



Malt Beverage Distributors

Association of Pennsylvania

Malt Beverage Distributors Association of PA

Testimony before the Senate Law and Justice Committee on HB 790

May 14, 2013

Good afternoon Chairman McIlhinney, Chairman Ferlo, and members of the committee. My name is Mark Tanczos, and I am President of the Malt Beverage Distributors Association of PA (MBDA). With me is Tom Mehaffie, 2nd Vice-President of MBDA. As you likely know, MBDA represents the retail beer distributors in the state, the family run businesses where consumers go to buy cases and kegs of beer.

Tom and I are both beer distributors who run well-established, family-owned businesses in our home communities. Each of us has taken over a smaller distributorship and through hard work, ingenuity and significant personal financial investment, have grown it many- fold. Our business stories are not unique, as you will hear the same from many hundreds of other successful beer distributors around the state. These are stories about entrepreneurial risk, business vision and personal investment and sacrifice. We think these are business practices that our lawmakers should embrace, and protect.

Distributors and others in the beer industry were told during the 2010 gubernatorial election by the Republican candidate that his promise to privatize liquor stores would not impact us because, as we all know, beer is already a private enterprise. Unfortunately, the "Liquor

Privatization” promise has instead morphed into an attempt by convenience and grocery stores and other giant national and regional retailers to invade and conquer the beer market in Pennsylvania. Remember, the Pa. Food Merchants Association member’s web site is called “Free my Beer,” not “Privatize Your Liquor Store.”

Make no mistake – this is an attack by big business on family owned and operated private businesses that do a quality job in providing beer to consumers with good prices and excellent selection.

We were established to provide for the off-premises sales of beer, limited to the case as our smallest package. Today we offer terrific selection and are a value proposition – we sell 60 percent of all beer consumed in Pennsylvania for just 30% of the price.

We offer thousands of choices to beer consumers, many more than our competitors from surrounding states. The lobbyists for the convenience and grocery stores say they should be able to sell beer to make Pennsylvania more like the State of Ohio where “there is one retailer selling alcohol for every 900 adults versus one outlet for every 13,000 people in Pennsylvania”. What they don’t care to share with the public is that in Ohio, because of the high number of outlets, effective retail competition has been eliminated and the law now imposes a 25% minimum markup on the retail price of beer. That’s right, Ohio, the example used by the Pennsylvania Food Merchants, has allowed beer to be turned into a commodity product with legislators having to enact a minimum markup. While nobody in our state contemplates such a price control mechanism, it is an indication of the drastic steps that one state has taken to balance the competitive market to enable small business to compete against corporate giants in the sale of alcohol.

While grocery stores can already get into the beer business through the purchase of an “R” license brought about by a Supreme Court decision, we are now faced with a bill that wants to allow convenience stores, big-box retailers, and even truck stops to sell alcoholic beverages. This bill will carve-up the take-out beer market and, while eliminating selection, will also eliminate our livelihoods. Quite sobering is our economic analysis and that of Econsult Solutions, Inc. which shows that the ability to sell wine and spirits in a new and highly competitive market will not replace our lost beer revenue in most counties. I have attached a documentation of Econsult’s findings with our written testimony. In essence, the proposed HB 790 will steal our livelihoods and cause the closure of hundreds of small businesses and the layoff of thousands of our employees.

Let’s talk about convenience, selection and price.

Right now, my single store stocks 2,000 different brands and styles of beer. Tom’s store, where some of you may shop, stocks just as many. Throughout the state, beer distributors provide consumers with what we believe to be a nationally unprecedented selection of beer products. Will grocery, convenience stores and truck stops offer this vast selection? Definitely not.

First, let’s look at the Governor’s rhetoric and his proposal regarding the increased number of outlets that, he says, are needed for better consumer convenience. This additional “convenience” will come at a price of at least \$5 million to the state taxpayer since that amount is needed, he says, for additional state police protection. (As a local elected official who sees the cost of local police operations, I note he has not even thought about how to address that cost on a local level). Recently, the police told this committee that the \$5 million is not enough. Thus, even in the world of those who advocate for the selling of beer by grocery and convenience

stores, this change comes at a cost of at least \$5 million more than is now being spent for enforcement. We think there is a better, cheaper plan: alcohol ought to be sold by specialty retailers. These are people who, should they lose their license, lose their livelihoods. Today, that describes us, tavern owners, beer wholesalers, and beer manufacturers. If I lose my distributor's license, my means of earning a living is gone and I am closed.

This method of enforcement is better or more cost effective than the Governor's proposal. We provide the balance between cost-effective enforcement and convenience. We are adult oriented businesses that are well staffed by employees who are trained and focused on the importance of their positions because they are selling beer in our good name.

There are currently 1,200 beer distributors and approximately 11,000 restaurants, taverns and take-out shops where beer can be purchased. Under HB790, we believe that market forces within the grocery, convenience and big-box store industry will cause a seismic shift of up to 5,000 Retail licenses from specialty retailers dedicated to the on-premises sale of beer to these large corporations focused on off-premises sales. Please keep this rule in mind: The more licenses that are purchased by these large corporations, the more the consumer will see the quality selection of beer products extinguished. Under this scenario, consumers will generally be fed a selection of only the fastest moving national brands. Consumers wanting the unique craft products brewed here in Pennsylvania and elsewhere, or a new specialty product produced by a national brewer, there will be little shelf space made available for these products at any price.

Next item...Price. Right now, PA consumers buy \$5.1 billion of beer a year. Distributors sell 60% of the take-out beer in our state for only 29% of the profit. This means we are a value proposition for beer consumers because we offer very good prices. Unlike Ohio, there is already a robust beer market in our state which offers both quality selection and pricing.

With some supermarkets now selling beer, we see that some are matching or beating our prices. That is sometimes their goal. Most times, however, the consumer pays more in a grocery store by unit price. It is only through an advertised special that better prices are offered, which they can afford because of their volume. Once the long-term value provider of beer, the beer distributor, is permanently off the playing field, consumer prices will go up as quickly as selection goes down. Better prices are a myth in the long run.

We are specialty retailers who absolutely must provide convenience and quality service in order to compete. Our stores are strategically located in high traffic areas, we offer convenient parking, ingress and egress, and do not subject our customers to long check-out lines. We, as well as our employees, are very knowledgeable about the products that we sell and can make recommendations to our customers. Couple these factors with outstanding selection and attractive prices and we believe that we are extremely convenient, price sensitive outlets for beer that are competing in a tough market.

But we can get better! If the General Assembly would take off the handcuffs that have shackled us for 80 years and provide us with the package reform we have been requesting, we can quickly become the absolute best in the business for the consumer. Let's provide convenience by giving the customer the ability to choose the package they want to buy in our establishments, allowing us to go down to selling beer in packages having a minimum of 44 ounces. It is what the consumer continuously asks us for and it is critical to our ability to compete against the grocery stores already selling beer through a restaurant license.

The concept of the "specialty retailer" is something we truly believe in. Pennsylvania's food merchants would like us all to believe that selling beer is the same as selling bread. They say that the regulation of bakeries and the regulation of the sale of alcoholic beverages is the

same thing. **It is not.** No other responsible policy maker in the entire world believes it -- not the Centers for Disease Control or the World Health Organization, both of whom dedicate enormous resources to studies on the impact and control of alcohol and its impact upon our citizenry.

While our focus as a society can shift, there is no question that the sale of beer, wine and spirits needs to be regulated and safely dispensed – it is not the same as selling bread.

We believe that the specialty retailer is the best way to ensure the safe sale of alcohol. If a distributor or other such retailer violates the law, a license suspension or revocation drastically impacts their livelihoods. In the case of non-specialty retailers such as a grocery or convenience store, a suspension or revocation is merely an inconvenience as they go about selling thousands of other products.

Think about it, today 75% of the beer for at home consumption is sold by distributors, where only adults and supervised minors are permitted on the premises. The balance is sold primarily in taverns, another adult oriented business. These specialty retailers do not have or allow unaccompanied minors to even be on their premises.

On the other hand, convenience stores are a destination for unaccompanied minors. Their parking lots are hangouts in many communities. The chief of police in Shippensburg has told us about a convenience store there that wants to sell beer. He says that during evening hours on many days, the parking lot is taken over by minors hanging out. He testified in a local hearing that he had to go to his elected officials to secure tax dollars to park a police car there on certain evenings. He says this convenience store now spawns much of his crime, and he can't imagine what it will be like if they get beer. I ask everyone on this committee – are these stores really where we want the sale of alcoholic beverages taking place?

We really believe the drafters of our current law got it right – they understood that selling beer is not the same as selling bread and they created **specialty retailers** to deal with alcohol products. We believe that specialty retailers have been successfully meeting the needs of our consumers for the purchase of beer for 80 years. We believe that if we are permitted to sell beer in the smaller packages that we are asking for, we can serve them even better. Beer is our business and we are very good at selling it well and selling it safely.

I will touch on one more issue before I conclude.....and that is Jobs.

In one of our visits with a state senator, he observed that if an industry went into crises and could lose 10,000 good paying jobs, the administration and General Assembly would go into overdrive to find a solution to save those jobs. He noted the recent efforts to save an oil refinery and the state money invested through Governor Corbett. Well, after the passage of HB 790, one highly respected House member noted that this bill would result in the loss of 2/3rds of the distributors in the state. That is about 800 small businesses and over 10,000 jobs.

One promise that PFMA has yet to make is that HB 790 will create 10, 000 new jobs – or, for that matter, any new jobs. They can't because while the bill will eliminate our businesses and our employees, it will not create new jobs, and certainly not better jobs. In most cases, it will only create new SKU numbers for products on their shelves. For those finding employment in the new market, they will be competing for lower paying positions with no benefits, such as at convenience stores whose average starting salaries are \$8.01 an hour. We beer distributors work side by side with our employees, who are far better trained, paid and actually appreciated. We know them, respect them, and consider them members of our families.

We in Pennsylvania have managed to strike a balance with security, price, selection and availability. HB 790 destroys this delicately balanced market.

In summary, here is what HB 790 will actually deliver:

- A net loss of up to 15,000 jobs, some part time but many full-time with good health and other benefits.
- A financial default and the loss of livelihoods by those who have borrowed to buy or grow these businesses.
- Consumers who will be able to buy beer more places but at higher prices and far less selection.
- Families will see more beer become available and less control over its purchase and consumption.

For the record, HB 790 is not privatization. It is part of an ongoing national effort on the part of the big box stores such as Wal-Mart, Dollar General (yes!), pharmacies, grocery and convenience stores to get and sell fast-moving beers. It is not about the consumer. It is not about principles. It is a war between the big, well-funded retailer with lots of resources, and the little guy – Pennsylvania's small businesses. Ladies and gentlemen of the Senate, we need you on our side in this battle. Because without you, our entire state will suffer.

Thank you for your time and attention.