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Assembly Oversight, reform and federal relations Committee

HoN. joe danielsen—Chair

Testimony

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Trenton, NJ 08625

**Testimony of Sal Risalvato**

Thank you, Mr. Chairman, for the opportunity to speak to the Committee today. I am the Executive Director of the New Jersey Gasoline, Convenience, Automotive Association (NJGCA), an 85-year-old non-profit trade association representing independent business owners, including hundreds of the state’s convenience stores.

The Committee agenda for today calls for representatives from the alcoholic beverage industry, and our members cannot claim to be a part of that industry, though it is not for lack of desire or ability. No, the independent small businesses which make up our association have been locked out of the market for decades because of an outdated series of protectionist policies designed to favor those who happened to be in the market decades ago at the expense of everyone else, and everyone who has come since.

The arcane patchwork of laws and regulations governing the sale of products containing alcohol would never be re-adopted if we were to draw them up from scratch today, and no state in the union would ever suggest adopting anything that could be described as the “New Jersey model”. It is long past time that this entire system be reformed, and I applaud this Committee for being willing to consider doing so. I am also gratified to hear that the Governor is also preparing to tackle this challenge in a major way.

Our current system does not explicitly ban convenience stores from selling beer and wine, and there are a handful that do. Instead, they are restricted from the market because a small store that wants to offer a small selection of beer or wine for their customers must invest tens or (more likely) hundreds of thousands of dollars in a full “plenary retail distribution license”, which also gives them the right (and at that price the obligation) to sell liquor. At that point, the owner may just as well become a liquor store, if they have the space available. Of course, this presumes that there even is a license available. Distribution licenses are granted to municipalities at the rate of one per 7,500 residents, making them less than half as common as the licenses for retail consumption.

This is not a marginal issue for our industry, this is a fundamental cornerstone of the business model that has been effectively eliminated by state government mandate. According to data from the National Association of Convenience Stores, **79% of the nation’s c-stores offer beer for sale**, and 65% offer some selection of wine as well. At those stores, on average, **over 12% of their total sales are beer, making it the third largest category**. Beer and wine generate approximately $220,000 in gross sales for the average store. It equates to about $50,000 per year in gross profit, an amount of money that could be used to hire 2 more employees for thirty hours a week at $15 an hour. But in New Jersey, the number is $0.00.

Imagine if a legislator in any of those states announced they wanted to adopt New Jersey’s system of liquor licensing; and all those convenience owners were told that one eighth of their sales were going to be taken away from them, for no reason other than that the State wanted those sales flow to a different, more favored, type of business. No one would stand for it. Yet that is the status quo in the state of New Jersey. It does not serve any benefit of any kind to the public good, it actively hurts the consumer, and it only helps some businesses at the expense of hurting other ones. Over the last decade, multiple states have taken action to open up the market for alcoholic beverages, and none have moved in the opposite direction.

It’s tough to keep the doors open and keep people employed as an independent retailer. Just this month Visa and MasterCard increased the credit card interchange fees our businesses are forced to pay. These fees now account for the second largest expense for a retail business, after the cost of employment. The cost of employment has skyrocketed, not just from the minimum wage increases but because of the ongoing labor shortage driving wages higher.

All we are asking for is the ability to offer a small selection of beer and wine as a matter of convenience. Consumers looking to pick up a bottle of spirits along with their beer will continue to patronize full blown liquor stores. One of the defining traits of a convenience store is its small size. They need to make every inch count, even more so than other retailers do. Beer and wine enthusiasts and connoisseurs will continue to make their purchases at a liquor store, where the selection will always be wider and fuller than what a c-store can offer.

To alleviate our problem, I would suggest the following as a backbone for legislation:

The cost of a license should be reflective of what it costs the State to enforce the law, it should not be a rate created because of an artificial scarcity created by the government. The State largely doesn’t even benefit from these inflated license costs, they are pocketed by businessmen and their brokers.

I look to the legislation previously proposed by former Assemblyman Burzichelli (and passed by this Committee a few years ago) to free up the retail consumption licenses as a useful guide for solving the problem of retail distribution. The State should create a new type of license which allows for the sale of beer and wine (but not liquor). As with almost all types of licenses the State gives out (motor fuel retail and cigarette licenses are ones our members are already familiar with), the total number of licenses available should not be capped at an artificial level, the market can and will decide how many are needed. The lack of a cap prevents the license itself from having value, as would the fact that it would be non-transferable.

These licenses could be opened to any type of retailer; or defined in such a way as to only allow genuine convenience stores to hold them. If they are to be restricted to convenience stores, I would propose the following as a solid definition for a c-store:

“A retail establishment whose primary business is the sale of groceries and other foodstuffs for primarily off-premises consumption, and may also include the sale of motor fuel, household items, tobacco products, and lottery tickets; and which is between 800 and 4,500 square feet in size.”

We are also willing to consider structuring these licenses in a way that helps promote our state’s numerous breweries and wineries. That could be through a mandate that a certain portion, say twenty percent, of the products stocked for sale at c-stores be from New Jersey craft breweries or wineries. However, it is possible that a state law which favors products made in this state over products made in other states is a violation of the US Constitution’s interstate commerce rules. The spirit of this provision may yet be able to be accomplished if instead the mandate were to say that a certain amount of shelf space be occupied by products certified by the State to have been produced at a facility which matches the definitions of a craft brewery or winery in New Jersey. While C-stores would technically be able to fill their quota with out of state craft beers, in practice virtually all of them would be using products from nearby providers.

As for current license holders, it is certainly true that they have a financial asset that will see its value decrease as a result of a loosening of the oligopoly granted them by the State. However, that loss in value should also be measured against all the extra money that they have made over the years and decades which are attributable to the market protections given them by the government. I agree that it is a huge and unfair burden for someone who wants to go into business to have to take out a massive loan in order to get a government license to sell certain types of products to consumers. While we should respect the sacrifice of those that already have done it, we should also actively work to ensure that no one else is ever forced to go through the same injustice.

Even still, and especially for those who have recently purchased their licenses, some level of compensation is deserved, given there will likely be a decline in the value of the license they hold (though it still will hold immense value since they will continue to have the same control of liquor sales). The basic model proposed in Asm. Burzichelli’s legislation for restaurants can be used to compensate distribution license holders for the value they do lose, in the form of a series of tax credits over several years. Crucially, these tax credits should be transferrable, given the fact that many license holders may not have a large state income/corporate tax burden.

In the past, I have heard opponents of such a change argue that the market for alcohol in the state is flat, and that by increasing the number of locations offering beer for sale will only increase costs for distributors. First of all, the NJ Alcoholic Beverage Tax has increased in revenue by 26% just between FY 19 and FY 22. But even if their costs were higher, our members would be glad to cover those costs, they just want the opportunity to enter the market and provide these products for their customers.

We do not expect that once c-stores enter the market, they will be driving prices excessively downward because part of what they will be selling is the ‘convenience’ aspect, easily available for when a consumer is on the way to a destination. They may already be making another purchase at the location, like gas. Perhaps they are making a quick stop to grab something to bring to a BYOB restaurant.

These basic reforms will bring freedom to the marketplace in New Jersey and allow millions of New Jerseyans to have greater choice in where, when, and how they spend their hard-earned money. All the Legislature needs to do is let small businesses compete in a free market and then let consumers determine what is best for them and their life.

Over the years and across the country, convenience stores have proven to be an entryway to the American dream for thousands of small business owners, including many immigrants. They require—and also reward—hard work. Allowing New Jersey’s independent convenience stores to compete on the same terms as c-stores in almost every other state will help them stay afloat in a world of high costs and high pressure from big corporations.

I am happy to discuss this issue in further detail at your convenience anytime. Thank you.