

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

HOUSE LIQUOR CONTROL COMMITTEE

joint with the

SENATE LAW AND JUSTICE COMMITTEE  
PUBLIC HEARING

STATE CAPITOL  
HARRISBURG, PA

MAIN CAPITOL BUILDING  
ROOM 140

FRIDAY, APRIL 30, 2021  
10:00 A.M.

PRESENTATION ON  
READY-TO-DRINK COCKTAILS

HOUSE COMMITTEE MEMBERS PRESENT:

HONORABLE CARL WALKER METZGAR, MAJORITY CHAIRMAN  
HONORABLE BARRY J. JOZWIAK  
HONORABLE JOE KERWIN  
HONORABLE CRAIG T. STAATS  
HONORABLE DAVID M. DELLOSO  
HONORABLE MANUEL GUZMAN  
HONORABLE MARYLOUISE ISAACSON  
HONORABLE REGINA G. YOUNG

## HOUSE COMMITTEE MEMBERS PRESENT VIRTUALLY:

HONORABLE RUSS DIAMOND  
HONORABLE VALERIE S. GAYDOS  
HONORABLE ROBERT W. MERCURI  
HONORABLE MARCI MUSTELLO  
HONORABLE JIM RIGBY  
HONORABLE GREG ROTHMAN  
HONORABLE BRIAN SMITH  
HONORABLE JEFF C. WHEELAND  
HONORABLE DANIEL J. DEASY, DEMOCRATIC CHAIRMAN  
HONORABLE PATRICK J. HARKINS  
HONORABLE STEVEN R. MALAGARI

## SENATE COMMITTEE MEMBERS PRESENT:

HONORABLE MIKE REGAN, MAJORITY CHAIRMAN

## SENATE COMMITTEE MEMBERS PRESENT VIRTUALLY:

HONORABLE JIM BREWSTER, DEMOCRATIC CHAIRMAN

\* \* \* \* \*

*Pennsylvania House of Representatives  
Commonwealth of Pennsylvania*

## HOUSE COMMITTEE STAFF PRESENT:

MICHAEL BIACCHI  
MAJORITY EXECUTIVE DIRECTOR  
LISA SEILHAMMER  
MAJORITY ADMINISTRATIVE ASSISTANT

LYNN BENKA-DAVIES  
DEMOCRATIC EXECUTIVE DIRECTOR  
JAMES VANDEGRIFT  
DEMOCRATIC RESEARCH ANALYST

## SENATE COMMITTEE STAFF PRESENT:

TAYLOR WAMSHER  
MAJORITY EXECUTIVE DIRECTOR  
BRUCE MCLANAHAN  
MAJORITY CHIEF OF STAFF  
ERIN MARSICANO  
MAJORITY LEGISLATIVE DIRECTOR

STEPHEN BRUDER  
DEMOCRATIC POLICY DIRECTOR

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\* \* \*

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## SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

## 1 P R O C E E D I N G S

2 \* \* \*

3 SENATE MAJORITY CHAIRMAN REGAN: I call this  
4 joint public hearing of the Senate Law and Justice  
5 Committee and the House Liquor Control Committee to order.  
6 It's great to be back in this esteemed room where I spent  
7 many an hour with my colleague here, Representative  
8 Metzger, and many others that are here. It's good to be  
9 back, but recognizing that there's a lot of hours that  
10 we'll never get back, will we, Representative Metzger? No,  
11 we will not.

12 Thank you to the testifiers, very important that  
13 you're here today to help us sort through this I think very  
14 important issue which we face on the horizon. We're here  
15 today to discuss ready-to-drink beverages. We'll be  
16 hearing from many stakeholders today about the  
17 manufacturing, distribution, sales of RTDs. This hearing  
18 is to gather information on these aspects of RTDs and what  
19 the landscape currently looks like in Pennsylvania and  
20 where it could go in the future.

21 With that, I'd like to invite my friend and  
22 colleague, Chairman Metzger, to make remarks on behalf of  
23 the House.

24 HOUSE MAJORITY CHAIRMAN METZGAR: Thank you,  
25 Chairman. I appreciate your leadership on this, and I

1       thank everyone for taking the time to come here and testify  
2       on a non-session today and all the Members for taking the  
3       time to come here. I think it's an important issue.  
4       There's a lot to learn and a lot of different sides to it,  
5       so I look forward to the questions that we're going to have  
6       today. I know we have some issues that we want to get to  
7       the bottom of, so I think it's a real hearing where we  
8       actually have some real issues that we need to hear out,  
9       and so we're excited to get going on that.

10                SENATE MAJORITY CHAIRMAN REGAN: Thank you, Mr.  
11       Chairman.

12                I'd now like to invite Minority Chair, Senator  
13       Brewster, to make some opening remarks. Go ahead, Senator  
14       Brewster. Senator, I think you're on mute.

15                SENATE DEMOCRATIC CHAIRMAN BREWSTER: Okay. Are  
16       we all right there?

17                SENATE MAJORITY CHAIRMAN REGAN: Yes.

18                SENATE DEMOCRATIC CHAIRMAN BREWSTER: Okay.  
19       Thank you, Senator. Yes, I want to thank my fellow Chairs  
20       for giving us the opportunity to hear testimony from the  
21       public on ready-to-drink cocktails.

22                As a relatively new product in Pennsylvania that  
23       clearly has a lot of growth potential, I think it's  
24       important we take the time to learn about what exactly this  
25       product is, how it is treated in other States, how it's

1 available and should be controlled, the potential of its  
2 abuse by minors, and the future of the product itself.

3 Speaking for myself, I generally have concerns  
4 with the increased access to additional alcohol products  
5 through additional retail locations. Act 39 did, in my  
6 opinion, a fair job of expanding access to alcohol while  
7 maintaining control of higher ABV spirits. Ready-to-drink  
8 beverages are, from my perspective, a spirits derivative  
9 and such should be made available through the PLCB fine  
10 wine and good spirits locations through the PLCB, RTDs, and  
11 to our trusted licensees for access to the public. Also,  
12 our Pennsylvania Liquor Control Board employs a system and  
13 has an amazing track record of customer service while  
14 keeping alcohol out of the hands of minors while providing  
15 a continuing revenue source that supports many core State  
16 programs.

17 The more than 100 percent growth of this product  
18 is to be commended for the economic activity that they  
19 generate but also something we need to keep an eye on. The  
20 pandemic has increased drinking by one in four people  
21 across the country. Act 39 provided the largest increase  
22 in alcohol access to Pennsylvania since the end of  
23 prohibition. While some see the pandemic as a reason to  
24 open up alcohol sales, I see it as a reason to proceed  
25 cautiously.

1           And lastly, I do want to say, Mr. Chairman, just  
2 for the record, I'm disappointed that there will be no  
3 testimony here today from drug and alcohol counselors or  
4 from the alcohol addiction prevention community. They have  
5 legitimate and well-founded concerns and perspectives that  
6 should be heard hopefully in the future.

7           That being said, I look forward to hearing  
8 today's testimony and working cooperatively to find the  
9 best way to continue to provide access to canned cocktails.  
10 Thank you, Mr. Chairman.

11           SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
12 Senator. And I will let you know that this is just a very  
13 preliminary fleshing out of this issue and that those  
14 testifiers will certainly be involved at any movement on  
15 this moving forward, so thank you for your concern and  
16 thank you for your comments.

17           HOUSE MAJORITY CHAIRMAN METZGAR: Thank you. And  
18 I'd like to take a moment to offer the good minority  
19 Chairman Dan Deasy an opportunity for some introductory  
20 comments.

21           HOUSE DEMOCRATIC CHAIRMAN DEASY: Thank you very  
22 much. Can you hear me okay?

23           HOUSE MAJORITY CHAIRMAN METZGAR: Yes, we can  
24 hear you fine, Dan.

25           HOUSE DEMOCRATIC CHAIRMAN DEASY: Okay, great.

1 Thank you. Good morning, Senator Regan. Thank you for  
2 taking the opportunity to chair the hearing, and I hope you  
3 feel better. It's nice to see you back in the Capitol.

4 To my colleague, Representative Metzger, Chairman  
5 Metzger, welcome to the Committee. We've had some great  
6 discussions and look forward to working with you as well.  
7 And it's always good to see Senator Brewster from western  
8 Pennsylvania as well.

9 And I'll be very brief. I agree with some of the  
10 concerns that Senator Brewster had mentioned. You know,  
11 obviously, these products are growing throughout the  
12 country, as well as in Pennsylvania, so I look forward to  
13 hearing the positives and negatives that are out there  
14 right now. And I just want to point out also something  
15 that Jim didn't mention is April, as we close out April,  
16 it's Alcohol Awareness Month, so we should be cognizant of  
17 that. And, you know, one of the top public health crises  
18 we face is alcoholism, so we need to be respectful of that  
19 as well as we look forward to grow the industry as well.

20 So I look forward to hearing the testimony today  
21 and safely work to manage these products as we move  
22 forward. Again, it's always a great opportunity to hear  
23 about the evolvment of the industry, so thank you for  
24 scheduling this today, Senator Regan. I look forward to  
25 hearing the testimony.

1           SENATE MAJORITY CHAIRMAN REGAN: Thank you very  
2 much, Representative Deasy. And thank you all. I  
3 appreciate everyone who has taken the time, as  
4 Representative Metzger said, and on a Friday to be here, so  
5 thank you.

6           We're going to welcome our first panel up. And  
7 I'd like to remind all the panelists to please -- we  
8 received your testimony already. Everyone has  
9 painstakingly reviewed it, and so if you could just please  
10 encapsulate your remarks into some short comments so we can  
11 get to the questions. I know that the Members from both  
12 bodies have several, I think, important questions, so  
13 because we're limited on time, we want to make sure that we  
14 get to everyone's questions. So I would welcome the panel  
15 from the LCB to come forward.

16           Oh, and to our Members out there who are  
17 participating via -- what is it -- Teams, please hit the  
18 raise-hand function on your computer if you want to ask a  
19 question and we'll get to you as soon as we can. All  
20 right. So, members of the LCB, please proceed in whatever  
21 order you see fit. Thank you.

22           MR. DEMKO: Good morning, Chairman Regan,  
23 Brewster, Metzger, Deasy, and the Members of the Senate Law  
24 and Justice and House Liquor Control Committee. Thank you  
25 for this opportunity to testify regarding the Pennsylvania

1 liquor control sales and distribution of ready-to-drink  
2 products. My name is Michael Demko. I am the PLCB  
3 Executive Director. Testifying with me today is Deborah  
4 Rivera, our Chief Merchandising Officer; Tom Bowman, our  
5 Director of Product Selection; and Rodrigo Diaz, our Chief  
6 Counsel.

7 Since your comment was not to read through what  
8 we presented, we would be open to questions to start off if  
9 that suffices you.

10 SENATE MAJORITY CHAIRMAN REGAN: That's great.  
11 Then I'll start with a quick question if you don't mind.  
12 And my question is how does the LCB currently define RTDs?

13 MR. DEMKO: Well, RTDs include malt and beverage  
14 that pour in. We also have wine-based ones that do. Tom  
15 Bowman, would you like to add into that?

16 MR. BOWMAN: Sure. Good morning, everyone. To  
17 add to that, a good place to start might be what an RTD is  
18 not. If you think of brandy or cognac, vodka, gin,  
19 whiskey, tequila, and rum, those are all very specific  
20 categories defined by the TTB, which is the Tax and Trade  
21 Bureau. RTDs can contain any of those as their base  
22 spirit, but then they also have something added to it. So  
23 what then becomes [inaudible] that we look at is if you  
24 look at a particular item that we've been presented, we  
25 think would a traditional customer add something to it?

1 Would it be another mixer, a nonalcoholic mixer they might  
2 add in there, or it could be another alcohol. And if the  
3 answer is no, they're not going to add anything to it, it's  
4 more or less ready to consume, then we consider it to be an  
5 RTD. Oftentimes, most times actually, the alcohol by  
6 volume for those RTD items is going to be between 4 and 20  
7 percent, so that's usually where an RTD will fall. And  
8 then there are also wine-based RTDs, as you may be aware,  
9 and those are things like a wine-based margarita, so it can  
10 be either spirit-based or wine-based and be considered an  
11 RTD. So hopefully that helps some.

12 SENATE MAJORITY CHAIRMAN REGAN: It does.

13 Actually, you got to my second question, which what was the  
14 max ABV of the products you handle within the liquor  
15 stores. But let me ask you this. In your submitted  
16 testimony it says the LCB offers approximately 327 RTDs.  
17 It's my understanding that RTDs account for less than 1  
18 percent of shelf space in the stores. Is that still  
19 accurate, and is it safe to say that the majority of the  
20 already small number of RTDs offered to consumers is done  
21 online and not in stores?

22 MR. BOWMAN: Do you want me to take that,  
23 Michael?

24 SENATE MAJORITY CHAIRMAN REGAN: Michael, you're  
25 on mute if you could just --

1           MR. DEMKO: Sorry about that. Go ahead, Tom.  
2 Before Tom does answer, I can tell you that through this  
3 year with two months left we've sold 2.8 million units of  
4 RTDs for \$431.7 million. Of that, \$28 million, almost \$29  
5 million was in the stores and around \$93,000 was on e-com.

6           SENATE MAJORITY CHAIRMAN REGAN: Okay. But do  
7 those percentages equate to what you folks are tracking  
8 there, about 1 percent of your volume on shelf space?

9           MR. DEMKO: Tom?

10          MR. BOWMAN: Yes. I would say that's in the  
11 ballpark. Actually from a sales dollar perspective, it's  
12 just a hair under 1 percent from sales volume. As you look  
13 at the stores and the space allocated to stores for RTDs,  
14 they're all going to vary a little bit from one to another,  
15 but it's certainly, you know, a small portion of our stores  
16 dedicated to RTDs, but it's growing, you know, very rapidly  
17 in terms of our sales dollars, as well as we're constantly  
18 looking at our stores and how we allocate space and making  
19 adjustments as necessary.

20          MS. RIVERA: It's Deborah. Just to add to that,  
21 Tom, we are up about 35 percent over last year at this  
22 point year-to-date.

23          SENATE MAJORITY CHAIRMAN REGAN: We're getting  
24 some interesting sounds coming through the system here I'm  
25 sorry for that. I see Representative Diamond has his hand

1 up. Representative Diamond?

2 REPRESENTATIVE DIAMOND: Good morning. Can you  
3 hear me?

4 MALE SPEAKER: We're getting a lot of noise.

5 SENATE MAJORITY CHAIRMAN REGAN: I apologize --

6 REPRESENTATIVE DIAMOND: I want to thank you --

7 SENATE MAJORITY CHAIRMAN REGAN: I apologize. I  
8 think Mr. Demko was going to speak, and if we could get  
9 back to that and then we'll go to you, Representative  
10 Diamond. I apologize.

11 MR. DEMKO: No, I'm fine. I was just putting it  
12 on mute just in case it was backwards. Thank you.

13 SENATE MAJORITY CHAIRMAN REGAN: Okay. Go ahead,  
14 Representative Diamond.

15 REPRESENTATIVE DIAMOND: All right. Thank you,  
16 Mr. Chairman. I sure appreciate it. And I appreciate all  
17 you folks coming in and testifying before the Committee and  
18 providing the testimony ahead of time. I sure do  
19 appreciate the nature of this conversation.

20 And to Chairman Brewster's point, I come to this  
21 as someone who is celebrating five and half years of  
22 sobriety, so I have an objective view of this issue, and I  
23 can see both sides of it.

24 But given the Administration's decision to shut  
25 down the State stores and the fact that the wine expanded

1 permit holders helped to maintain the profitability of the  
2 LCB, doesn't it make sense to allow these permit holders  
3 the ability to sell RTDs so our constituents have the  
4 ability to obtain a form of spirits in the event of another  
5 shutdown of State stores, which, by the way, doesn't really  
6 require a disaster or emergency to happen?

7 MR. DEMKO: If that's a question, it's really,  
8 you know, whatever the law that this Committee and the  
9 Senate and the House passes, it would be our job to  
10 implement it, so, you know, as far as that, we know we as  
11 the PLCB can handle selling these products along with  
12 distributing them if voted on to our licensee or WEP  
13 holder.

14 SENATE MAJORITY CHAIRMAN REGAN: Thank you. Now  
15 moving to Senator Robinson.

16 SENATOR ROBINSON: Thank you, Mr. Chairman. And  
17 thank you to the Liquor Control Board for meeting with us  
18 this morning. I was just wondering that even with these  
19 RTDs, will you still be subject to compliance checks when  
20 it comes to carding?

21 MR. DEMKO: Within our stores, last year from  
22 February looking at numbers to this year's February, we  
23 carded about a little over a million underage, which we  
24 believed was under age. Of that, there was around 23,000  
25 that were denied.

1 SENATOR ROBINSON: Wow.

2 MR. DEMKO: In a year's time.

3 SENATOR ROBINSON: And is every other licensee  
4 and retailer subject to those compliance checks as well?

5 MR. DEMKO: Can I turn it over to our counsel? I  
6 just want to make sure I answer it accurate or we answer it  
7 accurate. Rod?

8 SENATOR ROBINSON: Is every other licensee and  
9 retailer subjected to those compliance checks as well?

10 MR. DIAZ: This is Rod. I think what Mr. Demko  
11 is referring to is decisions made by our employees as to  
12 whether or not they're going to check IDs. Those private  
13 businesses would have to make that decision on their own.  
14 I know BLCE obviously does compliance checks as well. But  
15 as to what Mr. Demko was speaking of specifically, those  
16 are our employees checking. Those private businesses would  
17 have to make that decision.

18 SENATOR ROBINSON: Okay. Thank you. I have no  
19 further questions. Thank you, Mr. Chairman.

20 SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
21 Senator.

22 We'll go now to Representative Deasy for a  
23 question.

24 REPRESENTATIVE DEASY: Thank you, Chairman. I  
25 appreciate it.

1           I just have one question. According to the  
2 written testimony, obviously, only the product that comes  
3 through the PLCB is assessed the 18 percent liquor tax. So  
4 my question would be is there any way to quantify what the  
5 loss would be by expanding to too many distributors or  
6 outlets through, you know, the budget, the dollar figure?

7           MR. DEMKO: Representative, if you look at what  
8 we quoted our numbers this year, so far it's the \$31  
9 million. Of that, estimated rounded up around \$5.8 million  
10 was turned over to the General Assembly fund for the 18  
11 percent tax on those RTDs.

12           REPRESENTATIVE DEASY: So there would be no way  
13 of figuring out what we would lose if the product were  
14 available at other distributors, what that tax money would  
15 be? I mean, it's kind of hard to figure that out.

16           MR. DEMKO: Correct.

17           REPRESENTATIVE DEASY: Yes.

18           MR. DEMKO: It is.

19           REPRESENTATIVE DEASY: Okay.

20           MR. DEMKO: We can tell you what we've collected,  
21 and assuming that would be left out of our styles, through  
22 this year, through 10 months it was 4.8.

23           REPRESENTATIVE DEASY: Okay. Thank you.

24           SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
25 Representative.

1 Representative Staats, please.

2 REPRESENTATIVE STAATS: Thank you, Chairman, and  
3 thank you to all that are here to testify.

4 I'm hearing some concerns back in my district  
5 specific to the packaging of the RTDs and how the product  
6 is sealed. Could you describe that?

7 MR. DEMKO: Sure. I would ask Mr. -- Tom, can  
8 you answer that since you're from a product standpoint?

9 MR. BOWMAN: Sure. RTDs can be in numerous  
10 different types of packaging like frequently they are in  
11 cans and more often than not when we sell a canned RTD in  
12 our fine wine and good spirits stores, it's actually in a  
13 four-pack, which would have a cardboard sleeve around those  
14 four individual cans. But in addition to cans, an RTD,  
15 like think of a margarita, that could be in a 1.75 liter  
16 bottle that may be glass or it could also be in what we  
17 call PET, which is a type of plastic. That's the bottles  
18 you see in the store. You can give it a little squeeze and  
19 it gives because it's plastic rather than glass. And then  
20 there are also metallized pouches that also could be an  
21 RTD.

22 So there's numerous different types of packaging  
23 out there, and we evaluate all of it as one of the key  
24 components to when we make a buying decision. We look at,  
25 you know, the quality of the juice, the pricing and margin

1 information on that product, the marketing support that the  
2 supplier is putting behind it, and then certainly the  
3 packaging. Is it, you know, safe and sturdy and is and  
4 also from a consumer's standpoint, is it visually  
5 appealing? So all those things go into our purchase  
6 decision.

7 REPRESENTATIVE STAATS: Yes, and I think what  
8 caused these concerns is over the past year some  
9 establishments were simply mixing drinks in a plastic Solo  
10 cup with a lid and straw. Clearly, that is unacceptable,  
11 correct?

12 MALE SPEAKER: [inaudible].

13 REPRESENTATIVE STAATS: I think I just got my  
14 answer. But again, who would be permitted to sell these  
15 RTD products?

16 SENATE MAJORITY CHAIRMAN REGAN: If you don't  
17 mind, I could certainly interject on that. And,  
18 Representative, I think that's one of the things we're  
19 trying to determine. The sale of these is surrounding us  
20 in other States. We're trying to find, you know, if we're  
21 going to do it, and if we are, what's the most efficient  
22 way to do it. So --

23 REPRESENTATIVE STAATS: Understood.

24 SENATE MAJORITY CHAIRMAN REGAN: -- we're trying  
25 to determine.

1           REPRESENTATIVE STAATS: Thank you, Chairman.

2           SENATE MAJORITY CHAIRMAN REGAN: Thank you very  
3 much for your questions.

4           And I will now go to Representative Mercuri.

5           REPRESENTATIVE MERCURI: Thank you, Mr. Chairman,  
6 and thank you to our testifiers today. My question is  
7 about who's buying the RTDs, like a profile if you could  
8 share, you know, in terms of age ranges and also  
9 male/female, and how is the LCB doing in terms of the  
10 promotion of these products through the wine and spirits  
11 stores?

12           MR. DEMKO: Tom, or Deborah, can you answer, you  
13 know, what information you have on the various age groups  
14 of purchasing the product?

15           MS. RIVERA: Tom, do you want me to take that?

16           You know, I believe that when Tom and I have  
17 discussed, you know, this business, what we found is that  
18 there's not particularly an age group. It's more of an  
19 occasion is why the customer is purchasing this product. I  
20 know that there is some industry information that we have  
21 seen that the customer does tend to be younger. You know,  
22 in terms of male or female, we don't have that information.

23           REPRESENTATIVE MERCURI: Thank you. And the  
24 second part of my question, so if RTDs will be able to be  
25 sold by the grocery stores, gas stations, et cetera, or

1 beer distributors, who would do the distribution of the  
2 products? Who would be best suited to do that to these  
3 retailers?

4 MR. DEMKO: I believe the PLCB is. I mean, we  
5 currently work with licensees and WEPs, which are the  
6 grocery stores and convenience stores. We put in place a  
7 wholesale division since Act 39, you know, in 2016, and we  
8 have, you know, the distribution that we're currently doing  
9 for that other product. Wine is served to consumers for  
10 take-home, all that, sir.

11 REPRESENTATIVE MERCURI: Thank you so much.

12 SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
13 Representative.

14 I now go to Representative Delloso.

15 REPRESENTATIVE DELLOSO: Thank you, Mr. Chairman.  
16 A question for Director Demko. Can you talk about your  
17 mission of responsible alcohol consumption in the  
18 Commonwealth? This hearing is talking about a large  
19 expansion of the spirits-based products, which is  
20 concerning to me, so I want to understand how you are  
21 conducting the sale of alcoholic beverages in a safe,  
22 responsible manner. More directly, it appears to me that  
23 the PLCB is best suited to handle these products. Could  
24 you expand on that and your ability to protect the  
25 community?

1           MR. DEMKO: Yes. Like I said before, from a  
2 minor challenge we've been checking within a year over  
3 1,000 people coming into the store to make sure they  
4 qualify and they're not under age, and we captured 22,000  
5 of out of the million. But we also have our program "Know  
6 When. Know How" that was launched in 2018 regarding helping  
7 parents and children aged 8 to 18, you know, look at and  
8 have that conversation. We continue to do that. We also  
9 have alcohol educational grants that we issued last fiscal  
10 year of over \$800,000.

11           SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
12 Representative.

13           Now moving onto Representative Isaacson.

14           REPRESENTATIVE ISAACSON: Thank you. My question  
15 goes to inventory and selection. You know, from your  
16 testimony I see that you offer ready-to-drink products now  
17 and you have inventory that you're moving. Can you tell me  
18 who's going to be selecting the inventory that would be  
19 going out and the selection of these products that possibly  
20 could be sold elsewhere, and obviously isn't that a  
21 competition between yourselves and other distributors?

22           MR. DEMKO: Deborah, can you answer the process  
23 of choosing, or Tom?

24           MS. RIVERA: Sure. I mean, I can speak to it at  
25 a high level. I mean, if this product is procured by the

1       PLCB, you know, we have an entire product selection team  
2       that specializes in product procurement, reading and  
3       reacting appropriately to trends in not just our business  
4       but business that is happening in the industry. You know,  
5       so we partner with our vendor partners, trade  
6       organizations, and then our own research to really  
7       understand kind of what's going on out there in the  
8       industry.

9               As a wholesaler and a retailer as well, you know,  
10       we're constantly striving to find better ways to serve our  
11       customers, so some of those ways, you know, if you're  
12       talking about specifically the merchandising and product  
13       selection group would be by evaluating our processes and  
14       how we do things but also, importantly, really  
15       understanding, you know, what reporting and information we  
16       have that allow us to do this analysis so that we can get  
17       the proper product assortment in our stores.

18              And, you know, one thing I'll mentioned that's  
19       very important in this particular category is what we call  
20       our one-time buy process, which is, you know, we have our  
21       listed products in our store, which are there on a  
22       consistent basis, and then we have our one-time buys, which  
23       is money that is allocated for us to receive items in terms  
24       of things that are happening in the industry, current  
25       trends. If we see that a category like this RTD category

1 is trending, you know, we can always go out and react to  
2 it. And that is all managed through the product selection  
3 team.

4 MR. DEMKO: This is Michael. The one thing also  
5 to add with Deborah's team, which she is responsible for  
6 the Office of Wholesale Operations, that team also works  
7 with our what we call the WEPs, which is over 1,475, you  
8 know, 1,000 grocery stores and convenience stores, and  
9 worked also getting their input on what they're looking for  
10 and passes that information onto Deborah's team for  
11 procurement of types of products and presented to the  
12 board.

13 REPRESENTATIVE ISAACSON: Thank you. I just want  
14 to also have you think about the fact that in some ways  
15 considering this kind of expansion is also something that's  
16 concerning to me with regard to our restaurants that we've  
17 been trying to help out during this pandemic and we  
18 expanded so that they could have drinks to go. And  
19 certainly a canned drink that might be offered at a  
20 different cost or price situation would be potentially  
21 detrimental to them when you're putting it at a convenience  
22 in this situation and at that price range, so just logging  
23 that in.

24 SENATE MAJORITY CHAIRMAN REGAN: Thank you for  
25 your comments, Representative.

1           We will now go to Representative Young.

2           REPRESENTATIVE YOUNG: Sorry. [inaudible] our  
3 understanding of the data and working through the process  
4 of transparency, have we heard anything from the State  
5 Police department since they will be enforcing [inaudible]  
6 data from the State Police?

7           SENATE MAJORITY CHAIRMAN REGAN: I do not  
8 currently at this point in time. I can't speak for my  
9 colleague, but I think, Madam Representative, I think  
10 that's all part of this process of fleshing this out. You  
11 know, as being Chairman of Law and Justice, the State  
12 Police is more than welcome to weigh in at any time with  
13 any concerns, and we would certainly factor those into our  
14 decisions on how we proceed with this bill --

15          REPRESENTATIVE YOUNG: Thank you.

16          SENATE MAJORITY CHAIRMAN REGAN: -- or this  
17 proposed bill I should say. Thank you, though, for your  
18 questions.

19          REPRESENTATIVE YOUNG: Thank you.

20          SENATE MAJORITY CHAIRMAN REGAN: I would open up  
21 to the PLCB. I know you have a wing of the State Police  
22 that's in your purview. Have they weighed in to the PLCB?

23          MR. DEMKO: I'd ask Mr. Diaz to answer that if  
24 you wouldn't mind.

25          MR. DIAZ: Yes, I said it earlier. I don't know

1 if we would -- you know, the day-to-day enforcement is part  
2 of the Pennsylvania State Police. They're titled the  
3 Bureau of Liquor Control Enforcement, but our involvement  
4 with them primarily is that we finance them. They issue  
5 citations on their own. We've not had discussions with  
6 them on, you know, the enforcement issues than would be  
7 raised, so that's a question for them.

8 SENATE MAJORITY CHAIRMAN REGAN: Thank you very  
9 much. Yes, I'm at a hard stop time of 10:35. We're almost  
10 there for this group of testifiers. I have to say I think  
11 you all have done externally well. I think the questions  
12 were great, and I think the responses were very good, very  
13 informative and will be very helpful to our Committees  
14 moving forward.

15 Before we do stop, though, I'll ask my fellow  
16 Chair if he has any comments, and any of the Minority  
17 Chairs who may have a comment, please make it now.

18 HOUSE MAJORITY CHAIRMAN METZGAR: No, I echo the  
19 thoughts of my colleague. I appreciate everyone's time,  
20 and I know some of the questions are trying to predict the  
21 future, which is always very difficult, so I thank you for  
22 that.

23 And, you know, I would probably throw it out to  
24 Chairman Deasy if he has any questions.

25 HOUSE DEMOCRATIC CHAIRMAN DEASY: No, thank you.

1 I think everyone did a great job playing questions, and I  
2 look forward to moving the hearing along as well, so thank  
3 you, Chairman. I appreciate the testimony.

4 SENATE MAJORITY CHAIRMAN REGAN: Senator  
5 Brewster, did you have anything to close out this panel?

6 SENATE DEMOCRATIC CHAIRMAN BREWSTER: I would  
7 yield at this time, Senator. Thank you.

8 SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
9 Senator. And thank you to the Members of the LCB.

10 We will now move to panel 2. Unfortunately, one  
11 of our primary testifiers, Alex Baloga from the  
12 Pennsylvania Food Merchants Association, is under the  
13 weather. We wish him well. He won't be with us this  
14 morning. But we do have Chris Reed, who is the General  
15 Counsel for Rutter's. He's here with us. Chris, you may  
16 begin whenever you're ready, and please remember that we  
17 have already dove into your testimony, so if you could just  
18 keep your opening statements to the point. Thank you.

19 MR. REED: Good morning, Chairman Metzger,  
20 Chairman Brewster, and Chairman Deasy, Members of the  
21 Committee. I appreciate your time this morning.

22 As Chairman Regan mentioned, my name is  
23 Christopher Reed. I'm General Counsel for Rutter's  
24 Companies. You have my testimony today. I would like to  
25 highlight two items, the first being that Rutter's has a

1 very long history in Pennsylvania of serving Pennsylvania  
2 citizens, and part of that long history is the need to  
3 constantly change in order to meet consumer demand.  
4 Rutter's, as well as other similarly situated retailers,  
5 are already currently selling a myriad of age-restricted  
6 products, including alcohol, and does so -- at least  
7 Rutter's does so -- in a responsible manner. I'd like to  
8 highlight that Rutter's has never been cited for underage  
9 sale of alcohol to a minor or an intoxicated person, and we  
10 are confident that if RTD were to be introduced to allow  
11 Rutter's to sell their product, that Rutter's could  
12 continue that track record. I would yield to questions  
13 now.

14 SENATE MAJORITY CHAIRMAN REGAN: I'm not seeing  
15 any questions. Now, you mentioned that you've never been  
16 cited. I think that's pretty interesting. And that's over  
17 a period of how long?

18 MR. REED: Since 2016 when the legislature  
19 permitted grocery stores and convenience stores to sell  
20 beer and wine to go, Rutter's has taken the position that  
21 they will card every transaction involving alcohol, not  
22 just, you know, as RAMP identifies someone who looks over  
23 30, Rutter's cards all individuals regardless of their age.

24 SENATE MAJORITY CHAIRMAN REGAN: How do you see  
25 RTDs impacting your business, and what do you anticipate as

1 being a volume of sales if ultimately RTDs are allowed to  
2 be sold in Rutter's markets?

3 MR. REED: We see RTD as meeting a customer  
4 demand. As been referenced previously, it is a growing  
5 product line. Rutter's currently sells RTDs in West  
6 Virginia where it is favorably received. Rutter's also  
7 sells liquor in West Virginia without any type of mixer,  
8 and the sales are comparable when it comes to volume,  
9 liquor compared to RTDs, so it is a popular product, and we  
10 believe it would be popular in Pennsylvania.

11 SENATE MAJORITY CHAIRMAN REGAN: Chairman  
12 Metzger.

13 HOUSE MAJORITY CHAIRMAN METZGAR: You know, with  
14 the vast experience that you have on the sales side in  
15 other States and your experience already in Pennsylvania,  
16 in the event you would have RTDs, who would you prefer to  
17 wholesale them to you?

18 MR. REED: I believe that system is in place  
19 currently. We view RTD similar to a malt or brewed  
20 beverage, and the distribution system currently established  
21 for malt or brewed beverages in place and has been working  
22 relatively flawlessly without interruption, and it provides  
23 us with the ability to ensure that we can meet customer  
24 demand for those products, and therefore, an RTD spirit-  
25 based product, we can meet customer demand without any type

1 of interruption in product delivery.

2 HOUSE MAJORITY CHAIRMAN METZGAR: Okay, thank  
3 you. If I could, I'd recognize Representative Jozwiak for  
4 a question.

5 REPRESENTATIVE JOZWIAK: Thank you, Mr. Chairman.  
6 Thank you, Mr. Reed. One of the criticisms that's leveled  
7 at the convenience stores and the grocery stores is that  
8 selling liquor may lead to more minor alcohol consumption  
9 and other social ills, and you've already answered part of  
10 that, but what steps are you willing to take to make sure  
11 these products do not fall into the wrong hands? And do  
12 you even believe that this criticism has any basis in  
13 reality?

14 MR. REED: I think that criticism may be somewhat  
15 exaggerated given the fact that we're talking about spirits  
16 here. When you look at the sale of alcohol, we don't view  
17 this as a proliferation or an expansion of the sale of  
18 alcohol. It's an additional product. If you compare RTD  
19 products to the products that Rutter's and other similar-  
20 situated retailers sell, they're effectively the same when  
21 it comes to alcohol content and packaging.

22 REPRESENTATIVE JOZWIAK: Thank you.

23 MR. REED: I already testified to or spoke to  
24 Rutter's procedures for carding. I've been to other  
25 retailers, grocery stores, convenience stores, and they

1 have the same policy. They card all individuals regardless  
2 of their age. Certainly, I believe that would be a  
3 warranted practice to continue with regard to RTD, and if  
4 the legislature saw fit to discuss some additional  
5 safeguard that they felt necessary, we'd be open to  
6 discussing that.

7 REPRESENTATIVE JOZWIAK: Thank you. I thought  
8 that would be your answer but I just want to make sure that  
9 was on the record. Thank you. Thank you, Mr. Chairman.

10 SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
11 Representative Jozwiak.

12 So, Mr. Reed, I know that you brought some  
13 examples of what you currently sell and what is being  
14 proposed that you sell, and I wonder if you could put those  
15 up on the table and tell us a little bit about both of  
16 those and how they compare. And I'm interested in hearing  
17 about the ABVs on those.

18 MR. REED: Of course. So in front of you I have  
19 two products packaged in a four-pack and a six-pack. They  
20 brand themselves as hard seltzer. Both of them brand  
21 themselves, this particular product, as black cherry. It  
22 comes in 12-ounce tall thin cans. ABV on the one product  
23 is 4.5 percent, ABV on the other product is 5 percent.  
24 Without knowing what they are, you can't tell the  
25 difference of which one is spirit-based in which is not.

1 Their alcohol content is the same. I'll share with you the  
2 White Claw here is sold at Rutter's convenience stores, and  
3 it is a brewed-based product. The four-pack High Noon here  
4 is a spirit-based product available in Pennsylvania fine  
5 wine, good spirit stores. But as far as the products  
6 themselves, they market themselves the same and their  
7 alcohol contents are the same.

8 SENATE MAJORITY CHAIRMAN REGAN: So, ostensibly,  
9 unless you are in the industry, you're just a consumer,  
10 unless you are really dialed into this, you would never  
11 know the difference between one or the other? And if you  
12 are of the mind that you want to obtain a product in order  
13 to alter your state, both of those products have the exact  
14 same effect on you, correct?

15 MR. REED: Correct. I think the one difference  
16 is that the spirit-based product will be less sugar and  
17 lower caloric content just on its nature of production. So  
18 for the discerning customer who wants to utilize a product  
19 that has a more possibly health-conscious skew, the spirit-  
20 based product is their preferred choice, which we are not  
21 currently able to provide to our customers.

22 SENATE MAJORITY CHAIRMAN REGAN: Thank you for  
23 that. Representative Isaacson.

24 REPRESENTATIVE ISAACSON: Hi. I appreciate your  
25 testimony, and I'm listening to your reasoning in wanting

1 this to go forward. It struck me you have an R license,  
2 correct?

3 MR. REED: That is correct.

4 REPRESENTATIVE ISAACSON: Correct, a restaurant  
5 license. And we're discussing about how to make it easier  
6 and more convenient for customers to come in just a retail  
7 basis, buy the product, packaged, and leave, correct?

8 MR. REED: Correct.

9 REPRESENTATIVE ISAACSON: So that's a competition  
10 with the LCB, who is currently now the one that provides  
11 these products and distributes them, so it's just making it  
12 -- you'd just be another distributor of this as well as  
13 LCB?

14 MR. REED: So I'm not aware of any language, but  
15 Rutter's doesn't distribute any products currently. We  
16 retell them.

17 REPRESENTATIVE ISAACSON: Retail them.

18 MR. REED: From a retail standpoint, yes,  
19 Rutter's believes that its customers are looking for these  
20 products at its locations. We're not able to sell them  
21 currently. Spirits-based products are solely in the --  
22 spirits-based products for to-go sale are solely in the  
23 control of the LCB except for the current mixed drinks to-  
24 go home legislation that was introduced during the  
25 pandemic.

1           REPRESENTATIVE ISAACSON: Right, the mixed drinks  
2 to-go for the restaurants that we're trying to help during  
3 the pandemic survive, and that's why we did that again.  
4 And while I understand your desire to expand this for your  
5 customer base beyond the wine and beer that you're able to  
6 sell under your restaurant license now, again, we should be  
7 conscientious that this expansion is also in direct  
8 conflict of our interests in the LCB, which we own. Thank  
9 you.

10           SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
11 Representative. Representative Delloso, please.

12           REPRESENTATIVE DELLOSO: Thank you, Mr. Chairman,  
13 and thank you for your testimony. In earlier testimony you  
14 mentioned ABV. Currently in Pennsylvania what would you  
15 say is the max ABV product that you sell right now?

16           MR. REED: From a brewed or from a wine?

17           REPRESENTATIVE DELLOSO: From a brewed.

18           MR. REED: A malt or brewed, I believe the  
19 maximum offering most recently has been 14.7 --

20           REPRESENTATIVE DELLOSO: All right.

21           MR. REED: -- which was available -- it was a  
22 limited time offering through I believe it was a porter  
23 that was brewed in a whiskey cask, some novelty of that  
24 sort.

25           REPRESENTATIVE DELLOSO: My big concern is that

1 we're talking about upwards of 20 percent alcohol by  
2 volume, and that's an entirely different class. I was  
3 wondering, you know, the Pennsylvania Liquor Control Board  
4 does a good job selling products, and they do a good job  
5 policing the sale of products. Do you see this as a  
6 challenge when we're talking about delivering higher  
7 alcohol-by-volume products?

8 MR. REED: First, I'm not aware of any product,  
9 an RTD that offers a 20 percent ABV. The majority of these  
10 range in the 5 to 8 percent. I have seen some in the 12  
11 percent, but I'm not aware of any product in the 20 percent  
12 range just to clarify that.

13 And as far as competition, certainly, the PLCB  
14 has a monopoly currently on the sale of spirits products,  
15 but Pennsylvania consumers, Rutter's customers are looking  
16 for these additional products when they come to our  
17 locations to shop.

18 REPRESENTATIVE DELLOSO: As an alternative to a  
19 liquor control as fine wine and State store?

20 MR. REED: Anecdotally, some comments that we've  
21 received from customers and some of my own shopping  
22 experience is that these RTD products are difficult to find  
23 at times at fine wine and good spirits stores, so they're  
24 not always an option at the stores that they would shop  
25 for, and I believe that's part of the reason why they're

1 looking for the RTD products available at other locations.

2 REPRESENTATIVE DELLOSO: So you would carry a  
3 full range?

4 MR. REED: Meaning? I don't understand the  
5 question. I'm sorry.

6 REPRESENTATIVE DELLOSO: Would you carry a full  
7 selection of what's being offered or just you would narrow  
8 it down so the consumer wouldn't really have a pick of the  
9 full range, just essentially a pick at the range that you  
10 decide to sell?

11 MR. REED: Rutter's doesn't sell the same  
12 products at all of its stores. It listens to its customer  
13 base, and what the customer base asks for, Rutter's  
14 attempts to meet that demand. So the product selection  
15 would vary based upon customer purchasing practice, but  
16 there would be available product in a wide variety of RTD  
17 selection in addition to malt and brewed bev and wine.

18 REPRESENTATIVE DELLOSO: The PLCB testified that  
19 roughly they rejected 23,000 when carding. Do you have any  
20 statistics as to what Rutter's turns away?

21 MR. REED: I don't have any of those readily  
22 available. As I testified before, Rutter's cards every  
23 individual regardless of their appearance of age, which I  
24 believe is an enhanced practice above and beyond what the  
25 PLCB practices, and I testified before we've never been

1 cited for sale to an intoxicated person or to a minor.

2 REPRESENTATIVE DELLOSO: Thank you for your  
3 testimony. Thank you, Mr. Chair.

4 SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
5 Representative. And just maybe to highlight what you just  
6 said a little bit, for comparison purposes, licensees like  
7 Rutter's are subject to compliance checks by the LCE, and  
8 the LCB is not, correct?

9 MR. REED: That is correct.

10 SENATE MAJORITY CHAIRMAN REGAN: Yes. So RTDs in  
11 your opinion based on your testimony has not been a  
12 priority of the LCB as far as sales, correct?

13 MR. REED: Correct. In my experience in shopping  
14 at fine wine and good spirits stores, it's a tertiary  
15 offering. If available at all, there may be one SKU or,  
16 excuse me, one product offered, one brand offered, and  
17 there are a host of manufacturers producing these products  
18 that Pennsylvania consumers are looking for and cannot  
19 obtain. I believe through a distribution system similar to  
20 how malt and brewed is treated in Pennsylvania that  
21 Pennsylvania consumers could get the products that they're  
22 looking for in an efficient manner.

23 SENATE MAJORITY CHAIRMAN REGAN: Thank you for  
24 that. And just as a sidebar to Representative Isaacson, my  
25 Executive Director just informed me that the PLRA is in

1 favor of any legislation which would enact RTDs just for  
2 your information.

3 Any other questions from the Members?

4 Representative Jozwiak.

5 REPRESENTATIVE JOZWIAK: Thank you, Mr. Chairman.  
6 I'm just sitting here thinking your company is well-  
7 respected and it's a Pennsylvania-based company, and I'm  
8 just wondering, do you have stores outside of Pennsylvania  
9 that sell these ready-to-go drinks in other States? Are  
10 they legal?

11 MR. REED: Yes, in West Virginia where Rutter's  
12 has a store that sells beer, wine, and liquor, liquor in  
13 its unadulterated form, as well as RTDs.

14 REPRESENTATIVE JOZWIAK: And have you had any  
15 problems with that in your stores at all?

16 MR. REED: No, we have not. Our practices in  
17 West Virginia are similar to in Pennsylvania. All  
18 individuals are carded. The area where alcohol is sold is  
19 in high visibility to the checkout, as well as subject to  
20 camera monitoring.

21 REPRESENTATIVE JOZWIAK: Okay, thank you.

22 SENATE MAJORITY CHAIRMAN REGAN: Representative  
23 Malagari.

24 REPRESENTATIVE MALAGARI: Thank you, Mr.  
25 Chairman, and I appreciate the testimony from each of our

1 panels so far. I have a couple questions actually. So  
2 currently -- and just for some context to everyone, I  
3 actually came from this industry in sales in malt beverages  
4 working for wholesalers, so I understand where you're  
5 coming from with the desire to do this. I do have a  
6 question, though, that speaks to the current licensed  
7 footprint within a convenience store, and Rutter's would be  
8 considered that I guess.

9           So currently you have a floorspace that would be  
10 licensed, and it's limited to a certain footprint within  
11 your store. So given that, what type of products would you  
12 then remove from your floor set, your shelf set, and  
13 replace with these RTDs?

14           MR. REED: To answer your question, Rutter's  
15 doesn't foresee any removal of licensed products or  
16 unlicensed products. Rutter's builds some of the largest  
17 convenience stores in the industry, just under 11,000  
18 square feet for our newer models, and we license the vast  
19 majority of that store except for excluded items under the  
20 liquor code. So it would not be necessary to remove an  
21 alcoholic product or a nonalcoholic product in order to  
22 offer this at a Rutter's location.

23           REPRESENTATIVE MALAGARI: Okay. In addition to  
24 that, currently right now within the industry, there are  
25 malt beverages that speak to the actual type of product

1 that you're looking at and that we're discussing today, and  
2 they like to call them alternatives. However, they are  
3 malt-based and they're currently available in your local  
4 beer distributors and also within to-go sales from some of  
5 the bars and taverns, restaurants that have that licensing  
6 ability. Their ABV volumes are pushing close to 12 to 14  
7 percent in a malt beverage, and they are being sold over-  
8 the-counter to go. Are you anticipating having the same  
9 types of ABV? And forgive me if this was already asked,  
10 but I know that there's already product out there that can  
11 fit that ABV need or desire from a consumer, and also the  
12 types of cocktail combinations if you will are also out  
13 there in the malt-based. So I want to know like what is it  
14 that this would really differ, and how would it differ? I  
15 understand it would be an actual rum mixer or a vodka  
16 mixture or a spirit mixture of some sort with a mixer in  
17 there, but how is this any different than what's already  
18 being offered outside of the fact that it's currently malt  
19 being sold now and this would be a liquor opportunity?

20 MR. REED: Of course. So, first, to clarify, I  
21 am only aware of a few product lines, and within those  
22 product lines, select offerings that rise to the 12 or  
23 possibly 14 percent ABV in a spirit-based RTD. As I  
24 testified before, my understanding is that the bulk of  
25 these range in the 4 to 8 percent, but yes, there are some

1 that go above. And yes, there are currently malt or brewed  
2 beverages that go into those higher ABVs as well that  
3 market themselves as hard seltzers. I don't know if you're  
4 able to see in front of me but I do have a White Claw  
5 product that markets itself as a hard seltzer, but it is in  
6 fact a brewed beverage.

7 As I testified before, it's not for Rutter's or  
8 really for anyone to distinguish what a customer's  
9 discerning taste may be. A spirit-based RTD, as I  
10 reference, may not have added sugar, it may have lower  
11 calorie, and that may be important to a Pennsylvania  
12 consumer and customer. They may be looking for that  
13 products because they have some dietary restriction. There  
14 are married of reasons such as a have a discerning palate  
15 and they prefer to taste a spirit-based product as opposed  
16 to a malt or brewed product. So there is differentiation,  
17 and that is the reason why there's a demand by our  
18 customers for this product.

19 REPRESENTATIVE MALAGARI: I appreciate that. And  
20 unfortunately, the PLCB is not here to answer this at the  
21 current moment because their panel is done, but I would  
22 assume that this particular demand is being met by their  
23 product offering. I do have concerns with the expansion of  
24 offering of a liquor-related product where minors could get  
25 easy access or just further opportunity potentially to

1 purchase.

2 That concludes my questions, Mr. Chairman. I  
3 appreciate it. Thank you.

4 SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
5 Representative, for your questions.

6 I think we have reached the end of this panel.  
7 Mr. Reed, thank you very much for your comments. If anyone  
8 comes up with a question, any of the Members come up with a  
9 question for Mr. Reed, please direct it to the Executive  
10 Directors of the Committees. We'll make sure that those  
11 questions get answered. So thank you very much for your  
12 participation.

13 MR. REED: Thank you, Mr. Chairman.

14 SENATE MAJORITY CHAIRMAN REGAN: I appreciate  
15 your comments.

16 We'd like to welcome panel 3, please, to the  
17 table. Once you're all situated and seated, please all  
18 introduce yourselves.

19 MR. LAVERTY: Good morning, everyone. My name is  
20 Ryan Laverty. I am the CEO and cofounder of a ready-to-  
21 drink cocktails line called VIDE.

22 MR. WOJNAR: Good morning. David Wojnar, Senior  
23 Vice President and Head of State Public Policy for the  
24 Distilled Spirits Council.

25 MR. TESCHNER: Good morning. My name is Reid

1       Teschner. I'm the Senior Director for State Affairs for  
2       Anheuser-Busch.

3               SENATE MAJORITY CHAIRMAN REGAN: Great, thank you  
4       all for being here. You can proceed with your opening  
5       remarks, and then we'll proceed to questioning. Go ahead.  
6       And whatever order you see fit.

7               MR. WOJNAR: I'll defer to the CEO.

8               MR. LAVERTY: Thanks, everyone.

9               SENATE MAJORITY CHAIRMAN REGAN: Very young-  
10       looking CEO by the way.

11              MR. LAVERTY: That I am. I appreciate everyone's  
12       time here. I'm sorry I missed the dress memo, but with  
13       this business, I tend to live out of my backpack, so the  
14       suit didn't fit on this leg of the trip.

15              But anyway, we own a ready-to-drink company  
16       called VIDE, as I said before. It's a vodka- and tequila-  
17       based line. Our angle in this space is certainly marketing  
18       more so towards a health-conscious consumer if you will.  
19       You know, obviously, we're still talking about alcohol, but  
20       there are people who want to make health-conscious  
21       decisions while they're consuming alcohol. Our products do  
22       not have any sugar, they don't have any carbohydrates,  
23       they're gluten-free, they're 99 calories, and they're 5  
24       percent alcohol. We have six different products.

25              We saw an opportunity in the ready-to-drink

1 market for people who were appreciating the better-for-you  
2 category if you will, people that want products that were  
3 transparent and they understood what the ingredients were.  
4 In the spirit-based RTD category you're actually not even  
5 required to disclose ingredients or caloric information.  
6 For our product, it was kind of the staple for the brand  
7 was to actually advertise that information.

8           We currently distribute in eight States right  
9 now. We've been trying to get into Pennsylvania for over a  
10 year at this point, and I will add it's been the most  
11 difficult State for us to even get an opportunity to be  
12 distributed in.

13           I would say as the RTD category continues to  
14 evolve and consumers are putting more of an emphasis on  
15 transparency and quality, I think VIDE certainly stands to  
16 be a category leader in that respect. Just a couple stats  
17 here that I think is certainly worth noting, according to  
18 Neilson, spirit-based RTD category increased 169 percent.  
19 This is the fastest-growing category in all of beverage  
20 alcohol. I found it very interesting that the State-  
21 sponsored stores only allocate 1 percent of the store to  
22 the fastest-growing segment in beverage alcohol.

23           So for us, obviously, broadening distribution to  
24 market more towards a larger group of consumers is  
25 certainly what we're fighting for here, and I think with

1 our products being 5 percent alcohol, as well as many of  
2 the competing malt-based products, which are 5 percent  
3 alcohol, if not more, I think it's a very important point  
4 to note.

5           The gentleman that just presented before, he had  
6 the White Claw case over here. That is a malt-based  
7 product, certainly marketing more so towards a younger  
8 demographic. Those products are 5 percent ABV, but they're  
9 nationally rolling out a 9 percent variation of that  
10 product, which I'm assuming will be distributed in this  
11 State at some point. So with us being a low ABV product,  
12 you know, we're not making 20 percent products here, I  
13 think there's an opportunity for VIDE to increase  
14 distribution and be more readily available across the  
15 State. So thank you.

16           SENATE MAJORITY CHAIRMAN REGAN: Thank you, sir.

17           MR. WOJNAR: Great, thank you.

18           SENATE MAJORITY CHAIRMAN REGAN: David.

19           MR. WOJNAR: Thank you for the opportunity to be  
20 here. David Wojnar with the Distilled Spirits Council.  
21 And for those of you that don't know us, we're  
22 affectionately referred to as DISCUS. We're a national  
23 trade association that represents some of the world's  
24 leading distillers. We have a host of craft distillers  
25 from around the country in our membership, and so it's my

1 job as a 20-year veteran as I hopscotch around the country  
2 and testify before legislatures is to share with you sort  
3 of my experience but also to share with you some of the  
4 national trend lines and how you might be able to apply  
5 those here in Pennsylvania.

6 And so, as I indicated in my testimony, I've sort  
7 of got five points that I'd like to touch upon. I won't go  
8 into them verbatim obviously, but I want to reiterate what  
9 the previous speaker said. The spirit-based cocktail RTD  
10 is an emerging category. Just in 2020 there were around 10  
11 million cases around the country sold, and if you look at  
12 north of here, the Canadian model, which really invested in  
13 this category, if those trendlines were to follow in the  
14 United States with policy that looks to help grow that  
15 category, you're looking at somewhere around 200 million  
16 cases nationally with this product. So what people are  
17 saying here isn't just about Pennsylvania. It's a national  
18 effort that's taking place, and we're really excited to be  
19 part of that.

20 However, there are some impediments to the  
21 growth. You look at, you know, just specifically in  
22 Pennsylvania, we feel what's always been sort of an  
23 Achilles' heel with the system is the fact that you got  
24 right around 600 to 625 State stores. That's less than one  
25 store per 10,000. National average is around 3.5 stores.

1 So from an infrastructure standpoint whether it's low-proof  
2 RTDs or full-proof spirits, we've always been advocating  
3 that we feel that Pennsylvania needs more outlets for  
4 spirit-based consumers and spirit-based products.

5 And one of the speakers earlier confirmed that,  
6 that unfortunately during the pandemic State stores were  
7 shut down for a period of time, and spirit consumers had to  
8 literally travel across State lines to buy their products.  
9 In States that I cover, West Virginia, Ohio, Governors were  
10 pleading for Pennsylvania residents to stay home during the  
11 pandemic. And so if you look at the infrastructure issues  
12 of only having 600 or so stores for spirit-based products,  
13 I think that's something that needs to be addressed over  
14 time, and the spirit-based RTDs would be a good first step  
15 to try to address some of those inequities.

16 On the tax piece of it, by no means are we  
17 suggesting that we should open up the beer tax code. We  
18 understand how messy that would be. But spirit-based  
19 products are taxed at a different rate. What we're  
20 suggesting is there's opportunities like Canada which they  
21 created a low-proof spirit RTD tax rate separate from beer  
22 and wine just based on ABV. One of the previous speakers  
23 mentioned the Johnstown flood tax. You could exempt the  
24 Johnstown flood tax from these products without touching  
25 any of, you know, the excised taxes on beer, and now you've

1 got 18 percent for those who are either distributing or  
2 selling essentially, you know, would serve as a discount or  
3 a margin that they could negotiate over, again, but still  
4 providing a competitive price point for the consumer.

5           And one thing I do really want to reiterate, it's  
6 a real slippery slope when we start trying to demonize a  
7 legal product like spirits. Unfortunately, I've seen it in  
8 other States where, you know, it's not what you drink, it's  
9 how much you drink. Beer, wine, and spirits, the science  
10 indicate that there's no difference. We reject that  
11 notion, but especially on low-proof ABV products. The  
12 gentleman, one of the previous speakers, referred to a 20  
13 percent ABV. From a policy standpoint, we haven't gone  
14 there at all because, quite frankly, that might draw in  
15 some liqueurs, and you don't want to do that. What we've  
16 seen in other States, you set a ceiling. You have the pen  
17 with the legislation. You can set a ceiling at an ABV that  
18 nothing above a certain ABV could be sold in some of these  
19 outlets. The remaining will be sold in the PLCB stores.  
20 We're fine with that.

21           So I would urge or ask that you consider as you  
22 look at this issue to be flexible, not rigid. There's many  
23 options that you could choose from from around the country.  
24 I'd be happy to be a resource for you during this process  
25 like we have been on other issues, so thank you for the

1 opportunity.

2 SENATE MAJORITY CHAIRMAN REGAN: Thank you, sir.  
3 I appreciate that. We'll go now to Mr. Teschner from  
4 Anheuser-Busch.

5 MR. TESCHNER: Thank you, Chairman Regan,  
6 Metzgar, Brewster, and Deasy, and Members of the Senate Law  
7 and Justice and House Liquor Control Committees. I  
8 appreciate you having me this morning. As I mentioned, my  
9 name is Reid Teschner, and I'm a Director of State Affairs  
10 for Anheuser-Busch. And I just wanted to say that quickly  
11 on behalf of Anheuser-Busch and our more than 19,000  
12 employees across the country, I'm pleased to discuss this  
13 topic of ready-to-drink cocktails.

14 In addition to the written testimony that has  
15 been provided to the Committee Members, I would just like  
16 to quickly provide some additional context. Then I would  
17 be happy to take any questions that the Committee Members  
18 have.

19 As the country's largest brewery and a leading  
20 American manufacturer, Anheuser-Busch has seen firsthand  
21 the proliferation of alcohol beverages beyond what we would  
22 know as traditional beer. Ready-to-drink cocktails are a  
23 significant component of this expansion, as evidenced by  
24 our own popular products like Cutwater Spirits ready-to-  
25 drink cocktails and Devils Backbone Smash cocktails. And

1 while Anheuser-Busch does support limited efforts to make  
2 these new and exciting products more accessible to  
3 consumers throughout Pennsylvania, at the same time, we  
4 respectfully urge Committee Members to take a closer look  
5 at why beer and spirits are treated differently across the  
6 country. It is important the tax code accounts for the  
7 risks associated with RTDs and appropriately reflects the  
8 best way to classify and treat RTDs going forward. Thank  
9 you again for your time and careful consideration on this  
10 issue, and I'd be happy to take any questions.

11 SENATE MAJORITY CHAIRMAN REGAN: Thank you very  
12 much, sir. Start with questions, Chairman Metzger.

13 HOUSE MAJORITY CHAIRMAN METZGAR: So during some  
14 of the prior testimony, you know, there's concerns raised  
15 by some of the Members about loss of revenue to the  
16 Commonwealth by the proliferation of RTDs into the other  
17 supply chain outside of the fine wines, good spirits  
18 stores. Based on your knowledge of the market and what  
19 could happen with this RTD bill, I would like the panel's  
20 feeling on, you know, is that true? Is that something that  
21 we would see as a loss of revenue if we would expand beyond  
22 the 1 percent of the shelf space in the fine wines, good  
23 spirits, and would you have any idea of what kind of  
24 revenue you think it would make the Commonwealth?

25 MR. WOJNAR: Great. Thank you, Mr. Chairman.

1 Thank you for that question. So, first, I can tell you  
2 that, given the importance of Pennsylvania, our economist  
3 David Ozgo, who was testified before you on many other  
4 occasions, he's in the process of working on a study and an  
5 economic analysis of what the potential growth may be here  
6 in Pennsylvania on this product.

7           However, what we can say is that we've always  
8 maintained -- and we'll use the expansion of full-proof  
9 spirits to the R licenses as the foundation for this  
10 discussion -- if full-proof spirits were put into the R  
11 licenses like wine was, we're looking at a potential  
12 revenue gain of somewhere between \$80-\$100 million per  
13 year. We've always looked at expanding the spirit  
14 footprint in Pennsylvania as a supplement or an augment to  
15 the current system, not instead of. So if you look at that  
16 initial premise, we believe there is room to grow for the  
17 Commonwealth.

18           But keep in mind what drives us not only in  
19 Pennsylvania but around the country, it's about the  
20 consumer, what the consumer wants, when they want it, and  
21 how they want it. And this is a very, very popular  
22 product, and we're excited that Pennsylvania wants to be  
23 ahead of the curve on an issue like this rather than behind  
24 the curve.

25           MR. LAVERTY: I don't have a number to obviously

1       equate this, but there could be an argument said that  
2       perhaps consumers aren't buying RTDs as much right now  
3       because of their availability. In the event that there was  
4       an expansion of RTDs across these different distribution  
5       opportunities, consumers might be more willing to drink  
6       these more often. And honestly, that could even equate to  
7       increased tax revenue for the PLCB if they commit to  
8       expanding their selections and in tandem having  
9       distribution in these other outlets, so I think there's a  
10      growth opportunity to be honest.

11               MR. WOJNAR: Mr. Chair, if I could just add, just  
12      so you know, the study that we're working on is just sort  
13      of taking different models, you know, if they were allowed  
14      to be sold in R licenses only, D's only, R's and D's, so,  
15      as you can imagine, that does take a little bit of time,  
16      but as soon as we get that, we will share that with you  
17      based on that economic modeling.

18               HOUSE MAJORITY CHAIRMAN METZGAR: Thank you.

19               SENATE MAJORITY CHAIRMAN REGAN: My question is  
20      for you, Mr. Lavery. If this ever comes to fruition, do  
21      you envision your products being sold alongside beer in  
22      Pennsylvania?

23               MR. LAVERTY: I do, yes.

24               SENATE MAJORITY CHAIRMAN REGAN: Is that how it's  
25      done in other States?

1 MR. LAVERTY: In other States it is.

2 SENATE MAJORITY CHAIRMAN REGAN: Okay.

3 MR. LAVERTY: I'll give you an example. Florida,  
4 since we are a 5 percent ABV product, we are able to sell  
5 alongside the beer channel, which proves to be good for us  
6 because, you know, consumers can make the decision whether  
7 they want a spirit or a beer-based product in any of these  
8 distribution outlets. And just because the ABV is so low,  
9 you know, it doesn't seem to be problematic from, you know,  
10 a compliance perspective.

11 SENATE MAJORITY CHAIRMAN REGAN: Okay. Just one  
12 more question. Could you please give us some particulars  
13 about your sales in other States?

14 MR. LAVERTY: Sure.

15 SENATE MAJORITY CHAIRMAN REGAN: Their growth  
16 rates and projected revenues. And if you have, you can  
17 compare anybody with a similar demographic, that would be  
18 helpful.

19 MR. LAVERTY: Sure. Yes. We launched the brand  
20 back in 2019, so we're still relatively new, but for this  
21 year, we're on pace to do somewhere between 80 and 100,000  
22 nine-liter cases. So from a sales perspective, that's  
23 somewhere in the ballpark of over \$3 million. From a  
24 growth perspective and depletions perspective, we're up  
25 over 150 percent this quarter over last year, so I would

1 say growing alongside the category I think it's pretty  
2 obvious that these products are at the forefront of a  
3 younger demographic right now. We're seeing a pretty big  
4 shift in, you know, people that traditionally were drinking  
5 beer before and moving into this RTD and hard seltzer  
6 space, so we're excited to be in a quickly growing category  
7 for sure.

8 SENATE MAJORITY CHAIRMAN REGAN: I know, Mr.  
9 Wojnar, you spoke about studies that are being done. I'm  
10 curious just from a philosophical perspective. Is there  
11 any evidence anecdotally or otherwise that States that have  
12 moved to selling RTDs alongside malt beverages, beer and  
13 other alcoholic products, that there's any increase in  
14 alcoholism or underage consumption or anything -- some  
15 concerns that Members have expressed here so far today?

16 MR. WOJNAR: No, sir. I mean, if anything,  
17 again, we reject that notion. It's just a different  
18 alcohol product, but if you look at it purely based on ABV,  
19 you know, that wouldn't move the needle either way.

20 I will say this. I want to reiterate and make it  
21 clear that the distilled spirits industry puts their name  
22 and heart and soul behind responsibility programs. And one  
23 of the speakers mentioned that April is Alcohol Awareness  
24 Month. Our sister organization, Responsibility.org, has  
25 run programs with legislators and Attorneys General all

1 over the country on the importance of cracking down on  
2 underage drinking, and we'd be more than happy to partner  
3 with this Committee and Members of this Committee here on  
4 those important programs, you know, to running your  
5 districts or to do some type of public awareness programs.  
6 So our members put their money where their mouth is on the  
7 responsibility side of things.

8 SENATE MAJORITY CHAIRMAN REGAN: Thank you for  
9 that. We'll go to Representative Rothman for a question.

10 REPRESENTATIVE ROTHMAN: Thank you, Mr. Chairman,  
11 and, albeit virtually, great to see you. And thank you,  
12 Chair Metzger, for hosting this Committee.

13 My question is for the gentleman from Anheuser-  
14 Busch, Mr. Teschner. Your testimony deals -- much of it  
15 deals with taxes, but do you believe these new products  
16 should be an opportunity to be sold at additional retail  
17 outlets such as R's and D's licenses?

18 MR. TESCHNER: You know, we do support the State  
19 taking a close look at a limited expansion. I think it  
20 should be very measured in the way that the Commonwealth  
21 goes about it just to ensure that all precautions are taken  
22 before expanding into those different outlets, but we would  
23 very much support the idea of at least moving forward with  
24 that expansion.

25 REPRESENTATIVE ROTHMAN: Thank you. Thank you,

1 Mr. Chairman.

2 SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
3 Representative. I now go to Representative Smith.

4 REPRESENTATIVE SMITH: Thank you, Mr. Chairman,  
5 and thank you to the panelists for coming before us today  
6 to answer our questions.

7 My question is for Mr. Teschner from Anheuser-  
8 Busch. How many brands do you have that fall under the RTD  
9 category?

10 MR. TESCHNER: We have a handful of brands right  
11 now. As I mentioned before, Cutwater Spirits, which we  
12 just publicly announced our acquisition of in February  
13 2019, is our biggest brand holder that has RTDs. I believe  
14 we have over 20 RTD products in that line specifically.  
15 But as we mentioned, this is such a fast-growing segment.  
16 Even our traditional beer brands like Devils Backbone under  
17 our umbrella are introducing RTDs as well, so it would be  
18 hard to quantify it's such a fast-growing sector, but we do  
19 have a handful right now.

20 REPRESENTATIVE SMITH: Okay, thank you. Are any  
21 of these brands sold in Pennsylvania right now?

22 MR. TESCHNER: Yes, Cutwater Spirits are sold in  
23 Pennsylvania right now.

24 REPRESENTATIVE SMITH: Okay, thanks. What are  
25 your thoughts regarding the job the LCB is doing selling

1 RTDs?

2 MR. TESCHNER: I think, as mentioned earlier, the  
3 1 percent shelf space is kind of self-explanatory to, you  
4 know, how the current RTD situation is right now in the  
5 State, but like I said, it is such a new and fast-growing  
6 sector, it takes some time to be able to catch up to the  
7 trends as they go for consumers purchasing these products.  
8 So I'm certain that the LCB will be able to make the  
9 appropriate steps to, you know, spotlight these products  
10 going forward.

11 REPRESENTATIVE SMITH: What do you think they  
12 could be doing better?

13 MR. TESCHNER: That's hard to say. You know, I'd  
14 be happy to, you know, follow up with you and have a  
15 further discussion into more detail on that once I could,  
16 you know, confer more with our commercial team up in the  
17 State of Pennsylvania, but from not being on the ground up  
18 there at all times and seeing the stores firsthand, it'd be  
19 hard for me to say. But by no means is Pennsylvania the  
20 only State where, you know, this is something that is  
21 occurring right now. Like I mentioned, you know, this is  
22 just two, three years ago that these products started to  
23 become very popular, so it does take some time obviously to  
24 be able to adjust to the trends.

25 REPRESENTATIVE SMITH: Okay. Thank you very much

1 for answering my questions. Thank you, Chairman.

2 SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
3 Representative. Now to Representative Guzman.

4 REPRESENTATIVE GUZMAN: Thank you, Mr. Chairman.  
5 And thank you to the panelists. I'm over here, y'all,  
6 behind the podium here. Thank you to the panelists for  
7 your testimony here today. I come at this from multiple  
8 perspectives. Number one, I come from a family where  
9 alcoholism runs rampant. My family was also victims of  
10 domestic abuse because of said alcoholism.

11 Another perspective, I come from it as one of the  
12 younger Members of this Committee, and I myself have  
13 partaken in some of these ready-to-drink beverages, and I  
14 appreciate how available they are.

15 The third perspective of course is that I also  
16 represent a minority majority city, and I also speak for  
17 the millions of Latinos across the State and Brown and  
18 Black folks as well.

19 And so with all those three perspectives in mind,  
20 one of the caveats I guess, one of the things that I'm  
21 having a hard time in this hearing is just the fact that  
22 I'm not necessarily hearing any public health perspectives  
23 on this. And so my question and comments are the ABV of  
24 RTDs varies greatly from drink to drink and from company to  
25 company, and the only bill that we have right now on this

1 issue is Representative Rothman's, which has no ABV limit  
2 and allows up to 192 ounces. So what we're discussing here  
3 today is drastically expanding and adding thousands of new  
4 retailers to a product that could potentially sell cans,  
5 yes, but also seven bottles of 750 milliliters premixed  
6 cocktails with no perspective from public health advocates.  
7 Recognizing this drastic change in policy and implications  
8 that it could have, would the panelists today support  
9 having the opportunity to hear from organizations that  
10 represent public health and substance abuse professions?

11 MR. WOJNAR: Sure, I'd be happy to take that  
12 question. Absolutely. I mean, our organization, like I  
13 said, we have a sister organization that partners with  
14 public health advocates and scientists and doctors all over  
15 the country to make sure that we are promoting responsible  
16 policy.

17 But sir, you do raise a great point. I would  
18 urge this Committee, these Committees to look at a ceiling  
19 of the ABV and where they could be sold, and I think that  
20 is responsible policy. It's something that we've advocated  
21 for around the country and in fact I guess to the northwest  
22 of us, Michigan, there's a bill before the legislature  
23 that's about to pass that legislature that caps the ABV  
24 where they can be sold. And so that is the trendline  
25 around the country, and I would urge the Committee to make

1 that a key component of this legislation.

2 SENATE MAJORITY CHAIRMAN REGAN: So let me  
3 interject. By that rationale then, we should cap liquor  
4 and we should cap beer, we should cap everyone. If ABV is  
5 the issue, I mean, clearly, we are selling things  
6 throughout Pennsylvania now that have a way higher ABV.  
7 I'm just curious as to that line of thinking if you could  
8 address that.

9 MR. WOJNAR: Well, I guess for this product,  
10 right, again, to address some of the issues that have been  
11 talked about with this product, I mean, again, we've always  
12 advocated for we think there's room to grow where full  
13 proof spirits could be sold. I don't want to ever undercut  
14 that argument. But when you're talking about RTDs, when  
15 you start getting into the higher ABVs, it could  
16 unintentionally draw in some of the liqueurs and other  
17 things that are not considered RTDs, and so that's, you  
18 know, where the trendlines have been going with these RTD  
19 products. So if the Committee feels that you want to look  
20 at full-proof expansion, sign me up for that testimony.  
21 I'll be here, you know, faster than I was for this one.  
22 But when it comes to this product, you know, it does seem  
23 reasonable to have some ceiling there to not  
24 unintentionally draw in some other products.

25 SENATE MAJORITY CHAIRMAN REGAN: Certainly.

1 We'll now go to Representative Kerwin for a question.

2 REPRESENTATIVE KERWIN: Thank you, Mr. Chairman.  
3 My question goes to Mr. Laverty. Thank you for joining us  
4 today, as well as for your submitted testimony. You do  
5 have quite the story. Your company has quite the story.  
6 Also, it is good to hear from a fellow Penn Stater.

7 MR. LAVERTY: Yes, we are.

8 REPRESENTATIVE KERWIN: You mentioned that you  
9 had difficulties with Pennsylvania. As a small  
10 manufacturer, how have your interactions with the  
11 Pennsylvania Liquor Control Board been?

12 MR. LAVERTY: Quite honestly, it seems that the  
13 process is extremely lengthy. I haven't really had this  
14 experience in many other States. I understand that this is  
15 more of -- you know, obviously, this is a control State, so  
16 there's more of a bureaucratic nature to it, which was  
17 expected, but the feasibility of getting a product into the  
18 State seems to be extremely hard if you're not represented  
19 by an extremely large alcohol conglomerate. I would love  
20 an opportunity to sell our product here. We thought of  
21 this thing in our entrepreneurship class in Penn State, and  
22 I would love nothing more to bring this thing back to  
23 Pennsylvania, but I will add it's been quite difficult.

24 REPRESENTATIVE KERWIN: How would you rate your  
25 interactions with other States as compared to Pennsylvania

1 when it comes to your business?

2 MR. LAVERTY: I would say it's been about three  
3 times as difficult for Pennsylvania as it is the other  
4 States. Generally, the other States, if there's demand for  
5 the product, the wholesaler will advocate to bring the  
6 brand on. We have a national partnership with Southern  
7 Glazer's Wine and Spirits. If there's demand for a  
8 product, we can generally turn a new market on within a  
9 two- to three-month period. As I had explained earlier, I  
10 think we've been talking to the folks in PA for over a year  
11 at this point, even on the one-time buy scenario, I know  
12 that was referenced earlier, but even that is taking a long  
13 time.

14 REPRESENTATIVE KERWIN: And real quickly, tell me  
15 what the six different products are that you sell. I tried  
16 to look them up on the internet, but I'd rather hear from  
17 you.

18 MR. LAVERTY: We have a portfolio of four vodka  
19 sodas. We have a watermelon, cranberry, a peach, and a  
20 mango, and then we're releasing two tequila sodas, in about  
21 two weeks, a grapefruit and a pineapple tequila soda. The  
22 whole line is consisting of 5 percent alcohol, and none of  
23 the products have sugar or carbs.

24 REPRESENTATIVE KERWIN: Thank you, Mr. Laverty.  
25 Thank you, Mr. Chairman.

1           SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
2 Representative Kerwin.

3           Representative Harkins, please.

4           REPRESENTATIVE HARKINS: Thank you. Thank you.  
5 Can you hear me okay?

6           SENATE MAJORITY CHAIRMAN REGAN: Yes, sir. We  
7 have you loud and clear. Go ahead.

8           REPRESENTATIVE HARKINS: Thank you. Thank you.  
9 Great testimony from all of you. This is a really  
10 interesting background. And just to lay it out, I've been  
11 in the legislature for 15 years now. I think some of the  
12 scrutiny that we give on the front and for those who are  
13 frustrated is better off now than at the backend of things  
14 when we get into some of these and we find out the  
15 pitfalls. We have to go back and amend legislation, so I'd  
16 much rather have it work out at this level than to have to  
17 go back and correct some of the things.

18           With that said, as I listen to this testimony and  
19 we talk about expanding sales of spirit-based products, I'm  
20 reminded of past conversations, again, being on the Liquor  
21 Committee many years, hearings and debates on expanding  
22 spirit sales to beer distributors. If I recall -- I guess  
23 this would be for Mr. Teschner -- Anheuser-Busch's position  
24 on expansion of spirits to beer distributors during this  
25 conversation was that they were opposed. Am I correct in

1 that?

2 MR. TESCHNER: I believe you're correct on that.

3 REPRESENTATIVE HARKINS: Well, these RTDs, you  
4 know, as great as they sound and as quickly as we want to  
5 get them in everybody's hands, these products are also  
6 spirits, which makes these different. But you would now  
7 support these in a beer distributors setting just kind of,  
8 it catches my eye. Could you explain that a little bit for  
9 me, how we're at that point?

10 MR. TESCHNER: Yes, well, as I mentioned,  
11 Representative, you know, things have changed a lot over  
12 the years as these products have proliferated. And like I  
13 said before, we support a limited expansion and the  
14 Commonwealth and LCB taking a measured approach to going  
15 about that. So I think there would be a lot of work to be  
16 done before we could just flip the switch and say, okay,  
17 the spirits-based products are now in the hands of  
18 distributors. So that would be my answer to that is I  
19 think it would be an ongoing process.

20 REPRESENTATIVE HARKINS: Okay, thank you. I  
21 appreciate that. And, again, for my younger colleagues, I  
22 think scrutiny now after the things that we've gone into  
23 and we're looking at legalizing marijuana and everything  
24 else, sometimes it's not a bad thing to put the brakes on  
25 and study things a little bit more. But again, thank you

1 very much. I appreciate it.

2 SENATE MAJORITY CHAIRMAN REGAN: And thank you  
3 very much, Representative Harkins.

4 We'll now go to Representative Staats.

5 REPRESENTATIVE STAATS: Thank you, Chairman, and  
6 gentlemen, thank you for your time today. My question  
7 would be for Mr. Wojnar.

8 MR. WOJNAR: Yes, sir.

9 REPRESENTATIVE STAATS: Given the national  
10 presence of DISCUS, what States could you point to that you  
11 believe do a good job when it comes to selling and  
12 promoting RTDs? I guess what I'm looking for, are there  
13 States that we should look at for best practices?

14 MR. WOJNAR: Well, so there are 20-plus States  
15 that have a tax rate that recognizes the ABV, so we can  
16 provide that information. It's a new category. I mean,  
17 again, I think a lot of folks are trying to feel their way  
18 through it. I'll just look to Michigan as probably our  
19 most recent experience in working through that legislative  
20 process, which they hit, you know, two of the major items  
21 for us, which is they're looking to reduce their tax burden  
22 from 48 cents per gallon to 30 cents per gallon, and  
23 they're looking to increase their outlets from roughly  
24 4,500 to 11,000. So, you know, not getting into the  
25 numbers they're touching upon those two key issues, and

1 we're seeing legislation in 12 States this year that have  
2 been introduced and some we're having the same discussion,  
3 which is, you know, look at the access, you know, the  
4 outlets, also the tax structure. Those are the two main  
5 points.

6 REPRESENTATIVE STAATS: That's helpful. Thank  
7 you for your answer.

8 MR. WOJNAR: Thank you.

9 SENATE MAJORITY CHAIRMAN REGAN: Thank you very  
10 much, Representative.

11 Are there any more questions from our panel of  
12 Chairmen? Representative Brewster, you are prominently  
13 displayed on our video right now. Do you have a question?

14 SENATE DEMOCRATIC CHAIRMAN BREWSTER: An  
15 observation if I may, Mr. Chairman.

16 SENATE MAJORITY CHAIRMAN REGAN: Certainly.

17 SENATE DEMOCRATIC CHAIRMAN BREWSTER: I want to  
18 thank the speakers so far. But I guess I have to hearken  
19 back to some of the comments and it's hard to keep track  
20 because all the information is really helpful, but, you  
21 know, trying to make these new products available through  
22 our system is going to be a little slower, a little more  
23 difficult because we do have control in mind. You know, I  
24 don't want to go too far back in history, but, you know,  
25 this is still a mind-altering product. And as we open it

1 up to new products, I thought we did a very good job on the  
2 Modernization Act 39 for package reform at beer  
3 distributors and wine sales at restaurants and so on and in  
4 the grocery stores.

5 But, you know, when I hear these comparisons, we  
6 have to remember that we're talking about \$750 million in  
7 revenue into the budget. And I heard the word monopoly.  
8 This is the consumers of Pennsylvania's monopoly. It's  
9 something we've been challenged to preserve, 3,500  
10 employees, and right now, we try to create jobs. Their  
11 jobs would be in jeopardy if we make decisions that opens  
12 this thing up. They go away. The control that they  
13 provide goes away. And when we talk about the 23,000  
14 rejections in the State stores, I did not hear a comparison  
15 through some of the other speakers. They just said, well,  
16 we don't know how many were rejected. Well, when you take  
17 that product out of that grocery store, we don't know the  
18 outcome or the result that may be an automobile accident  
19 or whatever.

20 So we're not comparing apples and oranges, but  
21 what we do know is that whenever we start to erode the  
22 current LCB program, not only do we lose the tax revenue,  
23 which we've heard many times that that will be made up by  
24 those of you on these calls, and I agree with that. And it  
25 may very well be higher. What we do lose is the profit,

1       okay? This particular line item, the Liquor Control Board  
2       is the only line item that I know of in the Pennsylvania  
3       budget where the employees pay for their own salaries  
4       through the revenue and the profit that we make. So this  
5       is not something that we can give away just freely.

6               But, as I said, I think we should be open to  
7       discussions, as we did with Act 39. I think we've done a  
8       tremendous job as a State, and we need to continue to be  
9       mindful that this is a mind-altering product. And the one  
10      speaker -- I'm sorry because it's sort of garbled on my end  
11      -- when you talk about the availability to raise the amount  
12      of alcohol in some of these drinks to an unlimited amount,  
13      you know, it gets a little bit frightening.

14             And the reason Pennsylvania still is restrictive  
15      is because, you know, back in the '20s we couldn't control  
16      what was going on with alcohol so we legalized it, okay?  
17      And then all the revenue started coming in. All of a  
18      sudden that became more important. But nothing's changed  
19      in terms of what the side effects can be if we let it get  
20      to a position where is out of hand.

21             Now, I don't suggest that any of the speakers and  
22      their products today have that intention, and please don't  
23      take it that way. What I'm suggesting is as we go through  
24      these conversations and a product comes out that we can  
25      find a way to make it work, we certainly want to make it

1 available to the people of Pennsylvania and so that those  
2 of you in the private sector can make money.

3 And I'll just close by saying this. When you  
4 look at the LCB, there is still an opportunity other than  
5 going into the stores, the 600 locations, in buying the  
6 canned drinks. You can do that through e-commerce. And I  
7 believe you can go on the system and if it's in inventory,  
8 that particular item can be made available. So it's not  
9 just a restriction where you have to go into a State store.  
10 It is available through other means.

11 I didn't get a chance to ask the first group, our  
12 Director of the LCB, but if he were to break out what the  
13 revenue is, in other words, the profit that we get versus  
14 the tax revenue, there are two different elements there.  
15 And when we start to open this up, we lose the profit base  
16 on behalf of the taxpayers of Pennsylvania. We don't lose  
17 the tax piece because we know that'll be made up through  
18 the retail side. So this gets a little more complicated  
19 than just making a new product available. But I do want to  
20 thank you for your testimony. It's been very helpful from  
21 my perspective, so thank you, Mr. Chairman.

22 SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
23 Chairman. I appreciate your comments. One final question  
24 for this panel is how would you envision distribution in  
25 Pennsylvania if you had your druthers?

1                   MR. LAVERTY: Meaning who would be the  
2 distributors?

3                   SENATE MAJORITY CHAIRMAN REGAN: Yes.

4                   MR. LAVERTY: I would say the wine and spirits  
5 and the beer wholesalers. I mean, ideally -- I mean, it  
6 works well in other markets. You take Florida or  
7 Connecticut or California, for example, and it functions  
8 pretty well over there. I would imagine it could be  
9 replicated here. It seems like the infrastructure is in  
10 place already, obviously, you know. These malt-based  
11 products are getting delivered, and the infrastructure is  
12 there, so I wouldn't see why we wouldn't be able to add  
13 lower ABV spirit-based products to that infrastructure.

14                  SENATE MAJORITY CHAIRMAN REGAN: Okay. Did you  
15 have a comment on that, too?

16                  MR. WOJNAR: Mr. Chairman, great question. I  
17 think from our perspective, you know, we've got a little  
18 bit of a different mission as a trade association. I think  
19 the bottom line is whatever policy reflected and took into  
20 account the long-standing relationships that each supplier  
21 has with their traditional distributor, right? And so on  
22 the malt side, you know, like Anheuser-Busch, they work  
23 with the beer wholesaler. That seems logical. On the  
24 spirits side we have long-standing relationships with our  
25 brokers, who carry national accounts. But one of our

1 guiding principles on this issue is that if it's a licensed  
2 wholesaler, then the supplier, whoever that may be, should  
3 have the choice to contract with a licensed wholesaler of  
4 their choice. So to us that's the bottom line is that the  
5 supplier should have the ability to contract with who they  
6 see can carry those products for them.

7 MR. WOJNAR: Mr. Chairman, if I could just say  
8 one thing --

9 SENATE MAJORITY CHAIRMAN REGAN: Sure.

10 MR. WOJNAR: -- and I apologize, Representative  
11 Staats. It's obvious what State is getting it right.  
12 About six months ago Pennsylvania got it right when you  
13 expanded wine fermented fruit and that footprint into the  
14 stores, and I think we can get it better by allowing  
15 spirits to be expanded as well.

16 SENATE MAJORITY CHAIRMAN REGAN: Great, thank  
17 you. We're going to move onto the next panel. Thank you  
18 very much for your testimony. I think it's been very good.  
19 Before you get up, I want to just make one comment  
20 anecdotally. I was recently in Kentucky, and I was  
21 speaking to the people who manufacture Makers Mark bourbon,  
22 who informed me that Pennsylvania was the number one  
23 consumer in the United States of Makers Mark bourbon, which  
24 is, by the way, 45 percent ABV, just anecdotally.

25 MR. WOJNAR: Right, thank you.

1 MR. LAVERTY: Thank you.

2 SENATE MAJORITY CHAIRMAN REGAN: Okay, gentlemen,  
3 thank you very much. For our Members, this is the fourth  
4 and final panel of the day. And if you wouldn't mind,  
5 please, once you're settled, if you would just introduce  
6 yourselves and tell us where you're from. Thank you.

7 MR. STRICKLER: First of all, thank you for  
8 having us today, Mr. Chairman, Mr. Chairman, and all the  
9 Members of both Committees. Mr. Chairman, nice to see you  
10 moving around effectively.

11 SENATE MAJORITY CHAIRMAN REGAN: Thank you very  
12 much.

13 MR. STRICKLER: My name is Tim Strickler. I  
14 represent ACE Distributing. I'm an owner at ACE  
15 Distributing in Wrightsville, Pennsylvania, for the last 33  
16 years. We deliver malt and/or brewed products to 11  
17 counties in southcentral Pennsylvania.

18 SENATE MAJORITY CHAIRMAN REGAN: Okay.

19 MR. DIMARIO: My name is John DiMario. I'm the  
20 President of Allegheny Beverage Company. We're  
21 headquartered in Erie, Pennsylvania. We also have a  
22 facility in Elk County, Pennsylvania, and we distribute  
23 products, malt beverages, and for that matter also water  
24 and canned coffees and a variety of other beverages as well  
25 to consumers and retailers in 13 counties in northwestern

1 Pennsylvania.

2 SENATE MAJORITY CHAIRMAN REGAN: Excellent. Mr.  
3 Barnhart, are you available?

4 MR. BARNHART: Yes, I am. Can you hear me?

5 SENATE MAJORITY CHAIRMAN REGAN: Loud and clear.

6 MR. BARNHART: Okay. Thank you very much. Good  
7 morning, Senators and Representatives. My name is Randy  
8 Barnhart. I'm the Vice President of Governmental Affairs  
9 for the Eastern Coast for Southern Glazer's Wine and  
10 Spirits. And today, I'm here speaking on behalf of the  
11 Wine and Spirits Brokers Association of Pennsylvania.

12 First of all, I've met a lot of you over the  
13 years and have enjoyed those meetings and discussions and  
14 look forward to being back in Harrisburg in the near  
15 future.

16 Earlier, we've sent the presentation and also a  
17 written statement about this exciting category, and we're  
18 happy to be here. Hopefully, you've received my written  
19 statement and also our presentation deck. And real  
20 quickly, we represent wine and spirits in the State of  
21 Pennsylvania. We deal with the PLCB. Our position is that  
22 we want to see the canned cocktails retained within the  
23 purview of the PLCB. This is a fast-growing category.  
24 We've talked about just the demographics. It's a younger,  
25 more diverse consumer base. It's a traffic-building

1 category. These products are bringing in consumers into  
2 your stores, and there's repeat purchases as well.

3 And a lot of this information is in the nine-page  
4 presentation that we sent out in advance. I'm not going to  
5 go through each slide. We can if you wish, but in the  
6 interest of time, absolutely not.

7 One of the things that came up a couple minutes  
8 ago was just the future value of this business. This  
9 category continues to grow, and our projections show that  
10 the canned cocktail business by the year 2030 will be the  
11 size of the Scotch whiskey category. Think about it, the  
12 Scotch whiskey category. So the PLCB is running the  
13 business, and we have this canned cocktail business, and  
14 today, we're talking about the future distribution channels  
15 of a segment that has the potential to be the size of the  
16 Scotch whiskey category. And there's a huge future value  
17 to that in terms of revenues to the State. So that's just  
18 something to bear in mind.

19 Obviously, we want to work with the different  
20 stakeholders and move the process forward. We're here as a  
21 resource in the future to provide information. The deck  
22 that we sent out in advance has a lot of answers just to  
23 what is going on in that whole category.

24 With that, thank you again for the privilege of  
25 being here. It's an honor for me. Thank you.

1           SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
2           sir. Thanks for the entire panel for being here.

3           A quick question from me. We've heard through  
4           the testimony of the LCB and others that the LCB has  
5           invested negligibly in this market sector, this sector of  
6           the market I should say. And I know that marketing  
7           products is a huge part of what you do in your business  
8           model. Tell me what potentially would be an approach you  
9           would use in marketing these products.

10          MR. STRICKLER: John, is it all right if I go  
11          ahead?

12          MR. DIMARIO: Sure.

13          MR. STRICKLER: Okay. Well, first of all,  
14          Senator, I agree with you. I think that the marketing  
15          budget has been negligible, not that the Liquor Board does  
16          a poor job at all with their Chairman's Choice and their  
17          cold room and everything they do with wine and spirits, but  
18          they're dealing with a product here that they're not suited  
19          to deal with. And I'm speaking based on what the  
20          consumer's expectation is because it's all about the  
21          consumer who are your constituents, everybody up there.  
22          They're your constituents. We speak to them readily not  
23          just to retailers but directly to consumers through social  
24          media and other means, Zooming right now.

25          You know, there's an expectation of going in and

1 being able to go to a cold cooler with 10 or 12 or 14 doors  
2 or a cold room, grabbing a single or grabbing a four-pack  
3 like they do with White Claw, Twisted Tea, this or that and  
4 everything else, we all know that, Mike's Hard Lemonade.

5 In fairness to the PLCB, it is difficult to market when the  
6 expectation of the consumer is not met basically by the  
7 logistical aspect of the store. So if you're limited to a  
8 very small amount of floor space and you don't have that  
9 display ability of cold doors, frankly, it's kind of hard  
10 to spend marketing dollars. If you compared it to what  
11 roughly 14,000 licensees, if delivered through, say, a beer  
12 wholesale network would spend to market those products, you  
13 know, you would look at \$1 to \$1.50 a unit plus some  
14 upfront marketing fees and guaranteed marketing for five  
15 years.

16 You have actually an example of what happens --  
17 and I'll go get historical on this. If you go in your  
18 liquor stores right now, the PLCB, you'll still see Bartels  
19 & Jaymes. And if any of you are old enough to remember the  
20 commercials in the 1980s with the two old men sitting on  
21 the porch, Bartels & Jaymes was the first alternative  
22 product that was offered by the PLCB and by many other  
23 stores in other States.

24 What came from that is it couldn't get out. It  
25 couldn't get to beer distributors. It couldn't get to

1        taverns that sell to-go. Back then, there were no  
2        convenience or grocery buying our licenses. But that's  
3        what created things like White Mountain from Stroh Brewery  
4        many, many years ago and eventually Gallo making a malt-  
5        based Bartels & Jaymes, which led to the Trulys and the  
6        White Claws and everything of the world.

7                    There's an expectation by your constituents, who  
8        are the consumers of this product, in the way they want to  
9        buy this, where they want to buy it. They all want choice,  
10       and they all want convenience. That's the nature of the  
11       human consumer in today's world. You guys have done a  
12       super job giving them that through your methods of  
13       expansion of venue of sale. I personally think it's  
14       difficult to do that through an existing State store  
15       system, 600 stores versus 14,000 roughly licensees. The  
16       stores are not suited to sell that product the way the  
17       purchaser is expecting to buy it. And it would be  
18       extremely costly to do that.

19                    SENATE MAJORITY CHAIRMAN REGAN: And, you know,  
20       our friends at the LCB provided us with some data heading  
21       into this hearing because we had some questions. And one  
22       of the things they told us that they spend a total of  
23       \$6,400 annually in marketing of these products, which is  
24       .0008 percent of their marketing budget.

25                    Does anyone else want to comment on that

1 particular topic? Mr. Barnhart, you look like you're  
2 ready.

3 MR. BARNHART: Yes, thank you so much. With  
4 regards to just the category and how the PLCB is  
5 performing, if I had a wish list what I would do at the  
6 PLCB is obviously expand the shelf presence in their  
7 stores. I would do that overnight. I would take a look at  
8 other categories that maybe aren't performing as well and  
9 don't have the growth and the growth future potential as  
10 well. I would do that. I would perhaps stop treating this  
11 as a, quote, seasonal product. And I understand there's a  
12 lot of one-time buys of this. I would accelerate the entry  
13 of new products into this category because they are coming  
14 fast and furious. And this is a category that is all about  
15 innovation. The consumer wants to see these products.  
16 They expect to see them. And those are some of the steps  
17 that I would be taking at the PLCB with this category.

18 Now, in the presentation deck that we sent,  
19 towards the back of it there's an interesting graphic that  
20 shows that the PLCB right now sells -- their sales of RTD  
21 canned cocktails is twice that growth rate of all the other  
22 16 control States, so they are doing a good job at this  
23 point. High Noon is their leading entry, and that's a  
24 product from Gallo. We don't represent it in Pennsylvania,  
25 but it's a fine product. And that product, if you were to

1 take a look at its dollar value in the State of  
2 Pennsylvania right now, that's equal to the value of  
3 Beefeater gin and Bushmills whiskey. It's doing some  
4 business, and there is a huge upside to its potential. I  
5 think we really have to look at the future value of this  
6 category to the PLCB and to all the stakeholders involved  
7 within the PLCB. There's a huge upside. Thank you.

8 SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
9 sir. We'll go to Representative Rigby for a question.

10 REPRESENTATIVE RIGBY: Thank you, Chairman.  
11 Thank you, panelists, for participating.

12 Mr. Barnhart, what if any are the advantages of  
13 keeping RTDs in the current system as compared to putting  
14 them into a three-tier system for malt and brewed  
15 beverages? Thank you.

16 MR. BARNHART: It's a very good question. Thank  
17 you so much for that. Our organization, we deal directly  
18 with the PLCB, so to be real honest with you, since we are  
19 handling distilled spirits and wine, we have a vested  
20 interest in that, and I think everybody knows that here.  
21 So you have products with spirits that are already going  
22 through the system. I think it's a revenue situation for  
23 the State in terms of maintaining and also growing  
24 revenues. If we were pressed for an alternative solution,  
25 an alternative to that would still be to have the products

1 go through the PLCB and expand the RTD canned cocktails  
2 into the WEPs. But I think just in terms of the whole  
3 flow, we would prefer that type of system, going through  
4 the State and then into the WEPs if we have to go down that  
5 path.

6 SENATE MAJORITY CHAIRMAN REGAN: Representative  
7 Isaacson.

8 REPRESENTATIVE ISAACSON: Thank you. Just since  
9 we don't have any particular legislation, we're discussing  
10 more of a concept here today, I just wanted to understand  
11 that U.S. distributors with beer want to now venture into  
12 having the distilled products come through you where the  
13 LCB stores don't sell beer products.

14 MR. STRICKLER: Well, if they'd like to sell  
15 them, that would be okay.

16 REPRESENTATIVE ISAACSON: I know they would like  
17 to. I see that they have their lane and you have yours,  
18 and now you want to go into theirs.

19 MR. STRICKLER: Well --

20 REPRESENTATIVE ISAACSON: I think that's part of  
21 the discussion that I am hearing today. Am I correct on  
22 that?

23 MR. STRICKLER: Well, we're just wholesalers. We  
24 think we offer an exemplary way, the best way to  
25 instantaneously get these products out into your licensed

1 system outside the State stores. The product similarity to  
2 the White Mountain coolers, the Mike's Hard Lemonade, the  
3 seltzers, the hard sodas, so on and so forth, it's much  
4 more similar than it is to other State store products.

5 And we're looking at the fact that your retail  
6 licensees, many who have suffered quite a bit during this  
7 pandemic, are looking for ways to bring people through  
8 their door and to enhance their situation. And their  
9 consumers are asking why they can't get it there when they  
10 can get all these similar products of even greater alcohol  
11 content through them.

12 We're simply distributional. We are the middle  
13 tier. We're not a producer, and we're not a retailer. We  
14 offer a very efficient, effective tax collection guaranteed  
15 system that's already in place, whereas I think most of  
16 your retail licensees in the State have to go to the liquor  
17 stores to pick up their wine and spirits, and we've had  
18 them say to us why can't we just put something like this on  
19 the beer order rather than have to go pick it up when our  
20 car is already full of the wine and spirits we pick up? So  
21 we're sort of responding to consumers and to suppliers and  
22 to retailers like the gentleman from Rutter's. You know,  
23 we have an effective, efficient system that's capable of  
24 handling it.

25 REPRESENTATIVE ISAACSON: And I appreciate that.

1 Just as we're having this discussion with no specifics to  
2 date, I happen to have one of the highest-grossing wine and  
3 spirits stores in my district, as well as almost more  
4 liquor licenses in my districts than probably anybody else.  
5 I'm from Philadelphia. So I'm very sensitive to how we're  
6 distributing out wine and spirits products throughout, and  
7 that's why I was asking the questions. We should be very  
8 careful on how we go about this. Thank you.

9 MR. STRICKLER: Yes.

10 MR. DIMARIO: Senator Regan, if I may?

11 SENATE MAJORITY CHAIRMAN REGAN: Sure.

12 MR. DIMARIO: Yes, just to summarize what I  
13 submitted a little bit, I have a unique perspective. Prior  
14 to residing in Pennsylvania, I was Vice President of Sales  
15 at Bonbright Distributors in Ohio, and for years we  
16 distributed RTD cocktails. This is not a new concept in  
17 other States. And we did it seamlessly. And I don't think  
18 this is just plausible. I think it's just the best  
19 possible solution.

20 After working in both States, I know that, you  
21 know, a wholesaler is a wholesaler, and I know that if the  
22 products came Monday, we could distribute them to all of  
23 our outlets on Monday. And not only that, but we also have  
24 global suppliers, Molson Coors, Anheuser-Busch, Sam Adams  
25 under Dogfish Head have their RTDs behind me. They're not

1 even entering the State of Pennsylvania because they cannot  
2 go through their networks, some of these can't.

3 And then if I could direct you to the photograph  
4 over my left shoulder, that is taken in a beer cave in the  
5 State of Ohio, and that is cold product right there, so  
6 that is a lot of variety, and it's all cold and it's in a  
7 beer store for the consumer. Now, this is more impactful  
8 for me than anybody else because Erie County borders the  
9 State of Ohio, and my neighbors and friends can drive, and  
10 many of them did a year ago, to Ohio to buy their alcoholic  
11 beverages. So it hits home to me and my employees and my  
12 retailers and the constituents in Erie County. So I'll  
13 open that up to any questions.

14 SENATE MAJORITY CHAIRMAN REGAN: Okay.  
15 Representative Jozwiak has a question.

16 REPRESENTATIVE JOZWIAK: Okay. Thank you. Thank  
17 you, Mr. Chairman.

18 Mr. Barnhart, you said that you would recommend  
19 that the State stores increase their floorspace to sell  
20 this product. Why would you not want the convenience for  
21 the consumers of Pennsylvania to have thousands of  
22 convenience stores available to them and expand the  
23 floorspace all over Pennsylvania versus a limited number of  
24 stores? Why would you not want that?

25 MR. BARNHART: It's a very good question. We

1 represent wine and spirits in the State, and currently, our  
2 channel or our lane is exclusively going through the PLCB.  
3 That's where we as brokers/wholesalers with the State,  
4 that's where we make our money. So, obviously, we have a  
5 vested interest in maintaining these products going through  
6 the PLCB.

7           The producers of the product, with all due  
8 respect -- and we certainly rely upon the producers -- they  
9 might have and they probably have a different opinion about  
10 wanting to go through the wholesalers so they would have a  
11 significant increase of outlets. So we have a vested  
12 interest honestly in maintaining the distribution through  
13 the PLCB. That's the system that we have, and we are  
14 committed to, as a stakeholder, making it the best possible  
15 system we have. We want to play hard by the rules and do  
16 business just like everybody else. Selfishly, if the  
17 products go through the wholesalers, then that whole  
18 revenue stream will divert revenues from the PLCB and also  
19 income from us as brokers that go through the State system.

20           An alternative -- and I know my colleague from  
21 DISCUS mentioned this about the possibility of putting RTDs  
22 into the WEPs, that certainly would be a palatable solution  
23 for us as well, but we are interested selfishly in keeping  
24 the products going through the PLCB. The producers might  
25 have a different opinion. I hope that answers your

1 question.

2 REPRESENTATIVE JOZWIAK: Well, it does from your  
3 perspective, but I have not heard any testimony that said  
4 the State stores cannot sell this product. You can still  
5 sell the product, and you would still sell all the wines,  
6 the whiskeys, the bourbons. I don't drink it so I don't  
7 know what it is, but you still have the opportunity to have  
8 a monopoly so to speak for people coming in there for those  
9 products, and you could still have your ready-to-drink  
10 beverages there, as well as the local grocery stores or  
11 convenience stores or beer distributors. So that's my  
12 thinking. It just sounds to me like everybody can do this.  
13 And the people that are the winners are going to be the  
14 customers and probably the State with revenue. Thank you,  
15 Mr. Chairman.

16 MR. BARNHART: Yes, sir. I think the discussion  
17 really today is focusing on, okay, we know these products  
18 are growing, there's a big interest from the consumers.  
19 What is going to be the specific channel of distribution,  
20 and how is the revenue and the taxes, how will that be  
21 handled? And it comes down to that I think.

22 SENATE MAJORITY CHAIRMAN REGAN: Mr. Strickler,  
23 go ahead.

24 MR. STRICKLER: Yes, I would just respond to the  
25 Representative's comments there. As wholesalers, you know,

1 we're not a manufacturer, we're not a retailer. I would  
2 see no issue personally with the State stores having their  
3 agreement with their Southern Glazer's, as long as the  
4 manufacturers were fine with that. And the manufacturers  
5 could also have their agreements directly with the  
6 wholesale beer network, which would allow them -- then  
7 that's a compromise and no one really loses. You know, the  
8 consumer ends up winning on both fronts, which is frankly I  
9 think what their constituents, their voters, I think that's  
10 what everybody is thinking about, just a possibility.

11 SENATE MAJORITY CHAIRMAN REGAN: I just have  
12 something. You mentioned earlier, Mr. Strickler, in your  
13 remarks about Bartels & Jaymes, which I'm way too young to  
14 remember, but I was wondering about, you know, it seems  
15 like there's a theme whenever there's a new product being  
16 introduced or a new way of doing business in Pennsylvania,  
17 it is talked about the fear of an increased consumption or  
18 increased problems with, you know, the social problems that  
19 go along with alcohol consumption. And maybe you're not  
20 the experts to speak on this, you know, directly, but just  
21 from your -- I know all of you bring many years of  
22 experience to this business. Have you ever seen that  
23 materialize?

24 MR. STRICKLER: Do you want to go first and then  
25 I'll follow up?

1           MR. DIMARIO: I don't have nearly as many years  
2 of experience as Mr. Strickler, but I can tell you that we  
3 have not seen it because I think the gentleman from  
4 Rutter's gave an excellent testimony in that the consumer  
5 sees 5 percent ABV in White Claw, in High Noon, and that's  
6 all they see. And 5 percent ABV is a responsible, measured  
7 amount of alcohol within a beverage, which we are and our  
8 suppliers -- there's a reason that we put all these here  
9 because all of our main suppliers are in that 4 to 8  
10 percent. Now, right now, you can buy a 24 ounce can of  
11 Four Loko fruit punch at 10 percent ABV, maybe 12. We're  
12 not talking about that here. We're talking 4 to 8. Ohio  
13 is capped at 21. And I can also tell you, being in the  
14 business my entire adult life, I can tell you that anything  
15 that's going to be above 15 percent ABV is not going to be  
16 palatable, and I do not foresee that being a plausible  
17 product.

18           MR. STRICKLER: For the last 30 couple years, 35  
19 years really, we have gleaned every bit of information we  
20 can gather whether it's from the National Bureau of  
21 Wholesalers, information we get through the Pennsylvania  
22 Beer Alliance, information from all the special interest  
23 groups, and frankly, the last thing we want to do is go  
24 down the slippery slope being known as someone -- although  
25 we're not a retailer, being known as someone who would

1 promote the misuse of our product that's our livelihood.  
2 We have yet to find that data substantiated. I just can't  
3 -- decades of it, we can't find that.

4 SENATE MAJORITY CHAIRMAN REGAN: Thank you.  
5 Representative Deasy.

6 HOUSE DEMOCRATIC CHAIRMAN DEASY: Thank you very  
7 much, and I apologize, I have to jump off here. I have  
8 another commitment at noon. But I just wanted to come in  
9 with a final comment. And I thank all of our panelists  
10 today; it was very informative.

11 And I think in the short term what I gather from  
12 this is obviously this is a growing industry, and  
13 legislatively we move a little slow in Pennsylvania, but we  
14 should expand the shelf space immediately. I mean,  
15 obviously that's a no-brainer. That could be done, you  
16 know, whatever. But I think in the long term in my mind, I  
17 mean, obviously, Act 39 made significant changes, and, you  
18 know, I think we should be cautious in how we move forward  
19 till we see how those changes all play out.

20 But I just wanted to take a minute to thank  
21 Senator Regan for chairing the meeting. It was a very  
22 informative couple hours here, and I look forward to  
23 continuing these conversations as we move forward, so thank  
24 you very much, Senator.

25 SENATE MAJORITY CHAIRMAN REGAN: Thank you,

1 Representative Deasy. Thanks for your participation, and I  
2 think you made some excellent points along the way, so  
3 thank you for that.

4 We'll now go to Representative Wheeland.

5 REPRESENTATIVE WHEELAND: Thank you, Mr.  
6 Chairman, and welcome back, and I look forward to seeing  
7 you in person soon in the Capitol complex.

8 I have two questions. The first one I'd like to  
9 address or ask Mr. Strickler from ACE Distributing. As  
10 specific as you can be, what advantages would ACE  
11 Distributing or other ID, importing distributors, across  
12 Pennsylvania, what advantages would you bring to not only  
13 the manufacturers but the retailers and ultimately the  
14 consumers, so as specific as you can be, what are the  
15 advantages of running it through the ID distributorships?

16 MR. STRICKLER: Well, first of all, it would  
17 bring profit to any D or R license out there, incremental  
18 profit that they're not getting now, which I think would  
19 come from growth even if the product was still sold through  
20 the liquor system. They would still get some of their  
21 profit.

22 I also think that the frequency of delivery and  
23 the marketing that would occur both at the point of  
24 purchase, in store, outside the store, whatever the  
25 retailer would ask of the route salesperson. I don't know

1 that if this was being delivered -- and I don't know this  
2 -- if this was being delivered by someone who currently  
3 doesn't deliver to you. If you were to sell this and it  
4 didn't come through the network, the beer network that  
5 already exists, you know, the State doesn't even deliver  
6 liquor to all their licensees. It has to be picked up.

7 So I think just the logistical benefit, the  
8 marketing benefit, the consumer programming that would be  
9 geared to -- hopefully, as soon as the pandemic is through  
10 -- events built around the area that retail exists in or  
11 things that retailer is doing, those would be benefits I  
12 don't think that you'd see from another supplier.

13 REPRESENTATIVE WHEELAND: Now, as far as the  
14 consumer, though, would you not be concerned? Because I'm  
15 familiar with the beer distribution center or services that  
16 IDs provide. What about the dates, rotation? Is that a  
17 benefit for the consumer?

18 MR. STRICKLER: Well, it is -- although these  
19 products tend to have a longer shelf life, I think John  
20 could answer that. I think most of them are closer to a  
21 year shelf life. But what you would get is, you know,  
22 first in, first out situation that hopefully you would be  
23 getting from us or any beer distributor, wholesale  
24 distributor so that you're guaranteeing the freshest  
25 products is on the top and the consumer is not drinking

1       dated goods. And then of course there is the ability to  
2       deal with dated product, with move dates and so on and so  
3       forth that would be advantageous to a retailer and a  
4       consumer in your suggested situation versus the limited  
5       ability you'd have from someone who doesn't deliver to you  
6       at the moment. They would have to learn the whole new  
7       system and take quite some time and quite an expense.

8                REPRESENTATIVE WHEELAND: Okay, thank you. My  
9       last question is for Mr. DiMario. What do you provide that  
10      the Liquor Control Board does not provide under their  
11      current practices? What services do you provide?

12               MR. DIMARIO: Well, I think service is the key  
13      word there in terms of what we take pride in as a  
14      wholesaler, customer service. Every one of my sales reps  
15      and drivers knows every one of their customers and their  
16      families. Many times if you get a twice-a-week delivery, a  
17      representative from our company will be in that account  
18      four to five days a week. You get a sales rep in, they  
19      take the order, the drivers in the next day delivering it,  
20      the sales rep comes back on Thursday for a Friday delivery,  
21      same thing and there's four touch points right there. If  
22      the manager stops in once or twice, the sales manager, then  
23      you got maybe five or six times in a week. So there's  
24      definitely the service aspect.

25               And then in my opinion the investment, which was

1 brought up earlier, is an important one because pretty much  
2 anytime we partner with a new supplier, with a new product  
3 we will agree to a set marketing commitment based on  
4 volume, which I think Tim spoke to earlier, which could be  
5 a dollar, two dollars a case that we sell, and we put that  
6 money back into the market into advertising, into wraps for  
7 vehicles and things like that. So really it benefits the  
8 retailer, the consumer has access to it, and it benefits  
9 the supplier in my opinion.

10 REPRESENTATIVE WHEELAND: Thank you very much.  
11 And it also sounds like following the ID distributor, what  
12 we have set up in Pennsylvania compared to what the Liquor  
13 Control Board does, it would appear to me that the variety  
14 would be there for the ultimate consumer much better  
15 through the ID distributors than it would be through the  
16 PLCB. Just my thoughts, but thank you very much, Mr.  
17 Chairman, and very informative meeting. Thank you.

18 SENATE MAJORITY CHAIRMAN REGAN: Thank you,  
19 Representative. Thank you for holding things down up there  
20 in the Williamsport area. And thank you for your kind  
21 remarks earlier.

22 And I thank this panel very much, very  
23 informative. We don't have any further questions from the  
24 Members, so thank you. Thanks to all our panelists, as  
25 well as my colleagues in both the Senate and the House for

1 joining us today. I believe that this hearing provided us  
2 with all important and useful information about these  
3 products, and we will take all of the information that  
4 we've had, that we've received today and the feedback we've  
5 heard in consideration when drafting any new proposed  
6 legislation.

7 I'll turn it over now to Representative Chairman  
8 Metzger.

9 HOUSE MAJORITY CHAIRMAN METZGAR: Thank you,  
10 Chairman Regan.

11 You know, I appreciate everyone's time today. It  
12 looks like, you know, we have some work to do now to be  
13 responsive to our customers, which are our constituents, to  
14 make sure that we're doing what's right for them. And I  
15 think we'll take everyone's testimony to heart in doing  
16 that process, and hopefully we can, you know, move quickly  
17 to digest everything. So I thank you all again for your  
18 time.

19 SENATE MAJORITY CHAIRMAN REGAN: Thank you, Mr.  
20 Chairman. Chairman Brewster?

21 SENATE DEMOCRATIC CHAIRMAN BREWSTER: Yes, thank  
22 you, Mr. Chairman. Really, it was a great two hours, and  
23 the testimony was very informative on every level, and I  
24 want to thank you and my colleagues in the Law and Justice  
25 Committee for doing this.

1                   And if it makes anybody feel any better, you  
2                   know, maybe we should have these on more of a regular  
3                   basis, Mr. Chairman, because we realize that it does seem a  
4                   little bureaucratic, and, you know, the only way we can fix  
5                   that is if we get together more frequently so guys like me  
6                   can continue to ask stupid questions and make everybody  
7                   feel smart. But no, I think it was really great, and like  
8                   I say, we can talk about strategy going forward, so thank  
9                   you all.

10                   SENATE MAJORITY CHAIRMAN REGAN: And thank you,  
11                   Senator. Thanks to everyone. At this time, we will  
12                   adjourn till the call of the Chair. Thank you.

13

14                   (The hearing concluded at 12:15 p.m.)

1                   I hereby certify that the foregoing proceedings  
2           are a true and accurate transcription produced from audio  
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