

Testimony of Mick Owens--Mick's All American Pub
Pennsylvania Restaurant & Lodging Association
House Liquor Control Hearing on HB 1617
Tuesday, July 23, 2019

Chairman Pyle, Chairman Deasy and members of the House Liquor Control Committee, thank you for allowing me to testify today about House Bill (HB) 1617 sponsored by Representative Staats. My name is Mick Owens, I am the owner of three Mick's American Pub and Maize Mexican Cantina restaurants, all located in Lancaster, PA. I am also the Co-Chair of the Pennsylvania Restaurant & Lodging Association's (PRLA) Alcohol Service Committee.

HB 1617 is supported by the PRLA and is the product of a task force our association put together to discuss licensing concerns and the future of our industry. At the fall 2018 meeting of our committee, we had an in-depth discussion about how the industry has changed since the passage of Act 39—changes that have offered more consumer convenience but also led to even more types of businesses applying for and using a Restaurant (R) license—such as grocery stores, convenience stores and now big box stores. The committee determined that if action is not taken to start making changes to the liquor code that reflect the changing marketplace, independent restaurants would become obsolete.

The task force was charged with *“researching and assessing options that would address the current pressures on R licenses in some areas, with the goal of developing a plan that looks 5 to 10 years in the future that protects the R licenses in the industry and those who want to enter the industry in the future.”* While in the long term, the task force has concepts that would make some broader, more sweeping, changes to address the future of the industry—in the short term—the task force determined tweaks to current licenses would offer the best immediate path forward.

There are two major concepts that I want to articulate here as it pertains to our support of HB 1617 and licenses in the state, in general:

- When you look at the total number of licenses located in Pennsylvania—there ARE enough of them, even when taking into consideration the influx of new “entities” buying them.
- But, if these licenses are not adjusted and shifted to allow for the changing market, there will be a push to create a new license—something we oppose. Right now, everyone with the same type of license has to play by the same rules. We want to ensure that continues to be the case.

HB 1617 is a moderate first step to make changes to the licensee marketplace. In Pennsylvania, there are 261 Hotel (H) licenses that are operating as restaurants. That is because these licenses existed before 1949 and applied for an exemption about 10 years ago to eliminate the room requirement that is attached to an H license. These are not Marriotts or Hiltons—they are buildings that used to rent out 2, 3 or 4 rooms before large hotel chains became prevalent, and today, they are literally operating as restaurants. HB 1617 does not allow ANY hotel that has opened since 1949 to apply for the license so the total impact is capped at 261.

Unfortunately, despite them appearing and operating as R licensees, these restaurants each have an H license—which means if they want to go out of business or move to another location, they can't take

the license with them. If they sell, they need to sell the building, because the license is tied to the building, as opposed to an R license being independent of the location.

HB 1617 would allow the holder of one of these licenses to pay a one-time fee of \$25,000 to convert that H license to an R license. This does not create a new license. The license has always been operating as a license in the municipality—it just adds some value and the ability for the license holder to actually sell or do something with that license. If a municipality has 25 licenses and an H license converts to an R, it still has 25 licenses—nothing changes.

There is a second provision in the legislation that also requires a fee to be paid to the state if the holder of a converted license sells it within five years of the conversion. The fee is \$25,000 or 25% of the purchase price (whichever is greater).

Opponents of this legislation claim that grocery stores, convenience stores and big box stores will buy these licenses, and for some of them, that very well may be the case—but I would rebut their argument with a few points:

- They would still be buying a license that has always been operating in a county, so they are either buying this, or another R in the county. Either way, they are buying a license.
- This allows many current holders of an H license that has no value whatsoever to get value from their license.
- If slight changes are not made to free up licenses, these grocery, convenience and big box stores WILL find a way to get a new license category, free up licenses or find ways to get benefits from current licenses not available to true R licensees. This is a modest change to only a maximum of 261 licenses and avoids that possibility in the near future.

The marketplace has changed. It is not and will not return to what it was 15 years ago. That needs to be accepted. We believe this legislation is a step forward in making reasonable changes to the current licensing structure to reflect the new reality we are all operating in, allow long-term licensees to get value out of their licenses and not flood municipalities with new licenses. We urge you to support this legislation if it comes before the committee for a vote.

Thank you for letting me testify today and I am happy to answer any questions.