

Testimony of Mick Owens—Mick’s All American Pub
Pennsylvania Restaurant & Lodging Association
House Liquor Control Hearing—HB 1644
Tuesday, August 27, 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) 1644 sponsored by Representative Dowling. My name is Mick Owens, I am the owner of three Mick’s All American Pub restaurants and Maize Mexican Cantina, all located in Lancaster, PA. I am also the co-chair of the Pennsylvania Restaurant & Lodging Association (PRLA) Alcohol Service Committee.

As you have learned at previous hearings where PRLA has testified, our association has attempted to take a positive approach to legislation. Our goal has been to not oppose legislation, generally, but to list concerns our association has and potential solutions to those concerns. Our association recognizes that the market is changing. Consumers have enjoyed more recent changes stemming from Act 39 and Act 166 of 2016, and it is not surprising that the legislature wants to continue to move the ball forward in terms of updating the current marketplace in Pennsylvania.

HB 1644, dubbed a “consumer convenience” bill, is the most far-reaching change we have seen proposed so far. PRLA does have a number of concerns with the bill and even with those concerns addressed, this legislation will have an impact on all current operations by all licensees in the state.

Upon review of the bill, our Alcohol Service Committee recommends “splitting” the bill into two parts. First, our association supports allowing more than 192 oz of malt and brewed beverages and more than 3,000 mL of wine to be sold in a single transaction. In fact, this change is necessary due to changes made in the law as it pertains to the sale of malt and brewed beverages by beer distributors. Before Act 166 of 2016 was passed, the privileges relating to the holders of an R and the holders of a D license were clearly delineated. R licensees would sell 192 oz or less in a transaction and D licensees sold 193 oz or more. Act 166 allowed D licensees to sell malt and brewed beverages in any size and there was no extra cost associated for this privilege. The delineation that once existed was eliminated for one segment of the industry, but not the other. We think this portion of HB 1644 is a commonsense next step—if we are going to ensure consumer convenience and open up the market, it should be opened up for all licensees and there should be no cost associated with that.

We do believe that the second half of the proposed legislation, if the legislature decides to move forward in considering it, *should* come at a significant cost because it does inherently change the rules that are very specific to an R license—rules that are put in place with the understanding that the license would be operated as a Restaurant. “Front end check-out”, aisle sales, exemption from on-premise consumption and eliminating the seating requirement are very clearly NOT something that a true restaurant requires. These are exemptions that entities that are NOT restaurants want to benefit their businesses—they want to change the rules—and we believe that should come at a cost that is significantly higher than \$25,000/year. We would suggest the legislature look at a series of fees that would be based on the square footage of the establishment applying for the exemption. These fees could potentially range from \$25,000 for a small business up to \$100,000 for big box locations.

Finally, we would like to remind the committee as we mentioned in the July hearing: there are enough licenses right now for these entities to get into the “restaurant” market—but they do need to be freed up and shifted appropriately. This legislation, in any form, will not succeed without licenses being available, so we urge you to move forward with common-sense changes such as Rep. Staats’ HB 1617 and legislation that is to be introduced shortly in the Senate that would address the statewide auction process before making any other changes to licensee benefits.

Again, there are parts of this bill that would reestablish a balance that was taken away in Act 166 of 2016—lifting the cap on beer and wine sales makes sense—and is something that would help restaurants of all sizes in Pennsylvania. This, again, should not come at a cost because it did not come at a cost when it was altered previously. But the second half of the bill—changing the rules for some who do not want to meet the requirements of the license—would change the entire fabric of the license and should come at a significantly higher cost than is being proposed in this legislation.

Either way, we believe that the availability of licenses themselves needs to be addressed before the benefits should be altered and we urge the legislature to continue along that path.

As always, PRLA appreciates the opportunity to provide feedback on this and any other proposals and we look forward to working with the committee and industry partners to move forward with legislation that strikes a balance between the need for consumer convenience and preserving existing licenses. I am happy to answer any questions.