discussion before about how you
9 determine the value. And I know that in previous
10 testimony, we've heard something called a
11 constructive purchase price. PRLA really
12 believes that we need a clear set formula to
13 determine what the value of our product is. When
14 you look at constructive purchase price, it --
15 the vendor -- it actually has a separate vendor
16 and a purchaser.

17 And in this case, you would be selling
18 the product to yourself. So you would need to
19 determine the value of that product. We think
20 that allows for a lot of disparity. As we heard
21 from the brewers before, an IPA that's brewed by
22 one brewer might be very different and have
23 different costs than an IPA brewed by another
24 brewer. So it's really hard to figure out what
25 that value is.

1 When we purchase our products, we're
2 purchasing it from the brewery or from the
3 wholesaler. So it's very clear what we are
4 remitting sales tax on when we're purchasing that
5 product. So we believe that there should be some
6 formula in place. I put some numbers in here and
7 I want to edit them a bit because we said let's
8 figure out what the percentage is of what you're
9 selling retail.

10 So let's say you sell all of the sales
11 that you sell at retail -- let's take the
12 percentage of what that cost would be across the
13 board and you remit the tax on that. We put here
14 40 or 50 percent. My members generally say their
15 mark-up is about 30 -- 25 to 30 percent. So
16 maybe look at what's the total retail sales made
17 by a brewery, and then they remit sales tax on 30
18 percent of those sales to really allow for that
19 wholesale cost.

20 So we think that a formula like that,
21 that is consistent and universal and not open to
22 this is my reasoning that I should be paying this
23 tax is a really much more clearer way to move
24 forward. It provides clarity. It provides no
25 confusion. You have that clear percentage.

1 That's what you're remitting tax on. And we
2 really think something like that is needed to
3 ensure that taxes are being remitted in the same
4 way that we are required to collect the sales
5 tax.

6 So I will end there and turn it over to
7 my good friend, Mr. Holston.

8 MR. HOLSTON: Thank you. Good afternoon,
9 Chairman Pyle, Chairman Deasy, members of the
10 Committee and staff. I'm Joe Holston. And as
11 Representative Ryan said, I was actually around
12 in 1959, although not yet drinking beer, I don't
13 think. Perhaps my mother was giving it to me.

14 But I think I'm really here because for
15 pretty much the extent of my legal career, I have
16 been a tax attorney and a liquor attorney. I've
17 represented MillerCoors for 35 years. I've
18 represented other people in the industry. And
19 without going through my testimony -- a lot of
20 which has been set forth before -- I think of a
21 couple key points.

22 The system changed. Everybody agrees on
23 that. You can say it's the last five years, 15
24 years, whatever. When I started, beer was sold
25 by a manufacturer. It was subject to sales tax.

1 Beer sold by a distributor was subject to sales
2 tax, and they sold cases or kegs. I mean, for
3 Frank and myself and some of the older people,
4 you remember. That's where you went to get your
5 case or keg.

6 Under two six-packs and taverns went
7 together. That was also the only place you could
8 drink. You didn't go to a brew pub to drink.
9 You didn't go to any of the other places. We
10 now -- if you look at the market today, Sheetz
11 has restaurants. Weis Markets has restaurants.
12 Wegman's has a full bar with entertainment, I
13 believe, in Chester County.

14 The market has changed. Distributors are
15 selling down to a single unit. I know of a
16 number of distributors who sell growlers, who
17 sell crowlers, who have created slushy machines
18 and are selling slushies to go that are
19 alcoholic. There's been a lot of change. And I
20 think everybody is right. Everybody can point to
21 something that's not fair to them.

22 The sales tax is hitting the brew pubs.
23 Yeah, they're unfortunate. If you listen to the
24 home D's, they're going to say, hey, wait a
25 minute, we have to charge tax when we sell it out

1 the door. Sheetz doesn't because they're a
2 restaurant. Weis doesn't because they're a
3 restaurant. And people come into the home D's
4 and complain, why are you charging me tax?
5 Nobody else charges me tax.

6 Similarly, these folks touched a little
7 bit on what happens with the licenses. Depending
8 on what type of license you have, the Liquor Code
9 -- and I remember when it was going to be
10 Project 2000 and they were going to rewrite it
11 back then. The Liquor Code has a lot of special
12 rules. There are over a dozen different kinds of
13 retail licenses. That's not counting the brew
14 pubs. That's not counting the distributors.

15 I think there's probably, with all of the
16 different permits, 80 or 90 different things you
17 can be. The rules are different. For example,
18 these folks, members, have to clean their taps
19 once a week. They have to pay a third-party to
20 clean their taps. The distributor doesn't have
21 to, doesn't have to clean them. I presume they
22 do -- doesn't have to pay a third-party.

23 Same thing with the brew pubs. I presume
24 they clean them, but they don't have to pay a
25 third-party. If you think about those in

1 Harrisburg that have been there a while, The Tap
2 House has 100 and some taps, I think only one of
3 which is one of my clients, but they have 100 and
4 some taps. They're paying somebody, I don't
5 know, five bucks a day, five bucks a week, 10
6 bucks a week. I'm not sitting here to tell you
7 what the right answer is and what the wrong
8 answer is, but there are a lot of disparities in
9 the industry. You know, there's legislation
10 you've moved through the Committee about what
11 hours people can be open.

12 These are things that I think it's time
13 to actually have a discussion about where the tax
14 should be charged, what rules should pertain if
15 you're selling on premise, what rules should
16 pertain if you're selling off premise and how it
17 works because there have been a lot of businesses
18 who are small businesses who've been in
19 existence, whether they're a distributor, a
20 restaurant, a tavern, who have been hurt by the
21 new changes.

22 And I'm not sitting here saying the new
23 changes are wrong. I'm just saying that they're
24 -- you know, I'm the big bad, big brewer. But
25 aside from me and a few people, there's nobody at

1 the table who's not a small business. And when a
2 brew pub opens, God bless them, but if he's
3 losing sales, aren't we just switching people
4 around? And those are really the kind of things
5 I think we need to think about as we talk about
6 how to solve these problems because we keep
7 solving problems one at a time.

8 And as we do that, we create new
9 problems. I mean the 2016 law was supposed to
10 solve a lot of problems. You know, they
11 referenced that brew pub license letter. Most of
12 these people don't even have brew pub licenses
13 anymore. They're selling off of a manufacturer's
14 license. You know, for example -- and I'll end
15 with this, you know, a manufacturer like this
16 establishment -- I know nothing about this town
17 -- this could be in a dry township because
18 they're a manufacturer. They don't have a retail
19 license.

20 There are brew pubs operating in
21 Pennsylvania in dry townships. They're subject
22 to different zoning. You know, there's a lot
23 there that I think the Committee could delve into
24 to try to figure out what you think, in your
25 professional positions, is fair, but I think that

1 there are a lot of issues and, you know, I've
2 submitted the rest of my testimony, which talks
3 about the history of the taxes and whatnot, but
4 there's really no reason; they've all been
5 discussed.

6 Thank you.

7 MAJORITY CHAIRMAN PYLE: Questions from
8 the panel?

9 Mr. Ryan lead us off. Mr. Kenyatta,
10 you're next.

11 REPRESENTATIVE RYAN: Melissa, if I could
12 ask you a clarifying question. And then Joe, I
13 have a quick question for you, as well.

14 If I understand correctly, Allegheny
15 County and Philadelphia County charge the
16 supplemental taxes. So when you're referring to
17 the double level of taxation where they can't
18 piggyback the tax, you're just talking about
19 those two counties.

20 That's not true in the rest of the State;
21 is that accurate?

22 MS. BOVA: Correct. Those are the only
23 two counties, and hopefully they will always only
24 be the two counties that have a local drink tax.

25 REPRESENTATIVE RYAN: Okay. And Joe, the

1 question I have for you -- and thank you very
2 much for clarifying that -- you know, you're an
3 attorney. I'm a CPA. Any time I would have a
4 client that would come up, I would look at the
5 law and try to find a way to navigate through it
6 so that there's no law that anyone could possibly
7 craft that we couldn't find a way around.

8 Are we not really just saying that we
9 need to really rethink the entire way of the
10 regulation?

11 And Tom, I empathize with you
12 significantly when you buy a license and you do
13 something based upon one set of rules, but that
14 license was legislatively created, as well. And
15 so there -- I don't mean that to not be
16 sympathetic to what you're going through, but if
17 it was created by legislation, it can be undone
18 by legislation.

19 Aren't we really just saying that as long
20 as we have rules and regulations, there's going
21 to be a way around it?

22 MR. HOLSTON: I would say that there are
23 probably ways around a lot of things. I would
24 hope the people that pay me think that I know
25 what they are, but you know, part of it, like you

1 talked about a license, for example.

2 REPRESENTATIVE RYAN: Right.

3 MR. HOLSTON: A license is a right,
4 except when dealing with the State. The State
5 can take a license, but Tom can sell his license.
6 And presumably, bought a license on the market
7 and paid, depending upon where you are in the
8 State, maybe north of \$500,000. The brew pubs
9 don't pay that for a license. They just get it
10 from the State.

11 They can open two satellite locations
12 where they can run bars, essentially. They don't
13 even have to brew in those facilities and they
14 don't have to buy that license.

15 REPRESENTATIVE RYAN: Right. But that's
16 my point, that by creating it that way, it's
17 creating a competitive market, which then
18 undermines the value of other things. I mean,
19 are we really not saying that the fact that we're
20 trying to regulate something is inadvertently
21 undermining the very thing we're trying to think
22 we control?

23 MR. HOLSTON: That's a deep philosophical
24 question that I'll leave to the members of the
25 Committee.

1 REPRESENTATIVE RYAN: You know what I'm
2 referring to. It's like --

3 MR. HOLSTON: I understand completely
4 what you're referring to, Representative.

5 REPRESENTATIVE RYAN: I deal with that in
6 the Tax Code all the time with my CPA clients. I
7 mean, you can't give me an issue on a
8 manufacturing exemption that I can't find a way
9 around. And so, as an example, the hypothetical
10 question that I asked earlier, if you set up two
11 separate ones -- again, not knowing the industry
12 that well -- that would imply to me that that
13 separately incorporated would need an R
14 license --

15 MR. HOLSTON: That is correct.

16 REPRESENTATIVE RYAN: -- which would
17 technically have an expense associated with it,
18 so there's an investment on both sides that might
19 negate the tax benefits from it. So there's a
20 level of complexity here because of what we've
21 done -- going to someone said Governor Pinchot, I
22 guess is the guy's name. He was a great guy.
23 Ben Franklin was a much nicer guy, but I just --
24 I just question whether or not a legislative and
25 an executive branch can possibly keep pace with

1 what alternative free market systems will allow
2 to be created, and that every time you come up --
3 because I did it for 40 years of business
4 career -- every time you came up with -- not you,
5 but every time we came up with a law, I'd find a
6 way around it.

7 So we would get paid a lot of money to do
8 that. So the question I have is do we not really
9 say that we should just sit back and look at this
10 whole thing all over again and say, what are we
11 doing, but that might mean an R license could
12 conceivably end up having no value.

13 MR. HOLSTON: That is the risk of, you
14 know, if you were going to go back and reinvent
15 the wheel, I don't think anybody would invent
16 this wheel. But right now, you have a lot of
17 people, whatever, 14,000 license holders in
18 Pennsylvania --

19 REPRESENTATIVE RYAN: I know. That's
20 what I'm worried about.

21 MR. HOLSTON: -- who have a lot of money
22 invested in their different types of licenses.
23 And you know, if you look towards the end of my
24 license, I talk about who can sell what. And you
25 know, as I've said, I've represented Miller since

1 1984. I had to sit down, turn the TV off and
2 spend a half-hour to figure out who could sell
3 what to whom.

4 REPRESENTATIVE RYAN: I mean, just a
5 commentary and then I'm done at this point, but
6 in my world, if we do something, we change it, we
7 damage someone's value of something they bought
8 in good faith. I have a tough time not seeing
9 where the state should not have some liability
10 for that damage. I really mean that. You can't
11 set up a system and then change it on somebody
12 after they, in good faith, did certain things. I
13 just have a problem with that whole issue.

14 Mr. Chairman, thank you.

15 MAJORITY CHAIRMAN PYLE: Okay. We're
16 going to go to Representative Kenyatta now.

17 REPRESENTATIVE Kenyatta: Thank you so
18 much, Mr. Chairman.

19 And to my colleague, if you're that good,
20 I might need to come to you next tax season. I'm
21 going to Representative Ryan. He's down the hall
22 from me in the Capitol, so he's close.

23 I think a part of my question was asked.
24 And to my point that Representative Ryan made,
25 you know, I spent part of my career working in

1 restaurants and working in bars. And so I come
2 from that perspective and, you know, to your
3 point, that really was a part of your retirement
4 strategy. So I do have a lot of concerns about
5 how your license is being devalued and the impact
6 that has on your business. I think a part of my
7 question was answered.

8 So currently, the brewery pubs do not
9 have to have an R license at all?

10 MS. BOVA: Correct. Yes.

11 REPRESENTATIVE KENYATTA: Okay. And
12 Melissa, you spoke about it a little bit -- and
13 great to see you.

14 Can you speak a little bit more about
15 what you would see as a solution to that and
16 balance?

17 And how you all as an organization, who I
18 know sort of are representing both sides here,
19 you're like walking on a tightrope juggling
20 knives, but how did you sort of get to this
21 positioning and the position that you articulated
22 today?

23 MS. BOVA: Yeah. I mean, I -- as Joe
24 said and as Tom said, the system keeps on
25 changing. We're kind of treading water trying to

1 figure out where it is. So our members -- and
2 like I said, quite honestly, my Alcohol Service
3 Committee is representative. We have hotel
4 licenses, brewery licenses, brew pub licenses,
5 distillery licenses and R licenses from the
6 brands down to your pubs and taverns.

7 So we really looked at it, and a lot of
8 our policies are a little different than others
9 in the fact of this is the field that we're
10 playing in and they've been in this field now for
11 about four years, at least in terms of being able
12 to sell for on-premise. So let's figure out how
13 to level that playing field. Because right now,
14 for those that are confused and aren't remitting
15 any tax, they have a very distinct advantage over
16 us.

17 So while we might want to blow up the
18 entire system, we're kind of looking at how do we
19 correct it and just make sure everybody is
20 remitting their tax and their policies at the
21 same place across the board, especially, as I
22 said, in Philadelphia. If you do a sales tax at
23 the retail level, the City of Philadelphia will
24 lose a significant amount of revenue that comes
25 from the drink tax that breweries in the city are

1 paying, because they're paying the across the bar
2 tax in Philadelphia.

3 So we really said, they're operating like
4 we are for good, bad or ugly. It is an issue in
5 some counties, some more than others, where for
6 \$1,500, a brewpub or brewery can open and the
7 restaurant down the street has to pay \$350,000 to
8 get that same ability to sell beer, wine and
9 spirits. So some people might want to blow up
10 the system. We're just trying to look at the
11 system as it is and say, okay, what tweaks and
12 changes can we make to make it level and then
13 come in and maybe make some changes moving
14 forward to help maybe some of those licenses that
15 have been left behind in the process.

16 REPRESENTATIVE KENYATTA: Yeah, it is --
17 thank you, Mr. Chairman.

18 I'm really happy we're having this
19 hearing because there are young entrepreneurs,
20 some of whom we've heard of, who are also being
21 entrepreneurial, right, and they've found a way
22 to find that lane. And you certainly don't want
23 to throw up barriers that they can't be
24 successful. But if you've paid, you know,
25 \$350,000, you want that investment to mean

1 something. And you know, just kudos to you for
2 getting your son to come into business with you.
3 I think, had my parents asked, that would have
4 been a hard no.

5 So thank you.

6 MAJORITY CHAIRMAN PYLE: Love hearing
7 your questioning.

8 Representative Gaydos, it's all yours.

9 REPRESENTATIVE GAYDOS: So it seems like
10 government always wants to find somebody to tax,
11 but it sounds to me that the argument here is
12 that without this tax, all these companies had
13 proliferated. So kind of sounding, you know,
14 unconventional, we should be, then, not taxing
15 you guys who are the bigger groups and these
16 other groups because how much would you
17 proliferate not having to deal with that tax?

18 MR. HOLSTON: I, without even checking
19 with my client, I am comfortable saying we would
20 be fine if you want to lift that tax, the excise
21 tax, if you can get the feds to remove their tax.
22 I'm all for it.

23 REPRESENTATIVE GAYDOS: I mean, just an
24 observation coming out of here.

25 MS. BOVA: Revenue in the back is crying

1 right now.

2 MAJORITY CHAIRMAN PYLE: To the gentleman
3 from Department of Revenue, his name is Grant and
4 he owns the place. Start tipping him up.

5 (INAUDIBLE.)

6 MAJORITY CHAIRMAN PYLE: That's a fair
7 point. At some point, we do have to collect
8 revenue. I say we do it in Maryland.

9 Any other questions for the panel?

10 well, that's going to wrap it up.

11 Mr. Holston -- oh, pardon me. Ms. Bova,
12 Mr. Tyler, Mr. Big Bad Beard, nice to hear from
13 you. That's what you told me to reference you
14 as. Thank you all very much.

15 As you might surmise, we are very
16 interested in the people who are actually in the
17 field working the bars, taverns, restaurants,
18 micro brews, micro pubs, distilleries, et cetera,
19 et cetera. We appreciate you all taking time out
20 of your day and traveling great distances to be
21 here. I'm going to hand it over here to Natalie
22 Mihalek, whose district we're in, but before I
23 do, Grant and Mary Lou, thank you very, very
24 much. You guys have been great.

25 And to all the micro brewers joining us

1 today, please feel free to grab the hand of
2 somebody you see up here and ask them your
3 questions.

4 We're going to hand it over to Natalie
5 Mihalek, who is our host, to bring this one to a
6 close.

7 REPRESENTATIVE STUCK-MIHALEK: I won't
8 keep you waiting, as I know that the restaurant
9 is about to open and the most important question
10 of the day is, can we get a beer?

11 But I do want to thank everyone for being
12 here. Thank you for your thoughtful testimony.
13 This really helps us to move forward. I think
14 that we have the information that we needed to
15 get today. I'm glad that we had so many members
16 able to make it in from all over the
17 Commonwealth.

18 Thank you all very much.

19 (Whereupon, the hearing concluded.)
20
21
22
23
24
25

C E R T I F I C A T E

I hereby certify that the proceedings are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

Tiffany L. Mast

Tiffany L. Mast, Court Reporter

Notary Public

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25