

APPENDIX



TESTIMONY OF JEFFREY A. WARSH, ESQ. ON BEHALF OF THE NJ WINE & SPIRITS  
WHOLESALE ASSOCIATION AND THE NJ LICENSED BEVERAGE ASSOCIATION  
NJ General Assembly Regulatory Oversight Committee

May 13, 2019

GOOD AFTERNOON MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS JEFF WARSH AND I AM A PARTNER AT MBI AS WELL AS A PARTNER AT THE POST POLAK LAW FIRM, WHERE I SIT IN THE HOSPITALITY, ALCOHOLIC BEVERAGES AND CANNABIS PRACTICE. I HAVE THE HONOR OF SERVING AS EXECUTIVE DIRECTOR AND GENERAL COUNSEL TO THE NEW JERSEY WINE & SPIRITS WHOLESALERS ASSOCIATION AND AS LEGISLATIVE AGENT AND COUNSEL TO THE NEW JERSEY LICENSED BEVERAGE ASSOCIATION. I ALSO SERVE AS THE CHAIRMAN OF THE WINE & SPIRITS WHOLESALERS OF AMERICA'S NATIONAL ADVISORY COUNCIL AND AS VICE CHAIRMAN OF THE NJ ABC ADVISORY COMMITTEE. I THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY.

SINCE 1934, THE NEW JERSEY WINE & SPIRITS WHOLESALERS ASSOCIATION HAS BEEN THE LEADING VOICE REPRESENTING NEW JERSEY'S PREMIER WINE AND SPIRITS DISTRIBUTORS AS WELL AS THE ALCOHOLIC BEVERAGE INDUSTRY IN GENERAL. OUR HEAVILY UNIONIZED TIER IS RESPONSIBLE FOR OVER \$3 BILLION IN ANNUAL SALES, OVER 5,000 EMPLOYEES AND OVER \$500 MILLION IN EXCISE AND CORPORATE BUSINESS TAXES. OUR WHOLESALERS ARE LEADERS IN NEW

JERSEY'S PHILANTHROPIC AND COMMUNITY ENDEAVORS. IT IS IMPORTANT TO NOTE THAT ALL OF OUR WHOLESALER MEMBERS ARE FAMILY-OWNED BUSINESSES, WITH MANY THIRD AND FOURTH GENERATION EMPLOYEES. I, MYSELF, AM A THIRD GENERATION PROFESSIONAL WORKING FOR THE WHOLESALERS AND FOR THE INDUSTRY IN GENERAL. MY GRANDFATHER WAS A WINE AND SPIRITS SALESMAN FOR 30 YEARS AND MY FATHER FOR OVER 40 YEARS. IN SHORT, THE WHOLESALER TIER IS A KEY COMPONENT OF NEW JERSEY'S ECONOMIC AND SOCIAL BEDROCK. WE ARE PROUD OF THIS AND WE TAKE OUR RESPONSIBILITIES SERIOUSLY.

AS TODAY'S HEARING IS NON-SPECIFIC, I THINK IT WOULD BE OF BENEFIT TO THE COMMITTEE MEMBERS TO ACHIEVE A HIGHER LEVEL OF UNDERSTANDING OF THE WHOLESALER TIER. ACCORDING TO TITLE 33, ONE OF THE STATE OF NEW JERSEY'S HIGHEST PRIORITY TASKS IS THE COLLECTION OF THE BEVERAGE ALCOHOL EXCISE TAXES. EACH OF OUR WHOLESALERS HAS A STATUTORY OBLIGATION TO COLLECT 100% OF THE EXCISE TAXES DUE AND TO REMIT 100% TO THE STATE TREASURY. IT IS A CRITICAL GOVERNMENTAL REVENUE FUNCTION AND LARGE WHOLESALER COMPLIANCE IS HISTORICALLY EXTRAORDINARY.

IN CONNECTION WITH THIS CRITICAL TAX COLLECTION FUNCTION, IT IS NEW JERSEY'S "AT REST" LAW THAT MAKES IT ALL WORK. EVERY ALCOHOLIC BEVERAGE SOLD THROUGH THE THREE-TIER SYSTEM MUST ARRIVE IN A

LICENSED WAREHOUSE, SIT "AT REST" FOR 24 HOURS SO THAT THE GOODS CAN BE ENTERED INTO THE IT SYSTEM AND A DATA TRAIL CAN BE ESTABLISHED THAT ALLOWS THE WHOLESALER, AND THE STATE VIA AUDIT POWERS, TO TRACK AND REMIT THE TAXES ON THE GOODS. THIS SAME AUDIT WORTHY DATA TRAIL EXTENDS TO THE RETAILER, UPON THEIR PURCHASES, AND ALLOWS THE NJ STATE DIVISION OF TAXATION TO KNOW THE EXACT SALES TAXES TO BE COLLECTED AND REMITTED TO THE STATE BY THE LICENSED RETAILER. EACH RETAILER REQUIRES AN ANNUAL SALES TAX CLEARANCE CERTIFICATE TO SECURE LICENSE RENEWAL. ONLY THOSE PRODUCTS IN THE THREE-TIER SYSTEM HAVE THIS AUDITABLE DATA TRAIL. FOR ANY SUPPLIER OR MANUFACTURER WHO HAS THE LICENSE PRIVILEGE TO SHIP DIRECT TO NEW JERSEY CONSUMERS, SUCH AS OUT OF STATE SMALL WINERIES AND IN-STATE PRODUCERS OF VARIOUS "CRAFT" ALCOHOLIC BEVERAGES, NO SUCH DATA TRAIL EXISTS BECAUSE THE "AT REST" LAWS DO NOT APPLY TO THEM. WITH RESPECT TO THE COLLECTION OF EXCISE AND SALES TAX FROM THESE DIRECT TO CONSUMER LICENSEES, IT IS BASICALLY AN HONOR SYSTEM. IT IS HIGHLY UNLIKELY THAT ANY NJABC PERSONNEL ARE TRAVELING TO CALIFORNIA FOR TAX AUDITS. COUNT ON THAT. IN SPITE OF THIS, BILLS HAVE BEEN INTRODUCED TO ALLOW ALL WINERIES - REGARDLESS OF SIZE - TO SHIP DIRECT TO CONSUMERS. WITHOUT THE GOODS BEING "AT REST" THERE IS NO WAY TO TRULY TRACK THE GOODS AND NO WAY, THEREFORE, TO GET THE TRUTH ABOUT TAXES OWED. WHILE IT WOULD CERTAINLY BE BETTER FOR NJ IF THESE DIRECT TO CONSUMER LICENSEES WOULD BE REALISTICALLY AUDITABLE, IT IS NOT

NECESSARY FOR THE 95% OF THE GOODS THAT DO REACH MARKET THROUGH THE THREE-TIER SYSTEM. WE FULLY COMPLY. THIS NEAR-PERFECT SYSTEM MUST BE PROTECTED, NOT TORN ASUNDER. IF ANYONE'S IDEA IS TO "STREAMLINE" THE ALCOHOLIC BEVERAGE SYSTEM BY ELIMINATING CRITICAL COMPLIANCE TOOLS LIKE "AT REST", A MISTAKE OF EPIC PROPORTIONS WILL ENSUE. THE STATE OF NEW JERSEY, MEMBERS OF THE INDUSTRY AND CONSUMERS WILL SUFFER.

BOTH TITLE 33 AND OUR INDUSTRY REGULATIONS, FOUND AT NJAC CHAPTER 13, REQUIRE THAT WHOLESALERS PROVIDE CREDIT TO RETAILERS. THIS IS ONE OF CORE COMPONENTS OF THE NEW JERSEY LIQUOR INDUSTRY'S UNIQUE FAMILY DOMINATED CULTURE. NOT ALL STATES ALLOW ALCOHOLIC BEVERAGES TO BE PURCHASED BY RETAILERS ON CREDIT. SOME STATES OUTRIGHT PROHIBIT THE WHOLESALER PROVISION OF CREDIT AND REQUIRE THAT ALL RETAILER PURCHASES BE CASH ONLY. SOME STATES PROHIBIT RETAILER VOLUME PURCHASES. NEW JERSEY NOT ONLY ALLOWS VOLUME PURCHASING, BUT ALLOWS AND ENCOURAGES THE CREATION OF MULTIPLE LICENSE BUYING CO-OPS. IN NEW JERSEY, EVERY RETAIL LICENSEE, NO MATTER HOW SMALL, CAN GET THE BEST WHOLESALE PRICE AVAILABLE. PERIOD. DAVID COMPETES WITH GOLIATH IN NEW JERSEY LIQUOR INDUSTRY. THIS IS WHY NEW JERSEY HAS VERY LARGE AND VERY SMALL RETAILERS. THIS IS A MAJOR REASON WHY THERE ARE SO MANY FAMILY-OWNED RETAILERS IN A WORLD INCREASINGLY DOMINATED BY GLOBAL RETAILERS AND THE INTERNET.

NEW JERSEY NOT ONLY PERMITS CREDIT BUT PROVIDES FOR A BUSINESS FRIENDLY CREDIT SYSTEM WHERE RETAILERS HAVE ROBUST RIGHTS WITH RESPECT TO MANDATORY NOTICES OF OBLIGATION REQUIRING PAYMENT OF OUTSTANDING CREDIT BALANCES AND NOTICES OF SATISFACTION INDICATING THAT PAYMENT HAS BEEN SATISFIED AND REINSTATING CREDIT TERMS. WHAT THIS MEANS IS THAT IN NEW JERSEY WE NURTURE OUR RETAILERS WITH STATUTES, REGULATIONS AND VARIOUS PROTECTIONS TO ALLOW THEM TO GET COMPLETELY NON-DISCRIMINATORY PRICES AND TERMS OF SALE, THE BEST PRICES ON GOODS, AND ZERO PERCENT INTEREST ON 30 DAYS CREDIT THUS ALLOWING THEM TO COMPETE IN THE INCREASINGLY DIFFICULT HOSPITALITY SPACE. THIS IS ANOTHER OF THE MAIN REASONS NEW JERSEY HAS LARGE NUMBERS OF SMALL FAMILY BUSINESSES IN THE LIQUOR INDUSTRY.

WHOLESALERS PERFORM OTHER IMPORTANT ROLES AS WELL. NJSWA MEMBER WHOLESALERS CRISSCROSS THE GLOBE SEARCHING FOR ALCOHOLIC BEVERAGE PRODUCTS TO BRING HOME TO NEW JERSEY. AS A RESULT OF THIS CONTINUOUS EFFORT, AND THE LARGE NUMBERS OF INDEPENDENT RETAILERS, NEW JERSEY IS AMONG THE TOP TIER OF STATES TO HAVE OVER 50,000 PRODUCTS AVAILABLE FOR SALE – AND AT THE LOWEST PRICES IN THE REGION. THIS EXTRAORDINARY COMBINATION OF SELECTION AND BEST PRICES CONTRIBUTES TO LARGE REVENUES IN SO-CALLED CROSS BORDER SALES – THE SALES OF

ALCOHOLIC BEVERAGES TO CONSUMERS IN SURROUNDING STATES. THIS CRITICAL REVENUE FOR THE STATE OF NEW JERSEY MUST BE MAINTAINED.

NJWSWA MEMBER WHOLESALERS HAVE INVESTED HUNDREDS OF MILLIONS OF DOLLARS IN THE LAST YEAR ALONE IN NEW STATE OF THE ART WAREHOUSES, MATERIAL HANDLING SYSTEMS, IT SYSTEMS AND TRUCKS. A RETAILER WHO PLACES AN ORDER WITH A MEMBER WHOLESALER AT 5PM, GETS THAT ORDER – LARGE OR SMALL – THE NEXT DAY. THE VERY NEXT DAY. THIS ENORMOUS AND ONGOING WHOLESALER INVESTMENT IN MATERIALS HANDLING AND GOODS MOVEMENT DIRECTLY BENEFITS NEW JERSEY RETAILERS IN THAT THEY DO NOT HAVE THE NECESSARY EXPENSE OF MAINTAINING LARGE INVENTORIES. THE WHOLESALER BEARS THIS EXPENSE AND IT IS AN INCENTIVE TO CONTINUE INVESTING IN MORE ADVANCED TECHNOLOGIES TO ACCOMPLISH PEAK SYSTEMIC EFFICIENCIES. THIS IS ANOTHER TANGIBLE RETAILER AND MARKET BENEFIT CREATED AND PROVIDED BY OUR MEMBER WHOLESALERS. THIS IS YET ANOTHER WAY WE CREATE AND INJECT VALUE INTO NEW JERSEY'S LARGE AND VIBRANT INDEPENDENT RETAILER MARKETPLACE. CHAINS DOMINATE OTHER STATES, BUT NOT NEW JERSEY. THIS IS A STATE WHERE YOU CAN STILL RUN A FAMILY BUSINESS AND PROUDLY SUPPORT YOUR FAMILY AS A LIQUOR STORE OWNER.

AS A RESULT OF THE SERIOUSNESS WITH WHICH THEY DISCHARGE THEIR CONSIDERABLE LEGAL, ECONOMIC AND LOGISTICAL OBLIGATIONS, OUR MEMBER

WHOLESALERS HAVE CREATED SUBSTANTIAL ECONOMIC FOOTPRINTS. ONE MEMBER WHOLESALER, NOT THE LARGEST IN NEW JERSEY, HAS A TOTAL ESTIMATED ECONOMIC FOOTPRINT OF OVER \$130 MILLION A YEAR INCLUDING:

- TOTAL PAYROLL OF \$80 MILLION – ALL NJ RESIDENTS
- NJ PAYROLL & WITHHOLDING TAX OF \$4 MILLION ANNUALLY
- NEW JERSEY EXCISE TAX OF \$44 MILLION ANNUALLY

IT IS ALSO IMPORTANT TO NOTE THAT NEW JERSEY'S ALCOHOLIC BEVERAGE INDUSTRY IS HEAVILY UNIONIZED AND OVER THE COURSE OF THE LAST 85 YEARS THE LABOR/MANAGEMENT RELATIONSHIP HAS BEEN CLOSE AND HIGHLY EFFECTIVE. IF THE COMMITTEE DECIDES TO HAVE FUTURE HEARINGS, I STRONGLY ENCOURAGE THE YOU TO INVITE OUR INDUSTRY'S UNION LEADERS AND RANK AND FILE AND YOU WILL DISCOVER A MODEL WORKING RELATIONSHIP.

MEMBERS OF THIS COMMITTEE, THE GROUPS THAT PRESENT REQUESTS FOR SUBSTANTIAL CHANGES TO THE SYSTEM AND RAIL AGAINST THE HIGHLY EFFECTIVE SYSTEM I DESCRIBED AS ANTIQUATED, WILL ACHIEVE THEIR DECLARED GOALS ONLY BY DESTROYING THESE FAMILY BUSINESSES, BY LAYING WASTE TO DOWNTOWN NJ AND LEAVING NEW JERSEY AT THE WHIM OF GLOBAL FORCES.

IN OUR CURRENT WORLD, MR. AND MRS. SINGH JOINTLY OWN THEIR FAMILY LIQUOR STORE. IT IS THEIR FAMILY'S ONLY SOURCE OF EMPLOYMENT AND INCOME. THEY PLAN ON SENDING THEIR DAUGHTER AND SON TO COLLEGE WITH THE THEIR FAMILY BUSINESS REVENUE. THEY WORK HARD AS A FAMILY, BUT THE STORE IS THEIR OWN AND THEY SEE IT AS THEIR PIECE OF THE AMERICAN DREAM. IT IS THEIR PIECE OF THE AMERICAN DREAM. IF, FOR EXAMPLE, THE TWO-LICENSE LIMITATION BILL BECOMES LAW, MR. AND MRS. SINGH ARE KNOCKED OUT OF BUSINESS. FAST. ONE DAY, THEY OWN THEIR LITTLE PIECE OF THE AMERICAN DREAM AND THE NEXT? LIQUOR MANAGER FOR A BIG BOX IF THEY ARE LUCKY. THOSE OF TWO VERY DIFFERENT WORLDS AND THESE COMPETING MODELS HANG IN THE BALANCE BEFORE THIS LEGISLATURE.

FINALLY, I WOULD LIKE TO FURTHER THE EFFORTS OF THIS COMMITTEE TO GAIN A MORE COMPLETE UNDERSTANDING OF OUR VERY COMPLEX INDUSTRY. THE NJWSWA WOULD LIKE TO INVITE COMMITTEE MEMBERS TO TOUR ONE OF THE MOST TECHNOLOGICALLY ADVANCED WAREHOUSES IN THE U.S.. FEDWAY ASSOCIATES' NEW CENTRAL WAREHOUSE, IT AND LOGISTICS HUB IN ELIZABETH WILL PROVIDE A WEALTH OF KNOWLEDGE TO COMMITTEE MEMBERS AND CLEARLY DEMONSTRATE THE ENORMOUS VALUE-ADDED OF OUR MEMBER WHOLESALERS. YOU WILL GET A CHANCE TO SEE A DIVERSE WORKFORCE AND MANAGEMENT TEAM WORK SEEMLESSLY TO PROVIDE VALUE TO THE NEW JERSEY MARKETPLACE.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR YOUR THIS  
OPPORTUNITY TO TESTIFY.

## ASSEMBLY COMMITTEE HEARING

### **NJLSA**

**Protects and defends the livelihoods more than half of our State's 2,000 State-based independently owned and operated full service liquor stores including members of just about every franchise in our State including Buy-rite, Bottle King, Shop-Rites, Spirits Unlimited, Joe Canals, Canals, Circus Liquors, Bourbon Street, Roger Wilco, Gary's Marketplace as well as third party operators in BJ's, Costco, BJ's and Sam's clubs.**

**We also represent the interest of every member of the Asian-American Retailer Association known as the AARA and as a member of our national association the AMERICAN BEVERAGES LICENSES, we are also directly connected to the representation our ABL affiliate the NJ License Beverage Association.**

**Our members are responsible for over 2/3 of all alcohol sales in our State and are all deeply rooted into the local fiber of our communities. New Jersey's licensing system is considered an exemplary model that 18 other State's emulate. Another 17 State's follow the control state model which the State holds a monopoly encompassing entire system. The other 15 States are purely chain State without any visible independent marketplace.**

**The vast-majority of our members (including myself) have invested our life savings into our livelihoods which includes cross collateralizing our homes with mortgages to support the never-ending investment required to sustain our businesses in one of the most competitive marketplaces in our country!**

**In the first hearing I heard very misleading testimony about the impact of the license limit expansion in Massachusetts, which happens to be an affiliate State that I have close ties to through my ABL affiliation. I have including in my handout to you an article from Michael Halfacre, who testified in the first hearing on behalf of the Beer Wholesalers Association of NJ, wherein he shares the reality of what has happened in that State since the license limit was expanded.**

**Ironically, there draft bills in the Statehouse asking for unlimited license limits because the State's largest supermarket chain that has over 130 locations says the 9-license limit is hurting the majority of their stores that cannot compete on a level playing field with the much larger regional/national grocery chains that only have 9 or 10 stores in the State. (Robert Mellion, ED MASS-PACK).**

**That same chain has over 60 stores in NJ that in the short-term would like to have NJ go from two to 10 licenses with the long-term objective of going to unlimited once you displace and breakdown the resistance from the independent retailers whose voice would be silenced by any increase in the license limit.**

**NJ's alcohol model was built on independent state based principles that promote a very responsible public safety minded system that can be very effectively regulated and policed from a public policy perspective.**

I also head a committee member talking about the great system in North Carolina which happens to be one of the 17 Control State monopoly models that has been 170 separate and very different local licensing systems. Ironically, they are looking to totally revamp their system to make it more like our system an all-encompassing omni-bus bill with bi-partisan support.

# STATE OF NEW JERSEY

The following information was taken from a "Statistical License Report" generated on 03/05/2019 by the STATE DIVISION OF ABC:

- 906 = LICENSE CODE 31 [SOCIAL CLUB LICENSE]
  - 462 = LICENSE CODE 32 [RETAIL CONSUMPTION LICENSE WITH BROAD C PACKAGE PRIVILEGE; NO LONGER ISSUED REPLACED BY LICENSE CODE 44 AFTER IN 1947; CAN BE BOTH ON-PREMISE & OFF-PREMISE.]
  - 5,427 = LICENSE CODE 33 [RETAIL ON-PREMISE CONSUMPTION LICENSE]
  - 9 = LICENSE CODE 34 [SEASONAL RETAIL ON-PREMISE CONSUMPTION LICENSE; NO LONGER ISSUED]
  - 270 = LICENSE CODE 36 [HOTEL LICENSE]
  - 4 = LICENSE CODE 37 [THEATER LICENSE]
  - 38 = LICENSE CODE 43 [LIMITED RETAIL OFF-PREMISE CONSUMPTION DISTRIBUTION LICENSE; FOR SALE OF WARM BEER ONLY; NO LONGER ISSUED]
  - 1,802 = LICENSE CODE 44 [LIMITED RETAIL OFF-PREMISE CONSUMPTION DISTRIBUTION LICENSE; REPLACED LICENSE CODE 32 AFTER 1947]
- =====
- 8,918** = TOTAL RETAIL LICENSES\*\*
- =====

**\*\* ADDITIONAL STATISTICAL NOTATION:**

**1,280 (14.3%) OF ABOVE LICENSES WERE INACTIVE AS OF 03/05/2019. THE FOLLOWING IS THE BREADOWN:**

- 12 ( .94% of 1,280) = LICENSE CODE 31
- 60 ( 4.70% of 1,280) = LICENSE CODE 32
- 1,066 (83.2% of 1,280) = LICENSE CODE 33
- 3 ( .23% of 1,280) = LICENSE CODE 34
- 7 ( .55% of 1,280) = LICENSE CODE 36
- 4 ( .31% of 1,280) = LICENSE CODE 43
- 128 (10.0% of 1,280) = LICENSE CODE 44

**\*\* EDUCATIONAL NOTATIONS:**

AT THE END OF 2018 NEW JERSEY'S POPULATION WAS 8,908,520 AND RANKED 11<sup>TH</sup> IN NATION. NEW JERSEY WAS RANKED 1<sup>ST</sup> IN DENSITY WITH AN AVERAGE POPULATION OF 1,210 CITIZENS PER SQUARE MILE. NEW JERSEY HAS ONE RETAIL LIQUOR LICENSE PER 999 OF POPULATION MAKING THAT THE MOST IN LIQUOR LICENSES PER CAPITA IN OUR NATION. BASED ON CURRENT LIQUOR LICENSE POPULATION CAPS NEW JERSEY SHOULD ONLY HAVE 2,967 CODE 33 RETAIL ON-PREMISE CONSUMPTION LICENSES AND 1,188 CODE 44 RETAIL OFF-PREMISE CONSUMPTION DISTRIBUTION LICENSES. CONSUMERS IN NEW JERSEY HAVE MORE ACCESSIBILITY TO FULL SERVICE ALCOHOLIC BEVERAGE RETAIL OUTLETS THAN ANY OTHER STATE IN OUR NATION.

1933 Repeal of Prohibition with no license limits.

1947 license limits are established:

1 on-premise consumption license per 1,000 and 1 off-premise license per 3,000.

1960 population caps were increased (NJ Population is now over 6,070,000);

1 on-premise consumption license per 2,000 and 1 off-premise license per 5,000.

1962 off-premise consumption retail license model was restructured to include a mandatory two-license limit. (A&P was grandfathered in with over 50 licenses)

1969 population caps were increased;

1 on-premise consumption license per 3,000 and 1 off-premise license per 7,500.

1971 New Jersey "Franchise Practices Act" enacted.

Independently owned and operated grocery stores and liquors stores create franchises (BILOWS, BUY-RITE, FOOD-TOWN, SHOPRITE etc)

1979 New Jersey Alcohol Industry is deregulated from fair trade with 30% gross profit price minimum to wholesale cost basis for retail price floor. There are more than 15,500 retail licenses operating in State.

1980 STATE ABC permits co-operative purchasing groups tied to franchise advertising groups to form, so long as the number of members in group do not exceed the total number of active A&P grandfathered licenses. All co-operative groups are restricted to being independently owned and operated with no one entity owning more than two licenses. (NJ Population is now over 7,370,000)

1985 New Jersey Alcoholic Beverage Control Act is enacted by State Legislature declaring and establishing for first time the Public Policy and Legislative purpose of this State with respect to addressing the States alcoholic industry. In last five years the number of licenses has been reduced by almost 20% to under 13,000.

### **FLASH FORWARD 24 YEARS TO CURRENT DAY...**

2019 8,918 total licenses less 1280 inactive licenses = 7,638 active.

(Population at end of 2018 = 8,900,000) The number of active licenses has decreased by over 50% since 1980 while the population has increase over 20%.

## 2018 Economic Contribution of America's Beer, Wine & Spirits Retailers: New Jersey<sup>1</sup>

| <b>DIRECT IMPACTS</b>            |                |                         |                         |
|----------------------------------|----------------|-------------------------|-------------------------|
|                                  | <b>JOBS</b>    | <b>WAGES</b>            | <b>ECONOMIC IMPACT</b>  |
| On-Premise Retailers             | 173,065        | \$4,500,808,000         | \$8,773,656,700         |
| <b>Total Direct Impacts</b>      | <b>173,065</b> | <b>\$4,500,808,000</b>  | <b>\$8,773,656,700</b>  |
| <b>SUPPLIER IMPACTS</b>          |                |                         |                         |
| Agriculture                      | 675            | \$18,644,500            | \$51,628,400            |
| Business & Personal Services     | 9,663          | \$935,209,000           | \$1,639,491,900         |
| Construction                     | 518            | \$38,895,900            | \$91,275,800            |
| Finance, Insurance & Real Estate | 5,006          | \$260,196,200           | \$1,272,631,300         |
| Government                       | 797            | \$76,129,000            | \$130,949,200           |
| Manufacturing                    | 3,830          | \$307,581,600           | \$1,995,952,200         |
| Mining                           | 34             | \$101,600               | \$6,327,700             |
| Retailing                        | 859            | \$36,221,700            | \$75,900,200            |
| Transportation & Communication   | 2,610          | \$284,116,400           | \$963,249,800           |
| Travel & Entertainment           | 1,574          | \$48,575,200            | \$112,054,900           |
| Wholesaling                      | 1,611          | \$170,151,100           | \$436,928,200           |
| Other                            | 0              | \$0                     | \$0                     |
| <b>Total Supplier Impacts</b>    | <b>27,571</b>  | <b>\$2,175,822,200</b>  | <b>\$6,776,389,600</b>  |
| <b>INDUCED IMPACTS</b>           |                |                         |                         |
| Agriculture                      | 320            | \$7,433,200             | \$19,223,600            |
| Business & Personal Services     | 23,023         | \$1,469,389,100         | \$2,519,055,400         |
| Construction                     | 604            | \$44,842,500            | \$107,649,500           |
| Finance, Insurance & Real Estate | 6,880          | \$468,501,900           | \$2,500,373,100         |
| Government                       | 632            | \$62,434,600            | \$151,715,800           |
| Manufacturing                    | 2,364          | \$246,176,600           | \$1,316,735,600         |
| Mining                           | 32             | \$147,000               | \$5,878,300             |
| Retailing                        | 7,519          | \$294,887,000           | \$689,561,900           |
| Transportation & Communication   | 3,246          | \$319,532,600           | \$1,162,373,700         |
| Travel & Entertainment           | 7,917          | \$223,151,600           | \$569,578,200           |
| Wholesaling                      | 1,692          | \$177,687,000           | \$457,182,100           |
| Other                            | 1,576          | \$57,106,500            | \$41,054,100            |
| <b>Total Induced Impacts</b>     | <b>55,805</b>  | <b>\$3,371,289,600</b>  | <b>\$9,540,381,300</b>  |
| <b>Total Economic Impact</b>     | <b>256,047</b> | <b>\$10,047,919,800</b> | <b>\$25,090,427,600</b> |

| <b>FISCAL IMPACTS</b> |                        |
|-----------------------|------------------------|
|                       | <b>BUSINESS TAXES</b>  |
| Federal Taxes         | \$2,346,432,700        |
| State Taxes           | \$1,161,700,800        |
| <b>Total Taxes</b>    | <b>\$3,508,133,500</b> |

Report: State - All Jobs On

<sup>1</sup> All jobs in on-premise full-service restaurants and drinking places are included as these businesses depend on the sale of alcohol for a substantial portion of their revenues and profits. In all other locations, this analysis examines on-premise retail alcohol beverage sales accounting for full time and equivalent jobs related solely to the sale of alcohol.

RECENT LIQUOR LICENSE LISTINGS IN  
NEW JERSEY

These are all Restaurant Liquor  
Licenses (no liquor stores)

Based on listings within the past 24  
months

|                                 |                   |           |
|---------------------------------|-------------------|-----------|
| Aberdeen                        | Monmouth County   | 230,000   |
| Atlantic City, NJ               | Atlantic County   | 135,000   |
| Bayonne                         | Hudson            | 50,000    |
| Bernardsville                   | Somerset County   | 250,000   |
| Berkeley Twp.                   | Ocean County      | 225,000   |
| Blackwood, NJ (Gloucester Twp.) | Camden County     | 299,000   |
| Brick                           | Ocean County      | 695,000   |
| Burlington, NJ                  | Burlington County | 150,000   |
| Cherry Hill                     | Camden County     | 1,000,000 |
| Clementon                       | Camden County     | 75,000    |
| Clifton                         | Passaic County    | 79,000    |
| Clinton Twp.                    | Hunterdon         | 250,000   |
| East Windsor                    | Mercer County     | 600,000   |
| Edison, NJ                      | Middlesex County  | 625,000   |
| Egg Harbor City                 | Atlantic County   | 25,000    |
| Fairfield                       | Essex County      | 300,000   |
| Franklin Twp.                   | Gloucester County | 99,000    |
| Hackensack                      | Bergen County     | 390,000   |
| Hamilton Twp.                   | Mercer County     | 340,000   |
| Middletown                      | Monmouth County   | 299,000   |
| Mount Olive                     | Morris County     | 225,000   |
| Newark                          | Essex County      | 115,000   |
| New Brunswick                   | Middlesex County  | 325,000   |
| Pennsauken                      | Camden County     | 100,000   |
| Piscataway                      | Middlesex County  | 245,000   |
| Rahway                          | Union County      | 100,000   |
| Secaucus                        | Hudson            | 230,000   |
| Somerset                        | Somerset County   | 265,000   |
| Teaneck                         | Bergen County     | 120,000   |
| Turnersville-Washington Twp.    | Gloucester County | 550,000   |
| Wildwood                        | Cape May County   | 199,000   |

31 Total  
 Average \$277,000  
 -10% 27,700  
 \$249,300

19x

Good afternoon Chairman Danielsen and members of the Assembly Oversight, Reform and Federal Relations Committee. My name is Eric Orlando and I am Senior Vice President at the Kaufman Zita Group and the Executive Director of the Brewers Guild of New Jersey. The Brewers Guild of New Jersey is a trade association comprised of breweries which produce over 50% of the craft beer brewed in the state. Guild members sell a majority of their products outside of their brewery tasting room through various retail and distribution channels both in state and out of state. I want thank you all for giving me this opportunity, particularly on some issues you may have heard from me about previously which still remain unresolved and impact all 100-plus craft breweries in the state.

In the past, you've heard me testify on behalf of the industry advocating for new rights for craft breweries in the state. I've come before this committee comparing what breweries in neighboring states like New York and Pennsylvania can do, and what breweries in New Jersey comparatively cannot. New Jersey craft breweries still want to host their own beer festivals, own satellite tasting rooms, and sell New Jersey-made craft sprints, wine, cider and mead like their nearby competition in the industry does in their respective home states. Breweries also want to be able to sell at farmers markets, have an interest in a market-rate retail consumption license off-premise, and revise brewery tour requirements to make them easier to comply with. Breweries continue to ask for state support for the promotion and marketing of their products, mimicking what neighboring states and our award-winning wine industry has had for decades.

While expanding the rights and privileges of breweries and the promotion of the industry is still at the forefront of the Guild's agenda, much of our and the rest of industry's energies have been put towards the original issuing, subsequent suspension, and current revision process regarding a Special Ruling for activities at limited breweries. From the beginning of this process, our industry has worked on this ruling for more than 18 months. Too say the least, its been an eye-opening experience into the state's alcohol industry and where each tier of system's priorities truly fall. As I believe this committee has been told, the NJABC is expected to release a revised Special Ruling soon, possibly in the coming weeks. Our Guild has been at the table on this next generation of the Special Ruling. Hopefully, if and when it is issued, it strikes a workable balance between all tiers of the alcohol system and gives clear guidance on what can or can't happen at a limited brewery. Also, hopefully, it's a malleable document which can pivot and adjust as a pilot system should when its employed in

real-world situations at these small businesses. On this issue, I'd also like to reserve the ability to speak to this committee collectively or separately about positive bills like A-4791 and A-4868 sponsored by Asw. Carol Murphy, which the Guild has weighed in with her on and how it would impact the Special Ruling.

Aside from these headline issues and requests, there are a few more mundane ones. First, I would like to touch on the issue of current price lists, or CPLs for short. A CPL is a document which contains a list of prices and terms of sale which each business licensed to sell alcoholic beverages to retailers in New Jersey is required to maintain and file on a monthly basis with NJABC. This monthly filing must be made by the 15th day of each month with the prices in effect for the entire calendar month that follows. A brewery may not sell to any retailer and a retailer may not accept delivery of anything not listed on a CPL. It should be noted that the NJABC only accepts CPLs by snail mail, which means late delivery of the CPL can hold up beer sales. The industry has advocated for the passage of A-2196 this session to address this issue on behalf of smaller breweries or those breweries which make a very limited quantity of a particular beer, under 60 SKUs per month. Aside from requiring less redundant paperwork to be submitted, the bill mandates that CPLs be able to be filed electronically with NJABC, something which has yet to occur to my knowledge at the agency. Making this form at the very least electronic and a part of the NJABC's POSSE online permitting system would ease this paperwork burden for the majority of state's craft breweries.

Secondly, state excise tax reporting remains a challenge for smaller breweries due to changes allowed in federal collection timetables aimed to make tax reporting easier for breweries of all sizes. At the federal level, breweries who are liable for not more than \$1,000 annually in federal excise tax only have to file an annual tax return. Those breweries who pay no more than \$50,000 a year in federal excise can elect to pay those taxes quarterly. In 2015, and again in 2017, current Guild membership approached the NJ Division of Taxation to see how the state's collection of state excise tax could mimic federal changes so New Jersey breweries could file paperwork and pay taxes federally and to the state on the same timeframe using the same production calculations, using the same methods of measurement. Guild members even rewrote the state's filing forms to assist the Division in this process. Language contained in Title 54 of state tax law requires breweries and other manufacturers to file state excise tax reports every two months, using a form known as Schedule J which still references "wine gallons" and can only be sent into the state via snail mail. In the Guild's

opinion, these forms and timeframes should mimic federal requirements and be able to be filed online. Statutory revisions to Title 54 are likely required to make these changes, and financial resources must be allocated to the NJ Division of Taxation so that computer systems can be updated and programming completed to deal with potential new filing deadlines and online tax filing. These revisions will likely bring about greater levels of tax compliance and more accurate payments of excise taxes to the state due to simply making the process mimic federal filing which craft breweries have become accustomed to since 2017.

Lastly, I wanted to touch on the issue of brand registration of beers sold by craft breweries. I touched on this issue briefly in my testimony a few months back when one of the ramifications of federal government shutdown prevented the sale of beer which hadn't gotten its Certificate of Label Approval or COLA from the federal TTB. Since that time, and to their credit, NJABC adopted a waiver procedure for beers caught in the shutdown so they could be sold in New Jersey. Some Guild members took advantage of this waiver process and are very appreciative to the NJABC for their work on this issue. Going forward on brand registrations, some smaller Guild members would like the state to explore a concept from Pennsylvania begun in 2011 whereby a brewer could pay a single fee annually to the state and register a set number of brands (i.e. 20) over the course year instead of paying a brand registration fee for each individual brand. Pennsylvania caps the barrelage amount of beer eligible for this program, but most smaller breweries fall under this output per brand. Currently, each brand registration for each beer in New Jersey costs \$23 and must be filed prior to a beer going onto a brewery's CPL each and every month. Simplifying the brand registration process in this way could help smaller breweries economically and help them plan ahead for beers which will eventually be put out into the market over the course of a calendar year.

Thank you again for allowing me to testify today and I am happy to answer questions about my testimony or anything else in regards to the state's brewery licensure process.

**ADDITIONAL APPENDIX MATERIALS  
SUBMITTED TO THE  
ASSEMBLY OVERSIGHT, REFORM, AND  
FEDERAL RELATIONS COMMITTEE**

*for the*

**May 13, 2019 Meeting**

**Paul Santelle**, Past President, and Executive Director, New Jersey Liquor Store Alliance (NJLSA):

Mike Halfacre, "OP-ED: NJ's Liquor Laws Protect Small and Local Businesses," NJ SPOTLIGHT, April 24, 2019. © 2109 NJSPOTLIGHT.