

Testimony regarding the PA Brewers Guild's interest in House Bill 291 before the Senate Law & Justice Committee Tuesday, January 26th, 2010

In support of Self-Distribution Rights for State Brewers:

Without self-distribution the 3-tiered system is a flawed system.

- PA are obligated to sell their products through the wholesale system, but the wholesalers are not under any mandated obligation to carry or sell the products of PA breweries.
- If wholesalers accept our products, they are not required to actually sell the products-yet terms of industry standard distribution agreements permit wholesalers to retain brand rights, effectively barring products from the marketplace.
- Due to the established industry practice binding distribution agreements in perpetuity it is difficult for a PA brewery to move their brand to another wholesaler without exorbitant fees or litigation.
 - In many cases with the small brewers, the wholesalers did not initially pay for the brand rights and brand equity has been built with full sales support from the breweries.
 - Incentives from larger breweries make it so smaller breweries get a very small portion of the wholesaler's sales force's time.

The problem with the 3-tiered system and consolidation:

- The trend of wholesaler consolidation is a verifiable fact and it has been demonstrated that as the wholesalers consolidate our PA breweries options become less and less for reasonable distribution options.
- Many consolidations have left breweries "out of the deal" often leaving small brewers to fend for themselves.
- We have been warned that consolidation in Pennsylvania could lead to 2-3 wholesalers in the entire state within 5-10 years.

Our products in the 3 tiered system without self distribution:

- Without a wholesaler assigned to a specific PA territory, PA brewers would not be able to sell their products in to those portions of the state.
- Small breweries with multiple locations would not be able to sell to their own breweries as is currently permitted, jeopardizing the ongoing operations of numerous PA breweries

PA brewers and their wholesalers benefit greatly from product sampling events such as beer festivals which PA brewers participate in frequently. Unable to transport their products to these events, these valuable events, often benefitting charities, would cease to exist.

If a self distribution level is set?

- It must be un-challengeable (in terms of Granholm compliance?).
- It must be based upon in-state sales levels only otherwise legislators are penalizing PA manufacturers for exporting the products of PA labor to other states.
 - We should not lose our self-distribution rights due to growth of PA products outside Pennsylvania.

Product Transport

- PA brewers should not be denied the use of cost-effective common carrier transport to move our products in and out of state.
- Small breweries with multiple locations transport our products via licensed vehicles or common carrier and should not be denied this established privilege or their ongoing operations are jeopardized.

Sincerely,

Artie Tafoya
President
PA Brewers Guild
Appalachian Brewing Company

Bill Covaleski
Vice President
PA Brewers Guild
Victory Brewing Company