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PUBLIC HEARING  
before  
ALCOHOLIC BEVERAGE CONTROL STUDY COMMISSION /

Held:  
July 15, 1980  
Assembly Majority Conference Room  
State House  
Trenton, New Jersey

MEMBERS OF COMMISSION PRESENT:

Assemblyman Thomas F. Cowan, Sr. (Acting Chairman)  
Peter Vanola  
Milton H. Cooper  
Warren Jones

ALSO:

Steven B. Frakt, Research Associate  
Office of Legislative Services  
Aide, Alcoholic Beverage Control Study Commission

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Saul Wolf Counsel New Jersey Licensed Beverage Association	1
Gerry Schwartz Secretary-Treasurer Salesmen's Union	8

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ASSEMBLYMAN THOMAS F. COWAN, SR. (Acting Chairman): We will open the public hearing being held by the Alcoholic Beverage Control Study Commission. There have been several people who have requested to testify before us today. It is my understanding that the first person who would like to address us is Saul Wolf, from the New Jersey Licensed Beverage Association.

S A U L W O L F: Thank you, sir. It is a privilege to appear here this morning as counsel to the New Jersey Licensed Beverage Association. Certainly, at the outset, on behalf of our Association, we applaud and thank the Legislature for the creation of this Commission. We are certainly fortunate to have knowledgeable members serving on the Commission. With the limited time that you have to perform your function, and in the absence of meaningful funding, you are nevertheless doing an outstanding job. Unfortunately, it is impossible for you to address the broad scope of the problems which are created by and existing due to the obsolescent Title 33 of the New Jersey Statutes. I don't have to tell you gentlemen that basically that entire volume was written at the time of repeal in the early '30's, and that outmoded legislation is, today, regulating a billion dollar industry in our state.

The Alcoholic Beverage industry is an area of substantial investment. Bars and restaurants, costing one-half million dollars, or more, are common today. Doctors, lawyers, and legislators - people from all walks of life - regard this as an appropriate investment vehicle, involving commitment of very substantial funds. It is time to abandon the old saw that a license is just a privilege; that there are no property rights involved in the ownership of a license. It is time that we came to recognize that these are, indeed, investments, and substantial investments, and that the horrible decisions that flow from this privilege concept, in the area of renewal and transfer of licenses, should be abandoned. Indeed, we need a bill of rights to protect all licensees from abuse, harassment, and arbitrary action.

I could tell you stories that would curl your hair as to things that happen to licensees in this state. Time and again licensees have been acquitted of charges in a municipal or other court only to be charged by the ABC for the same offense, and then they have their license suspended for a substantial period of time. I am sure you are aware that a licensee in New Jersey today, whose investment or livelihood is at stake, has less protection and fewer rights than a driver charged with a motor vehicle offense in our municipal court. This is an intolerable situation.

The biggest area of abuse, however, and one that we believe is critical to address here today is in the rule-making power delegated by the Legislature to the Director of the Division of Alcoholic Beverage Control. There have been many bills introduced over the years to provide for legislative oversight of rule-making, either by prior approval of all rules or by other techniques, and we cannot comment on the wisdom of the broad implications of such legislation across the entire spectrum of administrative law. But, insofar as the Division of Alcoholic Beverage Control is concerned, we believe it should not be permitted to adopt or amend any rules or regulations without prior approval, or at the very least prior notice, to the Legislature, and there should be opportunity provided for that elected, deliberative body to disapprove those rules or regulations prior to their becoming effective.

In this regard, the specific objective of my testimony today is to

bring to your attention the recent rule allowing, for the first time, sales of so-called miniatures in New Jersey. This was done by virtue of that rule-making power, without consultation or participation by the Legislature in the decision-making process. At a time when parents and educators are decrying alcoholic beverages in our schools, when the Director of the Division of Alcoholic Beverage Control and the Attorney General, with federal funding, are devoting hundreds of thousands of taxpayer dollars to fighting against drinking drivers, when ABC agents and police are struggling to enforce the laws regarding consumption of alcoholic beverages by minors and losing that struggle, along with parents, and educators, and many others who are all fighting together to prevent that undesirable activity -- at this point in time, we have seen the administrative creation of this enforcement nightmare. Some unscrupulous operators will find it easy to slip a miniature or two into a package with a six-pack during prohibited hours. That terrible expression, "One for the road", will truly become a reality with the portability of those little, low-priced miniatures, which can be slipped into the pocket and consumed on the way home, behind the wheel of the car. And, the problem of detecting miniatures in the schools goes without saying.

If you do nothing else as you conclude your service on this Commission, you will do all the people of New Jersey a great public service if you endorse and promote legislation banning miniatures.

There is one other area that I would like to address briefly, and that is the legislation which permits fines in lieu of suspensions. There is no provision, whatsoever, for allowing those fines at the local level. The local issuing authority frequently, because it knows the long and credible history of the licensee, will conclude that that licensee should, by virtue of a technical violation, have his license suspended for one, two, or three days, and would be happy in many of those instances to impose a fine in lieu of suspension. The law does not permit that. The law says that only the director can impose a fine. When the director imposes a fine, notwithstanding the fact that the local issuing authority has said it will be a one, two, or three day suspension, he says, "If I had this case, I would have suspended the license for 20 days, so I will fine them for 20 days worth of fine", frustrating the very essence of home rule and local control of this industry, which, as you read Title 33, was clearly intended to be, in the first instance, on the part of the local issuing authority, with only a supervisory power on the part of the director.

I would hope in light of the situation in which you find yourself today, and in light of the enormous feat that is involved in rewriting Title 33 - and that is what really needs to be done - that at the very least you would include, in any final report that you make, a recommendation that a blue ribbon committee be appointed, with full funding and staffing, to revise and update Title 33, much as has been done in the areas of our Probate Code and in the areas of our Criminal Code, and in other areas of the laws of New Jersey. This vital industry has been overlooked in the updating of its regulation, and it is sorely needed. I thank you for your patience.

ASSEMBLYMAN COWAN: Thank you very much, Saul. Are there any questions from our Commission members?

MR. VANOLA: Yes, I have one. Saul, on the fines of the local municipalities, did you suggest that the fines be kept in the municipality, or

should they be sent into the State?

MR. WOLF: That is a very interesting question, Mr. Vanola. As you know, from time to time we have heard bragging about the amount of money that is raised through those fines. That is certainly, I think, undesirable. It was never intended that these fines be imposed as a vehicle for creating a pot of money or to applaud someone for creating that fund. In fact, it was designed for a very different purpose altogether. It was designed to assure the public that they would go on being provided with service, while at the same time the violator was being punished. It was designed to assure that the innocent employees of that violator would not lose their employment or their livelihood during the period of license suspension.

Indeed, I have encountered, as I am sure all of you have, some municipalities who have felt they have been wronged by not having any access to the funding created by fines when the incident arises out of an arrest by their police. They conduct an investigation. They hire local counsel to bring the proceeding before their local governing body, and throughout this entire proceeding they carry the entire administrative burden, and all of the costs. It is distressing to them, I think, that they are not afforded the opportunity to participate in fines. I don't know that our Association, however, has any particular position on the question of the treatment of those fines as they are collected.

ASSEMBLYMAN COWAN: Mr. Jones.

MR. JONES: Who authorized the miniatures to be sold? That might sound a little stupid because I questioned that at the last meeting we had.

MR. WOLF: Virtually the entire law in relating to standards of fill, which is what this is - the size of the bottles which can be sold in New Jersey - has been done by regulation and not by legislation. So, in the famous deregulation which we have all heard so much about, one of the regulations that was adopted in the process of deregulation authorized the sale of miniatures in New Jersey. Now, when you say "who did it?", in terms of the law, the Director of the Division of Alcoholic Beverage Control did it. Who actually drafted the regulations? I have no idea. But, it was done under his imprimatur, by virtue of the authority delegated to him by this Legislature. The Legislature has given the Director very broad rule-making authority, and the language is so broad that the courts have read into it more and more and more authority. Hopefully, legislation would, if it did anything, narrow the scope of that authority, rather than broaden it. This is a classic area of the Director going off on a subject that this Body has never had an opportunity to consider.

MR. JONES: I spoke against this at the meeting in New Brunswick not too long ago.

MR. COOPER: You spoke against miniatures.

MR. JONES: I spoke against minitures, that's right.

MR. COOPER: Saul, we have discussed this, generally. We discussed it at the last meeting, but I am particularly grateful to you for making specific recommendations of things which this Commission should consider, and which should be made part of the Commission's report. With that in mind, Mr. Chairman, I would like you to instruct whoever is taking down the proceedings here today that a transcript of today's proceedings should be made available to every member of this Commission. I ask all the members of the Commission that when they get that transcript they should not only read it, but they should remember

that somebody has come up, for the first time in a long, long time, with specific recommendations which strike at the very heart of the subject matter that we were appointed to examine.

ASSEMBLYMAN COWAN: That will be taken care of, I am sure. There seem to be three specific things that you have brought up here, Saul. One is the public law itself, and its age. We, of course, don't think it is archaic, but it does need some updating. Second is the fines, the rules and suspension that you touched on with Pete here insofar as the fines themselves are concerned. I often wonder when the point is brought up - and you yourself stressed this very well-- The idea wasn't to emass any large sum of monies from fines, it was, naturally, to regulate the industry and to keep it on a wholesome level, so to speak. I don't know if that is the proper term to use in this case because of the abuse this industry has taken many times over the years throughout the State. I am sure the Commissioner is also aware of that.

One other thing that you bring up is the miniatures. I wonder, as far as the students are concerned - and you refer to students in this case - could there be something in this - and I just throw this out as a thought that occurred to me after some points were raised - that perhaps makes the taverns feel that you are cutting into their industry, so to speak, in that regard? I am referring to package stores handling as small an item as that. I don't know what the price is, but I assume there may be an ounce in those or three-quarters of an ounce, or maybe seven-eighths -- whatever. But, you can buy one of those for maybe a \$1.50, and you go into a tavern for a drink and pay \$1.50. I just throw that out as something that--

MR. WOLF: Well, I don't think that the fear of competition is a motivating factor here. I think that what we have to recognize-- As a matter of fact, if we had more time I would have addressed myself to many of the unreasonable restraints on competition that are built into these regulations.

ASSEMBLYMAN COWAN: That would be another point.

MR. WOLF: But I just didn't think that this was the time or the place to do that. For example, at a time when the Administration, through the Director and the Attorney General, is promoting and fostering competition, they have outrageous and unwarranted limitations on the manner in which taverns can display package goods for sale which this Legislature has never authorized, and which this Legislature has never suggested in any way, shape, or form. But, the Director, through his rule-making power, has created this. Competition is not what concerns us. What concerns us is this: We recognize that the sale and consumption of alcoholic beverages is subject to abuse, and that abuse has to be minimized. That is why you have this law, and that is why you have regulations. That is what we, as a statewide organization of licensees, of businessmen trying to comply with that law and trying to meet the same objectives that the Legislature has, are concerned about. We don't want alcoholic beverages in the hands of minors. We don't want them in the hands of people who are behind the wheel of a car any more than you do. The miniature is merely a vehicle for doing that.

You know, it is bad enough with the half pint. That can slip into your coat pocket. And, you would be surprised how many of our licensees, as a matter of principle, refuse to handle half pints. And, some refuse to even handle pints. But, they don't want to force and create a situation where people

are consuming without the one thing that our licensees have uppermost in their mind: When someone drinks on our premises, we are responsible for their behavior. We can regulate and control them. We can cut them off, as you know. Director Lerner has gotten a million dollars worth of publicity about his Intoxicated Patron Assistance Program, or whatever he calls it. We are responsible for the people who consume alcoholic beverages on our premises, and for their behavior. It is an extraordinary burden, but we live up to it as best we can. And, we protect them, in effect, and you, through the law, require us to protect them against themselves. But, once they go out that door, if they can have a miniature in their pocket, we can't protect you or society against that person who is consuming that miniature behind the wheel of his car, because once he is outside of our place, we can't control that. If he has decided to have that "one for the road", not on our premises because we can see the shape he is in, but in the glove compartment of his car, that is a serious problem.

As I said, take it right down the line. You know, for example, the Giant Stadium -- you are not supposed to take alcoholic beverages in up there when you go in. Can you imagine? This season is going to be our football season with this regulation on the books. Can you imagine trying to prevent miniatures from going into that stadium? If it is illegal -- and so far the law seems to say it shouldn't be done -- it is going to be unenforceable. I think you are going to hear this.

In talking to you now, I don't think you ought to wait until you have heard about children who were killed or maimed on the highway as a result of dealing with these miniatures. I don't think you ought to wait until a couple of years from now you have a legislative hearing to deal with the problem of the intoxicated kids in our schools. I heard enough of that talk when we were dealing with the problem of increasing the drinking age. On the one hand, we say we want to do everything we can to keep alcoholic beverages out of the schools -- and that was the major justification for increasing the drinking age from 18 to 19 -- and now we are opening the floodgates to give them the easiest device to avoid supervision and to avoid control. In my opinion, it is inconsistent with everything we are trying to do in New Jersey. It is inconsistent with anything except possibly a selfish motive in the hands of a very few people. Because I haven't heard many people in any segment of our industry speak for this. You may hear some, but I can tell you it is a small minority. We are looking at it purely from the profit motive. The overwhelming majority recognize this evil. We were happy without it in New Jersey for a long, long time. I don't think any of you, no matter how long you have been around, have seen a serious effort to legalize miniatures through the Legislature, or otherwise, in recent years. We knew when we were well off, and I think this is a terrible step backwards.

MR. COOPER: Saul, isn't it a fact too that at the time of repeal, under the then existing laws and regulations, miniatures were allowed, but then the Legislature stepped in because they realized what a mistake they made? So, in effect, since repeal, until we had the re-regulation, we have had no such thing as miniatures?

MR. WOLF: That is absolutely correct, Mr. Cooper. Of course, I have to tell you in all candor that Mr. Cooper's recollection of those ancient times is far better than mine. (laughter) But, I'm gaining on you.

MR. COOPER: I don't care about that, as long as you say something. One thing I do want to say, and I think Mr. Wolf has made this point -- and I speak for the whole industry -- the problem that is raised by miniatures in no way involves the economics of the business. This is one time when I think the whole industry, top to bottom, within the state, starting with the wholesalers on down, is very much concerned about the problem that miniatures are going to create, and the enforcement and control resulting from that problem.

ASSEMBLYMAN COWAN: Well, I am sure that question will pop up at some time, and I think it is best that it pop up right at the beginning, when we first start talking about miniatures, rather than waiting until the end. Thank you, Mr. Wolf.

MR. LEMBO: May I ask a question?

ASSEMBLYMAN COWAN: Yes, Mr. Lembo.

MR. LEMBO: There is one thing I am not quite clear on. Was the prohibition a legislative act or an administrative act of the Director?

MR. WOLF: Going back to 1933, I think Mr. Cooper could be of more help to you than I.

MR. COOPER: I don't recall. I do think that the language in the statute, with reference to the promulgation of regulations, was not as full and complete as it is today, but it was completely sufficient for the ABC Director at that time to take the position that he did not want miniatures. Now, whether he did it by regulation, or whether it resulted as a specific legislative act, I just can't remember, as old as I am, Saul.

MR. LEMBO: This is the first time I have ever heard the issue, so I am just approaching it out of ignorance.

MR. WOLF: You should also be aware that from the prospective of the consumer, at a time when the Attorney General is dedicated to bringing alcoholic beverages to the public at the lowest possible price, naturally, on a unit basis, that is the most expensive way to by a package of alcoholic beverage in New Jersey.

MR. LEMBO: If we are going to go to the Legislature to propose, for example, an amendment to the statutes which would prohibit miniatures, I guess two questions then occur to me. One is, where would we draw the line, in terms of the amount that could be contained in a given container? And, number two, could we really justify the dangers that you suggested? It seems to me, and this is the first time, believe me, that I have ever considered the issue, that if someone is going to abuse the miniatures in the way you suggest, they could do it by developing their own small containers and walking into Giant Stadium, for example. It could be done that way if they are going to sneak liquor into places where it doesn't belong.

MR. WOLF: What it boils down to is whether you facilitate or you make more difficult behavior which you do not condone. I remember testifying once before a committee of this Legislature and it was on a very different issue. It had to do with the sale of alcoholic beverages in original containers on Sundays -- beer, that is. As you recall, for many years you could only buy beer in an open container or a plastic container, but you couldn't buy a can or a bottle in New Jersey. Dr. Cowan, the Commissioner of Health of the State of New Jersey, submitted a statement in support of the legislation, saying that it was obviously preferable that the beverages be sold in their original containers,

where they were packaged under sanitary conditions, and so forth, as opposed to the existing condition. And, one legislator who was not sympathetic to the legislation kept asking me, "But, Mr. Wolf, can you cite me a single case of a person who got some dread disease or who became terribly ill because of the fact that beer is being sold in these open containers rather than in a sealed container"? And I said, "No, sir, Dr. Cowan is merely stating the logical and the obvious -- that it is preferable." But, he kept on badgering. He said, "Mr. Wolf, can you tell me one case in all these years of someone who got a terrible, dread disease"? I said to him, "No, sir, I can't." I said, "But, I am sure you know that when you go to the men's room and you urinate, it is preferable that you wash your hands. I can't prove that if you don't you will get some dread disease, but it is preferable." What I am saying to you today is, obviously it is very difficult to prove cause and effect. I hope we don't have to wait until we find a body with a little miniature clutched in its hand to convince you of the evils that we are talking about. It is a real danger. The problem of minors consuming alcoholic beverages is a matter that I don't have to convince you about. That is a real one.

What we are saying is, it is preferable that we take steps to minimize access; to minimize their getting around the law; to minimize their getting around the supervision that society attempts to provide.

MR. LEMBO: I guess when you are talking about statutes that regulate, one way or another, it is always a balancing problem of trying to figure out what the danger is and whether the steps you take to deal with it are sufficient.

How would you deal with the cut off point of size?

MR. WOLF: That has been done. It was done in New Jersey before. I candidly have some problem with the conversion to the metric system. I don't know what they call it. It was approximately one-half pint. That was the smallest. It wasn't really a half pint. It was a fractional item.

MR. COOPER: It is six point three ounces.

MR. WOLF: It was a fractional item, but we did have a standard in New Jersey and I can't really translate that for you. But, to revert to the standards that we had on the books before would be a simple thing to do. And I would suggest something to you. Obviously, you are concerned with a balancing. I submit to you that there is no balancing. There is no social good that will be fostered by the allowance of miniatures which were not available before. I have not heard anyone come forward and say how the interest of the public - how any interest - is going to be advanced by this change -- the salutary purpose of it. So, you are weighing the problems against nothing, really.

MR. LEMBO: I assume that Director Lerner must have given some reason or some justification for this.

MR. WOLF: Well, I would hope that you would invite him here and ask him.

MR. COOPER: He was invited, but he didn't come.

MR. WOLF: Did you hear what Mr. Cooper said? I said that I hope you would invite the Director here and ask him that question. Indeed, I would like to be sitting with you and ask him a lot of questions in order to hear what his answers would be. Mr. Cooper said he was invited, but he declined to attend. I think that speaks volumes.

MR. COOPER: I think, Mr. Lembo, that what you are talking about, mechanics, is something that we would probably, sitting on the Commission

in executive session, discuss. There are presently two bills, one in the Senate and one in the Assembly, which specifically answer the questions you just raised on the limit and what it was -- bringing it back to what it was. That is all contained in the statement of that bill.

ASSEMBLYMAN COWAN: I believe that was drafted by Steve, wasn't it? What is it, 1801?

MR. FRAKT: A-1801. Just to clarify that, what we did, simply, was to have the new regulations go by the federal regulations. They just did away with the existing limits and went by what the feds allow. What we did in that bill was to simply up it to the next level above.

MR. COOPER: I think you stated the minimum as we used to have it -- around six ounces.

MR. FRAKT: I geared it to whatever the federal--

MR. WOLF: The bottles are going to be in those sizes.

MR. COOPER: Yes, that is comparative in all sizes, even the larger sizes.

ASSEMBLYMAN COWAN: All right. Thank you, Saul.

As our next speaker we have Gerry Schwartz, Vice President of the Salesmen's Union.

G E R R Y S C H W A R T Z: I am Gerry Schwartz, Secretary-Treasurer of the Salesmen's Union. Gentlemen, I had no intention of saying anything when I came here. I just came to find out what progress this Commission was making because it is of great interest, naturally, to all of my members.

However, I thought that while I was here I would advise you gentlemen that the scenerio that we predicted about one year and one-half ago, that would follow deregulation, has started to present itself only several months into deregulation. By that I mean we had predicted thousands and thousands of jobs would eventually be lost and businesses would be lost, and, gentlemen, I can only tell you that after several months our membership has had a diminution of probably about one hundred memebers. From what my members tell me, many of their customers, the small retailers -- some of whom I wouldn't even consider small; some do as much as \$300 thousand a year in business -- are talking about walking away from their businesses. Some of them will not even wait until the holiday season. This, of course, is making my members very nervous.

Gentlemen, as I said a year and one-half ago, the economic impact of this deregulation is going to be severe in this state, and it is a state that can't really afford it. As we predicted, we are starting to see it come now. Jobs are being lost and businesses will be closed, and the state is going to suffer. Although they may think they are coming out ahead now because of the compromise tax bill that you gentlemen proposed and which is in effect today, they will lose in other areas because when you lose jobs and when people go out of business, as we said before, the ripple effect is absolutely catastrophic. It is starting only several months into deregulation, and unless you gentlemen, who have learned enough about this business now, I feel, recommend to the Legislature that some control be put into effect very shortly, it is going to be too late.

That is all I have to say. That is the only thing I thought I would come and advise you of. Whether or not you people are aware of these things, I don't know, but I thought that as long as I was here, I would bring it to your attention.

ASSEMBLYMAN COWAN: I am very pleased that you did come down, Gerry. We have had a lot of input to date and I am sure that with you out working in the industry, as you are, that you could contribute much input also. You mention jobs particularly, and of course that strikes home with everyone, because we realize that the jobs are diminishing and the industry must be contracting too.

MR. SCHWARTZ: And the economics of the state will thereby suffer accordingly. There is no question about that.

MR. O'KEEFE: I hope, Gerry, that you will continue to attend these meetings and keep us posted on what is happening, as you see it. I think all the members of the Commission feel they want a sense of what is going on, based on the current experience, rather than just hear the oratory we have had in the past. This Commission is alive until next January, at least. We are getting down to the nub of things now, where if we are going to do a job, we are going to have to sit down and come forth with some recommendations, either that or we are going to have to say, "Everything is fine, continue the way you are." I don't believe that, but I think we are at the crossroads now, and what you are telling us just points up the fact that day by day time goes past very quickly and we are now just beginning to feel what is going to happen. From my experience with the industry, since the 11th of July or recently when the 9% markup for the retailer was eliminated, we are just going to begin to find out the effect of these new regulations, based on the way they are going to be handled by certain elements of the industry.

MR. SCHWARTZ: Milt, you know that our organization is always willing to cooperate with the industry, because as the industry goes, of course, so do we. We have always had a fine industry, where people have more or less taken their obligations to heart. You know, we felt as though we had a sensitive product. We try to handle it accordingly. I think everybody in the industry has done a fine job, up until this point. We would like to see this industry continue as it was, where everybody could make a living and not be ashamed that they were in the liquor industry.

You know, years ago, if you were a liquor "drummer", as they called them, you were looked down upon. Today it is sort of a -- Well, up until this point it was sort of a very sought-after position. It is no longer that good of a position with deregulation. It is getting to be a dog-eat-dog type of thing and nobody is really going to profit by it, least of all the consumer, as the ABC said they would. I know just the other night, the first day of deregulation, they were interviewing some people and they said, "Now that whiskey is cheaper in the state, how do you like it"?, and the consumer said, "Oh, it is great. I am going to get cheaper prices." However, they also interviewed a few retailers and one retailer said, "Oh, yes, I am selling a few things cheaper as a come-on, but," he said, "on other things I have raised the prices." So, I am wondering just how well the consumer is doing.

On the way down I was speaking to Harry Sloan, and I said what we really should do is to check to see what the prices are doing in reality. Is the consumer really benefiting by this, or is this just the act of somebody who was vindictive and had something against somebody in our industry and tried to hurt us in some way, because he is certainly going to hurt the industry and, consequently, the state that he professes to be looking out for the interest of.

MR. VANOLA: Gerry, do you feel that a mandatory markup would be the

answer to the problem?

MR. SCHWARTZ: Definitely so. There is no question about that, Peter. We definitely need it. I think that is the basis of everything.

ASSEMBLYMAN COWAN: Warren, is there anything you would like to add?

MR. JONES: No, I am very much against the miniatures, I can tell you that.

MR. SCHWARTZ: I agree with you on those miniatures too. That was probably the worst thing that could have happened.

ASSEMBLYMAN COWAN: The one thing that I thought might be interesting with these miniatures is, I assume taverns, in most cases, aren't handling them. I don't know how much package stores are handling them. I was wondering who among the retailers is handling the process, because I have seen them crop up in my own neighborhood in delicatessens, who also carry liquor retail licenses. I was just wondering what branch, if you want to call it that, of the industry is mostly handling these and trying to push them?

MR. VANOLA: I would think the package stores more than anyone else. The on-premises licensee pays in the test of these miniatures, and I know this by practical experience. If a minor comes into my place and orders coke while sitting at the table having a pizza pie, all of a sudden this kid is getting drunk, and I have only served him the coke. But, he has some miniatures in his pocket and he takes them out and puts them in the coke. Now, it is impossible when you are busy to keep an eye on everybody -- you know -- not unless you put them under a microscope and really watch them. So, here again, I have an ABC agent come into my place and I am personally involved because he is intoxicated in my place. Then there is the danger of the highway after he leaves my place, and I am held responsible because he might think that I served him, and here again, with the liquor liability, somebody is hurt and I am having a financial problem.

So, I was against the half-pint to begin with. I think there should be two sizes -- a pint and a quart, that's it, or a half gallon if you want to go for it, because at least you see them take the bottle out; it is a little bulky. But, these miniatures can be kept by girls in their pocketbooks. They use them for lipstick. You think they are putting lipstick on instead of taking a sip. Now, my place predominantly is an older crowd, but I do have some people come in for pizza pie, and they are a younger crowd. I see miniatures in the men's room and the ladies' room. They put them in the tank in back of the toilet.

MR. SCHWARTZ: Peter, I am glad you brought that up because in our office building, where we have our office, I was in the men's room the other morning - it must have been about 10:00 in the morning, in the latter part of last week - and a fellow walked in and opened up a miniature and took a drink out of a miniature. Now, in my estimation anybody who does things like that has to be an alcoholic.

MR. VANOLA: Absolutely.

MR. SCHWARTZ: And, something like this is certainly the worse thing in the world for a man in that condition. Now, this is an office employee. I don't know what business he is in, but he walked into a men's room at 10:00 in the morning and opened up a miniature and guzzled it down with one guzzle and threw it in the waste basket there.

MR. JONES: Miniatures are made for problem drinkers.

MR. SCHWARTZ: That's right. Miniatures are definately made for problem drinkers and sneaky drinkers, and that is the one thing you don't want. You want to avoid that. It gives our industry a bad name and we feel that we have elevated out industry over the years. We would like to keep it up; we don't want it to retrogress.

MR. LEMBO: Why are they used on airlines? That is the only place I have ever encountered them.

MR. O'KEEFE: They allowed that under New Jersey law at the time they prohibited the miniatures, way back, I think, in '34 -- trains, boats, and planes.

MR. LEMBO: No, I mean--

MR. SCHWARTZ: It is convenient to serve. If you are on a moving vehicle, it is tough to pour a shot of whiskey. They can control the amount of drinks the passenger gets that way; whereas, if you put a bottle out there - a fifth - and start pouring it, as long as there is some whiskey in there, somebody is going to get it.

The standards that are recommended under A-1801 and the Senate bill specifically maintain that exception. They don't do away with it on planes and trains.

ASSEMBLYMAN COWAN: Are there any further comments? (no response)

MR. SCHWARTZ: I want to thank you gentlemen for the opportunity to speak.

ASSEMBLYMAN COWAN: Thank you, Gerry. We will now stand recessed.

(hearing concluded)