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# *Committee Meeting*

## ASSEMBLY OVERSIGHT, REFORM, AND FEDERAL RELATIONS COMMITTEE

*“The Committee will receive testimony from invited guests  
in the alcoholic beverage industry concerning whether and how the State should streamline  
the licensing system from an economic, social, and regulatory perspective”*

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**LOCATION:** Committee Room 12  
State House Annex  
Trenton, new Jersey

**DATE:** May 13, 2019  
1:00 p.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Joe Daniels, Chair  
Assemblyman Eric Houghtaling, Vice Chair  
Assemblywoman Yvette Lopez  
Assemblywoman Annette Quijano  
Assemblyman Ronald S. Dancer  
Assemblyman Brian E. Rumpf



### **ALSO PRESENT:**

Roshard Williams  
*Office of Legislative Services*  
*Committee Aide*

Martin Sumners  
*Assembly Majority*  
*Committee Aide*

Derek DeLuca  
*Assembly Republican*  
*Committee Aide*

***Hearing Recorded and Transcribed by***  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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JOE DANIELSEN  
Chairman  
ERIC HOUGHTALING  
Vice-Chairman  
YVONNE LOPEZ  
ANNETTE QUIJANO  
RONALD DANCER  
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**New Jersey State Legislature**  
**ASSEMBLY OVERSIGHT, REFORM**  
**AND FEDERAL RELATIONS COMMITTEE**  
STATE HOUSE ANNEX  
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**COMMITTEE NOTICE**

**TO: MEMBERS OF THE ASSEMBLY OVERSIGHT, REFORM AND FEDERAL RELATIONS COMMITTEE**

**FROM: ASSEMBLYMAN JOE DANIELSEN, CHAIRMAN**

**SUBJECT: COMMITTEE MEETING - MAY 13, 2019**

*The public may address comments and questions to Stephanie M. Wozunk, Committee Aide, or make bill status and scheduling inquiries to Sophie Love, Secretary, at (609)847-3890, fax (609)777-2998 or e-mail: [OLSAideAOF@njleg.org](mailto:OLSAideAOF@njleg.org). Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

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**The Assembly Oversight, Reform and Federal Relations Committee will meet on Monday, May 13, 2019 at 1:00 PM in Committee Room 12, 4th Floor, State House Annex, Trenton, NJ.**

**The Committee will receive testimony from invited guests in the alcoholic beverage industry concerning whether and how the State should streamline the licensing system from an economic, social, and regulatory perspective.**

Issued 5/8/19

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**ASSEMBLYMAN JOE DANIELSEN (Chair):** Good afternoon, everyone.

I would like to call this Committee meeting to order.

If everyone could please stand for the Pledge of Allegiance. (all recite the Pledge)

Can we please take the roll?

MR. WILLIAMS (Committee Aide): Assemblyman Rumpf.

ASSEMBLYMAN RUMPF: Present.

MR. WILLIAMS: Assemblyman Dancer.

ASSEMBLYMAN DANCER: Here.

MR. WILLIAMS: Assemblywoman Quijano.

ASSEMBLYWOMAN QUIJANO: Present.

MR. WILLIAMS: Assemblywoman Lopez. (no response)

Vice Chair Houghtaling.

**ASSEMBLYMAN ERIC HOUGHTALING (Vice Chair):**

Here.

MR. WILLIAMS: Chair Daniels.

ASSEMBLYMAN DANIELSEN: Here.

I'd like to thank everybody for attending today.

It's our second hearing on the topic related to the alcoholic beverage industry, and whether or how the State should review and streamline the current licensing system from an economic, social, and regulatory perspective.

We have invited the testimony of five groups who were not heard at our initial meeting on March 21; and I thank them, on behalf of the Committee, for appearing today.

Should additional testimony be needed after today, I will do so with the advice from the Committee members.

I would also ask that the members review the testimony from our last hearing; and along with today's session, be available for a work session on the topic once all the testimony has been heard.

Before I begin calling up, do any members of the Committee have any commentary, any questions? (no response)

Okay.

I'd like to call up, from the New Jersey Wine and Spirits Wholesalers Association, Jeff Warsh.

Oh, I apologize, Mr. Warsh.

Could you yield the table? I'd like to, first, call up my colleague, Assemblyman Calabrese.

I apologize for that; my mistake.

**A S S E M B L Y M A N C L I N T O N C A L A B R E S E:**  
Chairman, I appreciate the prank -- putting me second (laughter); it's all right.

Thank you very much for allowing me to come first. I promise I will be brief.

I just want to share a quick story. When I graduated college, in 2008, it was a great time in my life. I was a finance major; I had a job in an investment bank. I was going to be moving to San Francisco. It really was terrific.

After the ceremony, we threw our hats; and, you know, our lives were going to be good.

Weeks later, the job was rescinded, hiring froze, and a lot of my friends who had offers no longer did. And what naturally happens is, you move back home, which is wonderful. I am grateful for our parents to take us back in.

But those next few months -- right? -- the bottom of the recession -- right? -- in 2009, they were tough. We got by with part-time jobs; you filled the time, also, with hanging out with buddies. And it was during one of these nights, where I'm hanging out with some of my friends -- and we would always spitball ideas and try to think of something fun to do. We were young, we were hungry, we were entrepreneurial. And it was at one of these nights where my friend Mike -- who's a little bit older than me; he was five years older -- he went to culinary school. And he was with another friend, Billy, who was working at a bar-restaurant in Manhattan. And they said, "Hey, why don't we open up a bar-restaurant in Cliffside Park?" my hometown.

And the truth was, we went out a lot at this time in our lives, right? We were young; we were young guys. And we realized that there really wasn't anything hip in the neighborhood. So we started thinking about ideas; and we started asking our friends, and soon the ball was rolling. And we developed a business plan; we located and identified a site. And at this point in the market, landlords were giving away space. They couldn't get anyone in there.

So everything kind of seemed to be moving into place. And we had Mike as the cook, he'd man the kitchen; we had Billy -- he'd be in front of the house; and you had me, a finance major -- I'd handle the books and the numbers. And everything seemed like it was on track to happen. And

this was a point in our lives where you could take the most risk. We didn't have too many responsibilities; bottom of the markets are always a great time to actually take a bigger risk, because what else do you have to lose?

What we didn't anticipate was running into the liquor license issue, which is essentially -- it would have cost a small fortune to get a liquor license. I think, at that time, they were going for just north of \$300,000 in Cliffside Park. And I know they're not all that expensive throughout the state, but in my area, they are.

And we didn't give up immediately, although it was a big blow to our confidence. But we pitched the idea to some local investors who had money; and let's just say we didn't appease their appetite, no pun intended.

So it vanished; we gave up. And it's fine because, you know, we all are doing well a decade and change later. However, when I look back on that time, I'm sure I'm not the only one who encountered this issue back then, and even until today -- right? -- where if someone wants to start a business -- a bar-restaurant business -- you're essentially precluded from entering the market because of the high barriers to entry, with the cost.

Now, as I stated before, it's maybe just certain areas of New Jersey that have higher costs for liquor licenses than others; but it's still a barrier to entry nonetheless. And we, as a governing body, and as people who love New Jersey and want to see it grow, it's our duty to help open up and expand that market.

Now, I read through Assemblyman Burzichelli's Bill, and I think it does a pretty good job in finding a solution. I'm not going to say it's a silver bullet; I don't think anything is. But it's hearings like this, where we could at least come to some sort of agreement, knowing that the

system is semi-broken. And there are a lot of entrepreneurs who otherwise aren't able to participate in this market; and you really want to allow everyone to enter, or as many as possible -- inclusivity, not exclusivity.

I'm sure people here love to travel; I love to be in Philadelphia, New York, and a lot of the metro areas. And you'll notice that, especially now, there are so many new, funky restaurants that are opening up, one kind of crazier than the next. But we really don't have that in New Jersey, unfortunately. And the way I look at it is if you want to help revitalize certain areas, this is one of the key pieces to it.

And let the entrepreneur succeed or fail; that should be up to them, as business people. But if you're not even giving them the opportunity to get to that point, then the State is no good for them, right?

So just to remove that one massive roadblock would be helpful, and I think you'd see a lot more growth.

With that, I am done.

Thank you very much; have a great afternoon.

ASSEMBLYMAN DANIELSEN: Thank you, Assemblyman.

ASSEMBLYMAN CALABRESE: All right, sir.

ASSEMBLYMAN DANIELSEN: Okay; I would just like the record to note that Assemblywoman Lopez is present.

Okay, we're going to try this again.

I'd like to call up Mr. Warsh, New Jersey Wine and Spirits Wholesalers Association.

**J E F F R E Y A. W A R S H, Esq.:** 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 and Spirits Wholesalers Association, and as Legislative Agent and Counsel to the New Jersey License Beverage Association.

I also serve as Chairman of the Wine and Spirits Wholesalers of America's National Advisory Council, and as Vice Chairman of the New Jersey ABC Advisory Committee.

I thank you for the opportunity to testify before you today.

Since 1934, the New Jersey Wine and 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 exercise and corporate business taxes.

Our wholesalers are leaders in New Jersey's philanthropic and community endeavors. It is important to note that all wholesaler members are family-owned businesses, with many third- and fourth-generation employees. I myself am a third-generation professional working for the wholesalers; my grandfather was a wine and spirits salesman for 30 years, and my father for over 40 years.

In short, the wholesale tier is a key component of New Jersey's economic and social bedrock; and we're proud of this, and we take our responsibilities seriously.

As today's hearing is nonspecific, I think it would be of benefit to the Committee members to achieve a higher level of understanding of the wholesale tier.

According to Title 33, one of the State of New Jersey's highest priority tasks is the collection of beverage alcohol excise taxes. Each of our wholesalers has a statutory obligation to collect 100 percent of the excise taxes due and to remit 100 percent to the State Treasury. It is a critical governmental revenue function and large wholesaler compliance is historically extraordinary. We take it for granted, but it is truly 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 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. It's upon their purchases that allows the New Jersey 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 their license renewal. Only those products in the three-tier system have that auditable data trail. So 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 taxes from these direct-to-consumer licensees, it is basically an honor system. It's highly unlikely that New Jersey ABC personnel will ever travel 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's no way to truly track the goods and no way, therefore, to get to the truth about taxes owed. While it would certainly be better for New Jersey if these direct-to-consumer licensees would be realistically auditable, it is not necessary for the 95 percent of the goods that do reach our 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 that N.J.A.C. chapter 13 requires that wholesalers provide credit to retailers. This is one of the 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 wholesale 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 licensing 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 the New Jersey liquor industry. This is why New

Jersey has very large and very small retailers. It's 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 the 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 in terms of sale, the best prices on goods, and zero percent interest -- zero percent interest on 30-days credit, thus allowing them to continue to compete in this increasingly difficult hospitality space. This is another of the main reasons New Jersey has large numbers of small family businesses in the liquor industry.

When we heard, at the last hearing, that there were large chains, despite the fact that you can only hold two licenses-- That was not accurate. They are not *chains* in the true sense; they do business as a name. Spirits Unlimited, or any of those -- they do business as that. They have no ownership interest in any of them. They all get together as a co-op; you can go up to 23, I believe, licensees that can form a co-op. And that enables them to purchase the goods at the same price that the Costcos of the world do. To say that everyone who's called one of those names is in one company, in violation of the two-license limit, is simply not truthful.

Wholesalers perform other important roles as well. NJWSWA 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 number 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 price contributes to large revenues and so-called *cross-border sales*. We don't talk about it, but it's important: 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, materials handling systems, IT systems, and trucks. A retailer who places an order with a member wholesaler at 5 p.m. 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 to have the necessary expense of maintaining large inventories -- another thing that we do to shore up our retailers in New Jersey.

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 that 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 \$80 million in payroll, all New Jersey residents; \$4 million in payroll and withholding tax; and \$44 million in excise tax.

It's 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 recommend that you 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 New Jersey 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 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 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're lucky.

Those are 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 a very complex industry.

The NJWSWA would like to invite Committee members to tour one or more of the nation's most technologically advanced warehouses and logistics systems. 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'll get a chance to see a diverse workforce and management team seamlessly work to provide value to the New Jersey marketplace.

Mr. Chairman and members, thank you for the opportunity to testify.

ASSEMBLYMAN DANIELSEN: Thank you, Mr. Warsh.

So you mentioned co-ops. Speak a little bit more; I'm not familiar with co-oping.

MR. WARSH: So New Jersey's regulations allow a-- So if each of you up there each independently owns your liquor store, then it may be hard for you to get a 50-case deal on Jack Daniels, because you don't have the room for 50 cases, you don't have the money for 50 cases. So you all get together and you buy a 50-case deal; you form a co-op, Danielsen Co-op, and you place--

ASSEMBLYMAN DANIELSEN: I like it; keep going in that direction. (laughter)

MR. WARSH: There you go.

And you place that 50--

ASSEMBLYMAN DANIELSEN: I like your attitude.

MR. WARSH: You place that 50-case order, and then you get the best price volume discount on that. And originally, when the law was passed, it had to go to one location. So one of you would get the delivery, and then each of you would have to, then, take a van to go and move it. Maybe about-- I don't know; is Mike Halfacre here? -- 10, 12 years ago or so, it changed; 15 years ago? We'll say something like that -- they changed and said each of you would be able to have your individual order get to your individual store. And that's how it works.

So the co-ops not only do joint purchasing, but they do joint advertising. So they also save money in being able to join you at all-- Instead of having to pay on individual ads, you all go in, as the Danielsen Co-op, and you get the best price.

And that's critically important to enable the small liquor stores to survive. I mean, how do they survive? You drive around and you see a little tiny liquor store with, maybe, 2,000 square feet and a couple of thousand brands, and you go, "How does that guy make it?" Well, he makes it because he's in a co-op, so he's able to get the best price, he's able to get the best advertising costs, and lower his costs and give him a chance to make a profit and stay in business.

So that's how they work. And it's a very powerful tool, and many states don't have co-ops.

ASSEMBLYMAN DANIELSEN: From the wholesalers' point of view, do they have an opinion, or response, to the business owners who

are trying to break into an industry and be healthy; but again, we keep hearing this, "It's cost prohibitive." Like the new restaurateurs--

MR. WARSH: Right.

ASSEMBLYMAN DANIELSEN: Do the wholesalers have a universal opinion on that?

MR. WARSH: Well, we'd like to start from facts. And I'm not sure if the members know but, ever since 1933, the State of New Jersey -- because you are the recipient of these tax dollars -- files or -- publishes quarterly gallons reports: every single category of alcohol -- malt, beer, wines, spirits, vermouth, others -- all those categories. And based on that, we can tell how much gallons in the whole, and how much gallons by category are moving. And the numbers have been flat ever since New Jersey's population kind of flattened out.

So with a set pie, the concern that anyone has, who is currently in the industry, is, if you have 5,000 licenses, then that's 5,000 people splitting that pie; if you have 8,000 licensees, then it's 3,000 new licensees sharing exactly the same pie.

So we're not going to sell more alcohol; just the pies get smaller. And God help us if we want to sell more alcohol. I mean, we're at a steady state of population. If the only way that we can sell more alcohol is to have each and every person in New Jersey increase their per capita consumption -- that is not good public policy.

We're fourth-lowest in the nation on DUIs; and we've earned it. It was hard to do that for the last 20 years. We were very high on the list; now we're very low on the list. So there's a nexus between the policies, and social responsibility, and public safety.

So with respect to your question, the wholesalers are very involved in the industry at ground level. They know full well that in certain towns, there are not enough licenses; in other towns, there are too many licenses. And they're in the business of selling alcohol, but they're also in the business of making sure that the people they have been selling alcohol to for the last 75 years don't get nuked. So it's a difficult balancing act.

I'm not sure this is the proper forum to discuss it, but we have -- and we have discussed it with Mr. Burzichelli and others -- a variety of legitimate functioning alternatives to R1 and R2 that I believe would relieve the steam that's built up in many towns that don't have enough licenses.

And there are other problems as well. We have a lot of little towns. I pick on Oradell -- because I grew up next to Oradell -- but Oradell is a little town with a nice little downtown and a train station. And they have two Cs, because they have 7,500 people. So they have two restaurant licenses and one package license. That's it; that's all they can get.

So not only do we have the problem -- like the Westfields or the Ridgewoods; towns that are busting out -- we also have that other issue of towns that would like to add, maybe, two or three.

So this is a very complex problem; it's doable. R1, R2 is not the way to go about it.

And I would like to -- since we're really focusing on facts -- it's really important for this Legislature to understand that the compensation formula proposed in Mr. Burzichelli's bill is absolutely, flat-out unconstitutional. It completely violates the donations clause of the--

ASSEMBLYMAN DANIELSEN: The what clause?

MR. WARSH: The donations clause of the New Jersey Constitution prohibits government from compensating a citizen as a result of a change in government policy; which is different than eminent domain. If I need that acre to put up a sewage plant, then I'm taking it through eminent domain. But the example that was used with me is when Route 78 was built, all the businesses on Route 22 lost an enormous amount of traffic, and they wanted to be compensated for that. And it was determined, "No, we're not going to pay you if you suffered a loss as a result of a government policy change." And this case was tested in 2008, in the New Jersey Supreme Court, dealing with what's now American Dream, Xanadu; the Xanadu case. All liquor licenses -- it wasn't a case where we were talking about toys or cigarettes, and you have to bridge over to liquor law -- it was absolutely the exact same thing. They're adding 60 licenses through State Concessionaire permits in Rutherford. All the towns in the area complained and said, "What about us? No one's going to come to us anymore." And they set up a compensation formula, and they were going to get State -- I think they were getting 50 percent of a fair market value, very similar to what Mr. Burzichelli has written in. And it was found to be unconstitutional by a unanimous Supreme Court.

So there is no ability to pay compensation to any of the licensees; but I also think you don't have to. The problem with R1, R2 is it creates a new license that's worth a few thousand dollars, and it's going to cause the existing license value to just plummet. Why would you pay \$500,000 for a license when you can pay \$10,000? So a \$500,000 license is going to plummet in value to be a little more than \$10,000; but not much.

So the damage will occur, but there's no way to compensate them for that.

ASSEMBLYMAN DANIELSEN: So you're saying the Legislature has a responsibility to kind of assure that the current license holders have a guarantee of their future value?

MR. WARSH: I think that the licensees would be very comfortable with the addition of new C licenses -- new existing plenary retail consumption licenses; rather than creating a new animal in the zoo. These R1, R2s -- the history of this state shows that every single license that's created, the bills follow very quickly on, establishing way more privileges than it was supposed to have. Look at the craft breweries -- they were supposed to be manufacturers and breweries; now they're bar owners, and they're operating like bar owners, and they're going to be allowed to operate like bar owners.

Everybody tries to massively expand their license; so just the creation of a new license, in itself, will take on a life of its own.

ASSEMBLYMAN DANIELSEN: So you're saying a better alternative would be just to issue more C licenses.

MR. WARSH: And at the end of the very long hearing, Chairman Burzichelli said, "You know, I'm going to ask a question. Would it make more sense to figure out a way to issue new C licenses than to create R1, R2s?" And that's a fact.

There are ways to do it; and particularly since there's no way to compensate them for it, the damage would be really severe and forever.

ASSEMBLYMAN DANIELSEN: Well, what is your opinion about towns or cities that have licenses that they're not using, or they have

too many, or they have inactive or pocket licenses that just sit there, seemingly indefinite? But yet, you have other towns that seem to be choked.

MR. WARSH: Right. Well, see what happened in New Jersey is, in 1933, when prohibition was repealed, there was no population limits on licenses. So from 1933 to 1946, they issued thousands, tens of thousands of licenses; and then in 1946, they said, "Wow, this is out of control. We really wanted to make"-- The Legislature said it really wanted, for public safety purposes, "We want to tie this to population." So in 1946, the population law was passed that allowed the State to grow as the people grew. So we get one-- As the population grows, you get one plenary retail consumption license for every 3,000 people, and you get one package store license for every 7,500 people. And as the town grows, you get more licenses.

But, you know, some towns, like-- You know, I used to represent Milltown; it was a mill town. There are a lot of bars, way more than the population. So they have inactive licenses. There are 1,300 inactive licenses throughout the state; the vast majority of those are C licenses, the vast majority of those are in big cities -- Camden, Jersey City, Newark, Bayonne. They're not in the places that you would think; they're not in highly sought-after suburban areas. And so that's our problem now.

With respect to what to do about those licenses -- you know, bills have been pending for years to move pocket licenses. One would allow you to move it from town to town -- contiguous town to town in the same county. There have been four or five different ones; but, you know, they come up hard against local rule, home rule. Alcohol beverage licenses are

issued by towns; they are the local issuing authority. It's a State license, but they're issued by towns.

So the Legislature could, of course, do that; but I haven't seen a big, bold plan of any sort, in my career, that resulted in towns losing local control. So I think that's an issue.

But I've heard, you know, if there's an extra license, or five extra licenses in Newark, and there's none in Red Bank -- so Newark would be the sending governmental body and Red Bank would be the receiving. And they would have to pass matching resolutions, then a license moves. That could be done. I actually think the wheeling and dealing that will go on in there -- we should build a new wing in a Federal prison to have the officials in who are going to be wheeling and dealing liquor licenses -- which you have never been able to do -- only in a town. Now you're going to be able to move them all the way across borders. Prosecutors will be busy, in a couple of years, after that bill is passed.

ASSEMBLYMAN DANIELSEN: It sounds fun. (laughter)  
Well, we have to watch something after *Game of Thrones*. (laughter)

Any member have any questions or comments? Anybody? (no response) No?

Mr. Warsh, thank you very much.

MR. WARSH: Thank you.

ASSEMBLYMAN DANIELSEN: Okay, I'd like to call up the New Jersey Liquor Store Alliance, Paul Santelle and Kevin Hagen.

Is there also a Juan Negrin with you?

KEVIN P. HAGEN: He was unable to make it today.

ASSEMBLYMAN DANIELSEN: Okay.

Chairman, thank you.

My name is Kevin Hagen from Princeton Public Affairs Group.

We'd like to thank you, and the members of the Committee today, for giving us this opportunity on behalf of the New Jersey Liquor Store Alliance.

Paul is past President and current Executive Director of the Alliance.

We would like to express how refreshing it is to be a part of the discussion. Far too often we are in positions of defending our businesses, our investment and, bluntly, our years of hard work.

Chairman, your leadership and the willingness of the Committee to bring us together to discuss these issues deserves praise.

Our members are made up of a majority of single licensees who run their stores in cities and towns throughout our great state. For years they have worked with local communities to invest and build a thriving environment for small businesses that not only serve the community itself, but also create local jobs.

The cost of doing business in this state has caused hurdles for our retailers; however, as licensees in a heavily regulated industry, they take this responsibility seriously. Each day they work to ensure that, as retailers, they are responsible to the laws and protections of their customers and their families. Whether it be their commitment to ensure underage purchases or underage drinking do not occur, or partnering with local law enforcement, the ABC, or DARE programs, they will continue their commitment to keep liquor out of the hands of minors.

As the Committee looks at licensing, it is our hope that the assumption is not made that there are not enough licenses; the exact opposite is the reality. Based on our calculations -- and we've heard just recently -- there's approximately 1,200 to 1,300 pocket licenses not being used.

We spend a great deal of time in Trenton discussing many pieces of legislation and ideas that will create new or reclassified licenses. It's our goal to be a resource to this Committee, and to your colleagues in the Legislature, so that when it comes to licensing or liquor issues we are on the forefront every day.

Again, we'd like to say thank you; and I'd like to introduce Paul for some comments.

**P A U L   S A N T E L L E:** I'm Paul Santelle; I'm the owner of Garden State Discount Liquors in Perth Amboy, New Jersey, for 31 years now.

We are very active in the local community there. I see one of my Assembly representatives here, Yvonne. And I'm a very active down where I live, in Monmouth County, there; and I see the Vice Chair of the Committee is down there, in Tinton Falls, where I am, in another District down there. We are very active in that District there. I am a big supporter of the community.

But the NJLSA is about people like me; a lot of us are vested deeply in our local communities. We've made significant investments. I heard someone talking earlier about when he got out of college he wanted to open up a restaurant and (indiscernible) a little bit there. And I can relate to a lot of that. When I was getting out of college, back in 1981, it was kind of hard times. I was involved throughout college, putting myself

through college, working in bars and nightclubs, playing in bands, managing bars, having partners and a limited interest in a lot of different entities when the drinking age was 18. It was a very exciting time to be part of that whole--

ASSEMBLYMAN DANIELSEN: Ah, the good times; man, oh, man (laughter).

MR. HAGEN: Good times.

MR. SANTELLE: Right. There might have been a bar called Danielsen's I used to go to; who knows?

But at the end of the day, the end of the night, it was always a dream to kind of be in the industry. And once you get into the alcohol industry, you kind of -- you're in it for life. I never expected that I was going to stay in it for life; but once you get married -- I just had my 35th anniversary last week -- and once you get married, you realize that working with bars and nightclubs, and being part of that whole structure of your hours and stuff, you kind of lose control over raising a family. So about 31 years ago, I made the decision to get out of the bar-nightclub business and got into the package store business.

But that process took a couple of years; and I was looking for licenses down in the Red Bank area. I heard Jeff Warsh talk about Red Bank. I'm from, originally, Little Silver, and I spent a lot of my time in Red Bank and the Jersey Shore -- Sea Bright, Long Branch, Asbury. And there weren't a lot-- In the early 1980s, things were going really well in New Jersey. We had a lot of stuff going on here that was very positive, and it was a good time; kind of a *Happy Days* environment.

And I went further and further north, looking for licenses; and finally I came across Perth Amboy -- not far, as far as the distinction about where I grew up in the Red Bank area. Perth Amboy represented a lot of that, and I made an investment and spent a lot of years tightening my belt to save the money it would take to invest over \$1 million of money -- some of it was borrowed from a bank and mortgaged against my home, and other money came from hard savings. Seven, eight, maybe nine -- I think nine years, my wife would say -- we saved every penny we had to be able to make that investment to buy that business. And that did not include the real estate; that was buying the liquor license with an established business. That was a Buy-Rite store, one of the original Buy-Rite stores in New Jersey.

And we go from there; you flash-forward that, and within a few months of buying that business and dumping, you know, everything I had and some debt that I had to pay back -- I was obligated to pay back to a bank and to some other people -- Price Club came to Edison, not three miles -- three-and-a-half miles from my store. The first Price Club -- which is Costco today -- and they got a liquor license. And what happened was, my business was cut in half overnight; and 13 other businesses that I was competing with, in my market in Middlesex County, went out of business.

ASSEMBLYMAN DANIELSEN: How many?

MR. SANTELLE: Thirteen went out of business--

ASSEMBLYMAN DANIELSEN: Thirteen.

MR. SANTELLE: --in a matter of just a few years; I'll say, probably, about three years. Partners were buying out partners initially; then partners were closing their doors. And then the ones in Metuchen got

hit the hardest, because they're right next to where that Price Club was in Metuchen.

And only now, about 30 years later, has Edison just issued, finally, two licenses; realizing that they had licenses that went bankrupt 30 years ago that they never -- no one wanted them, because no one could compete with Costco.

Flash-forward another 20-plus years; I had -- a Wegmans came to Woodbridge Township -- in our District, Assemblywoman, as you know -- and we fought them wanting to -- they were challenging the two-licenses limit, but we fought them pretty hard about what that impact would be. We knew it was going to hurt us; they were saying, "No, no, we help the local business; people going into our grocery stores will spend their money at other local businesses, including liquor stores."

Needless to say, they got a liquor store that was -- it had to be a store within a store, similar to what they do down in Ocean Township, in my other -- where I live, my District there. But it was a family member who had it, and they did it separately. That business almost cut my business in half; it almost put me out of business. It stopped the real estate deal while I was in the midst of expanding my store. And through a lot of concern, and I lost a lot of sleep worrying about two twins who I had to put through college at that time -- so I had to make a lot of hard choices. At the end of the day I just said, "Okay, I'm going to work for nothing for a few more years." By the way, after the Price Club came in, I spent seven years working in reverse for nothing, because I did want to make my obligation to meet my debt; and seven days a week.

Fast-forward, you know, to Wegmans coming in -- I still have not recovered, from five or six years ago, from Wegmans. But I can tell you this much for a fact: Every single license in Woodbridge Township went under. Even the Joe Canal's, there, had to buy and bring in partners from -- Canada came in and bought 51 percent of them, because they were hurting that bad that they needed a partner to come in to keep Joe Canal's going over there.

But every license turned over or went through some transition; most of them just basically closed their doors.

So, you know, I saw the reality of that; yet they were denying -- they would tell you that, in other states, like Massachusetts -- I heard somebody testifying the last time we were here -- there was no impact on what happened there when they went through two, to three licenses, to five licenses, to seven licenses; now they're at nine licenses. And there has been a devastating impact up there. Through the ABL -- of which I serve on the Executive Board, very active in my National Association -- Massachusetts was one of our 32 affiliate states. And I'm very close-- Kevin Hagen, here, has had direct conversations with the Executive Director, my counterpart, in Massachusetts, and knows that a lot of businesses, scores of businesses have gone under; hundreds of thousands of dollars of taxes -- or millions of dollars in taxes have been lost now from our industry; and thousands of jobs -- not hundreds. I heard them saying last month, "Oh, they've created 150 jobs and millions of dollars of whatever -- economic activity there." It's alternative facts, you know? We have real facts, real numbers, tied into the Commonwealth of Massachusetts. It's the opposite of whatever they're spinning over, maybe, at the Food Council or someplace else.

ASSEMBLYMAN DANIELSEN: Mr. Santelle, if these were pizzerias we were talking about, we wouldn't care about you. I mean, businesses go out of business; they open, they close. Why should we take a particular position to protect people -- a segment of the business community, where we're not doing that-- You know, for example, a pizzeria; we wouldn't be having this conversation. So why are we?

MR. SANTELLE: Well, we're in a regulated industry. We're talking about alcohol -- it's a regulated product. One thing I liked about the alcohol industry-- When I researched what I wanted to do, I spent a lot of time thinking about it; I talked to a lot of partners and people I knew in the alcohol industry -- who were bars and nightclub owners -- they said, "If you're going to do it again, do it in a package store, Paul." And I heeded that wisdom from people who had dedicated, you know, their entire life, who were second- or third-generation bar and tavern owners -- that don't exist today. Most of them do not exist; they are all out of business because TGI Friday's, and Chili's, and Red Lobster all took them over, that really were restaurants disguised as bars, or bars disguised as restaurants -- however you want to look at it at the end of the day there.

But as far as pizzerias, and anyone thinking that-- "Just give them a beer permit; just sell beer." I mean, I have a QuickChek and a Wawa near me that would love that the-- I have a relationship with them to a point where, "We just want to sell beer, Paul. What's the big deal? You're a liquor store; beer's not really going to affect you." And they just want to sell convenience beer, you know; it's really hard to make sense out of selling, when you're looking at a pizzeria -- is it convenience packaging or is it a bar?

But when you get into public safety -- Jeff Warsh made a really good point. And one thing about New Jersey -- I think he said we're fourth on the DWI list. I can tell you, when it comes to DWI fatalities -- for people who are 0.08 or above -- we're number, I think, two or three on the list nationally. And there are other states where it's scary; even, I think, North Carolina -- that someone talked about there -- where it's two-and-a-half times our rate. Which means license limits, we can prove, statistically-- And there's national -- Federal Highway Administration *FARS* reporting, they call it -- that actually will show you that in chain states -- and there are 15 chain states out there; 17 control states, like North Carolina, Vermont, Pennsylvania -- those are control states, where the state has the monopoly. And then there are 18 independent license model states, like New Jersey, New York -- one-license limit in New York.

But when you look at those, the DWI fatalities -- because access is restricted to a number of licenses that are controlled specifically by the local licensing authorities of the states -- are a fraction of what they are. And in New Jersey we save hundreds, if not thousands of lives a year on our highways by having the license limitation laws in effect that we have here. As opposed to going to Florida, and other chains, or North Carolina, where they have no limit on licenses; access is everywhere. You can go to Walgreens, CVS, gas stations, you know, supermarkets, you name it-- In North Carolina, they have 170 licensing authorities at the local level. That's how the monopoly is done; and every town has to have a State monopoly -- it's done. Every town can issue as many licenses as there are people asking for them, basically. It's an annual permit fee there, and they have a major problem that they are now revamping, right now. It's ironic,

in North Carolina -- they have an omnibus bill, with bipartisan support from both sides of the aisle, asking to redo the legislation down there to get controls back in place for public safety and welfare, that actually cite New Jersey's exemplary system. Most of the states that I'm involved with -- 32 of them directly--

ASSEMBLYMAN DANIELSEN: Let me ask you another question.

MR. SANTELLE: Okay.

ASSEMBLYMAN DANIELSEN: You mentioned that Wegmans opened up a liquor store.

MR. SANTELLE: Yes.

ASSEMBLYMAN DANIELSEN: So that means there were none before that; but overnight, they were able to successfully take half of your business.

MR. SANTELLE: Yes.

ASSEMBLYMAN DANIELSEN: And they're what, two or three miles away?

MR. SANTELLE: Actually, as the crow flies, they're probably about two-and-a-half miles away. They are in the next town over, Woodbridge Township, on the--

ASSEMBLYMAN DANIELSEN: How does that happen; why does that happen?

MR. SANTELLE: Well, listen; when you look at the value of the licenses -- and there are some suggestions for what we can do to fix the system here to loosen it, and loosen the handle on it -- but in the Wegmans example, they already had their two corporate licenses in New Jersey. And

probably a dozen years ago, they started getting aggressive, but they wanted to build 10 Wegmans in New Jersey. I had some direct conversations with people representing the Wegmans organization where they were telling us, "We only want 10. We're only going to build 10 Wegmans in New Jersey." And they didn't care about anything else, other than 10.

They have now built nine Wegmans in New Jersey; they're getting ready to build a tenth Wegmans in Middletown Township. And they'll probably leave the state, at that point, because they got what they want. They looked at the state, they cherry-picked the best areas to go into, and they got nine liquor licenses -- or they had nine liquor licenses that they're operating; seven in addition the two that corporate owns; that are all family members who happened to be all connected to the Wegmans food market enterprise.

And they have a tenth license lined up already -- a broker who's doing the whole deal, and they're building a store down there in Middletown, just holding the license for them that they will operate with a family member there.

Their impact, when they came into Woodbridge, to put it in persona (*sic*) for you-- I only have one store in Perth Amboy; one store that provides for my family, as well as almost 25, 30 other employees that their families depend on my business. And I'm a fairly large operator that has seen my margins -- because of Wegmans, and Costcos, and whatnot -- go from -- I'll call it 20 percent down to about 10 percent, or about a dime on a dollar. And on half of what I sell it's less than what the sales tax is, so that's a whole other argument.

But Wegmans came in and they started advertising that-- They would take my ad and put ads in there and say, "We have the same or better price than Garden State Liquors." One store; and the guy was -- they were running these full-page beautiful ads, and their flyers, and stuff there, saying, "We can beat their price," and they lowered the pricing on convenience packaging for beer, 12 packs, and everything else there, just to devastate the market.

And it worked; they gutted Woodbridge Township. They gutted it, you know? And it's really, you know, sad because a lot of those members were people I knew really well that, in the end, they walked away with nothing; (indiscernible), COD (*sic*).

MR. HAGEN: Chairman, I think it's important, from the Liquor Store Alliance perspective -- we know that we're in a business that we have to compete; and we're not afraid of that competition -- to go back to your question as to why the Legislature should worry about protecting a liquor store versus a pizzeria.

The rules of the game were established by the Legislature, in which thousands of licensees have played by those rules; and based on those rules, have invested in their-- It's not just about the business themselves -- the physical structure, the communities that they're in -- to establish themselves.

So I think what our concern is with some of the discussion of expanding the licenses is, who comes in. And when you look at out-of-state interests, and you look at where those tax dollars will go, they're not going to stay in New Jersey as they do with the liquor stores that we represent. I believe it's over hundreds of millions of dollars in State tax revenue that

liquor stores put back to the State of New Jersey. So it's our goal that -- we're not saying that a discussion about the rules of the game isn't worthwhile of having; but to throw those rules out, and the impact of what that would have on business owners, their families, and their employees who live, breathe, and make New Jersey what it is -- that's where the concern becomes.

MR. SANTELLE: Let me just add something to that.

When it comes to the system, the system really works, and it is exemplary.

I gave you, in some of the attachments, if you see something -- my card from the NJLSA; I gave you just an outline of some things about the NJLSA, and I gave you something about the history of licensing in New Jersey, just from 1933 forward.

And then a breakdown that came from our State ABC -- that is here today in the audience here -- just breaking down the exact breakdown of where the licenses are in our state right now, right down to the pocket and the unused licenses -- the inactive licenses, we want to refer to them right now.

Plus I gave you something that Mike Halfacre -- who testified last time here -- wrote an op-ed about what's going on with certain things, from his purview, including Massachusetts; very interesting, factual basis there.

But the most interesting thing we could do to -- talking to people in the 18 states that are similar to New Jersey that I converse with, with the ABL, the American Beverage Licenses -- is, we just tweaked the population caps. If we're, right now, at 3,000 -- one C license, for a

restaurant license, is based on 3,000 per population of town. We make it 2,500, and we adjust the population down 500. So the system stays, it's the exact same system that towns are benefiting from that are issuing these licenses for hundreds-- The towns are the ones that are making the prices go up when they're issuing these licensing. It's not really the market, per se, as much as the towns that want to subsidize their budgets by selling licenses whenever they can. But the opportunity to tweak the system, to open it up and create more licenses where there aren't any right now, would be to adjust the population caps. And adjust them very carefully down -- I'm not going to call them *pilot programs* -- but in a very methodical method where we go a year, or two, or three; adjust it to 2,500. You see what that yields you, based on the population of those towns. And the prices will come down.

It will dilute the marketplace, as Jeff Warsh said very eloquently. The pie is not getting any bigger; it's just the slices that are getting smaller and smaller as you increase more licenses into the marketplace here.

So that's the biggest problem that our members have to deal with, and I have to deal with -- is every time another license is issued in the city of Perth of Amboy -- where we have a lot more than we need; we're way over the cap -- two-and-a-half times the cap in Perth Amboy because they were all issued before 1947-- So it becomes a major problem in towns where, as people start activating those licenses, it dilutes the marketplace, it weakens the credit situation of suppliers and taxation. In Woodbridge, I know, the State is owed millions of dollars in taxes it didn't receive.

ASSEMBLYMAN DANIELSEN: Okay.

MR. SANTELLE: But adjust the population caps.

ASSEMBLYMAN DANIELSEN: All right.

Does anybody have any questions?

Sir?

ASSEMBLYMAN RUMPF: Thank you, Chairman.

One question for you -- what effect, if any, do you think the legalization of recreational marijuana will have on your business, your industry?

MR. SANTELLE: Yes, that's a very good question.

ASSEMBLYMAN DANIELSEN: Quickly.

MR. SANTELLE: Quickly; okay, I'm sorry.

ASSEMBLYMAN DANIELSEN: That's very off-topic. I'll allow it, but quickly.

MR. SANTELLE: Yes, I can filibuster, I guess.

Listen, we're looking at it very closely now. The earliest numbers are coming in, finally, from Colorado and some of the West Coast states that we're seeing right now. The impact has been measured at as much as 15 percent. And that's a whole other thing; with knowing that we're talking about-- We've already expanded medical; we're getting into recreational. It is a risk to take a jump of faith now to think that this is the time to start re-analyzing the liquor licensing, while we're talking about creating licenses for recreational marijuana. And we know the impact in Massachusetts, already measuring it, is at least 5 to 6 percent, maybe 8 percent; and they're just out of the gate right now. In Colorado, it's probably 12 to 15 percent, and that's going to grow as everything goes online.

So good question; that's what the impact is, and I'm concerned about that big time.

ASSEMBLYMAN DANIELSEN: On a business level; but on a health level, since it's a lot less dangerous than alcohol, then you're probably happy in that respect -- for the health of our State community.

MR. SANTELLE: I would just add this, just being down in D.C. with some health people who are -- they are very active with their Congressional delegation, looking at this thing sideways right now that, from a law enforcement standpoint, they're very concerned about the combination of marijuana -- cannabis with alcohol, and that recipe of what that impact was.

We've worked really hard in New Jersey to get it right, that we don't have-- You know, we really have a really tight handle on alcohol right now in the state.

ASSEMBLYMAN DANIELSEN: I'm going to stop you right there.

MR. SANTELLE: Okay.

ASSEMBLYMAN DANIELSEN: We have to move on.

Member Quijano.

ASSEMBLYWOMAN QUIJANO: Thank you, Chairman.

Through you -- Paul, you had mentioned some DWI numbers and statistics; can you send them to the members of the Committee, through the Chair?

MR. SANTELLE: Sure; I know between Jeff and I we have access to a lot of information through our national associations here.

ASSEMBLYWOMAN QUIJANO: Okay.

MR. SANTELLE: And we track every item for the last 25 years (indiscernible); how's that?

ASSEMBLYWOMAN QUIJANO: All right; here's my second ask.

Since, you know, Bayway Liquors is in Elizabeth, New Jersey, which is in my District.

MR. SANTELLE: Yes.

ASSEMBLYWOMAN QUIJANO: And I've had conversations with the owner.

Can you put down, in writing, all the taxes that store has to pay?

MR. HAGEN: Sure.

ASSEMBLYWOMAN QUIJANO: Okay? The liquor store -- all the taxes.

I mean, Freddy has told me about all the taxes; but he hasn't written them down yet.

MR. SANTELLE: Yes.

ASSEMBLYWOMAN QUIJANO: So can somebody write down all the categories that a liquor store must remit to the State of New Jersey?

MR. SANTELLE: Yes; it's individual corporate taxes. I had a meeting, recently, with Senator Vitale in my District there; he was talking about -- relating things to the impact of when Lowe's and Home Depot came to New Jersey and how many small businesses -- that were State-based corporations -- were knocked out. And how much payroll taxes, corporate business taxes, and all those other taxes were impacted that we lost in New

Jersey. Why are we losing and bleeding so much money in the State here, that doesn't seem to be coming in to meet our requirements here?

In the alcohol industry-- Before Wegmans, I was paying over \$1 million a year in all taxes, all in, everything -- property taxes, payroll taxes--

ASSEMBLYWOMAN QUIJANO: Okay; I just think if you'll provide that--

MR. SANTELLE: --sales taxes; and I'm just one--

ASSEMBLYWOMAN QUIJANO: --it would be eye-opening for us.

MR. SANTELLE: I'm one of eight stores in the City of Perth Amboy -- maybe one of the larger ones -- but again, one of just eight in my one town.

But it's a lot, when you start breaking down even the corporate taxes this year. I got a surprise with some changes in the tax code--

ASSEMBLYWOMAN QUIJANO: Okay, I have to go, so--  
(laughter) I just wanted to make sure I got my questions.

Thank you, Chairman.

MR. SANTELLE: Okay, there you go.

ASSEMBLYWOMAN QUIJANO: All right, bye.

ASSEMBLYMAN DANIELSEN: Any other questions?

ASSEMBLYMAN HOUGHTALING: Okay, I just got back from Florida; we were in Sarasota County.

And it seemed like no matter where we went -- pizza, hamburger, strip mall, food store, gas station, wherever -- alcohol was the rule. You could buy alcohol anywhere; you know, beer, wine. Across the

street from the little strip mall restaurant we were at there was an ABC store.

So how do they do it down there, where it seems like everybody's successful, everybody's making money?

MR. SANTELLE: Well, the state controls the liquor down there. They let the local people do-- This is beer and wine licenses you're probably talking about--

ASSEMBLYMAN HOUGHTALING: Right.

MR. SANTELLE: --that you're seeing.

Yes.

MR. SANTELLE: You're not talking about hard liquor in those stores.

ASSEMBLYMAN HOUGHTALING: Right.

MR. SANTELLE: It's a problem right now; it's a public safety problem. Their fatalities and drinking problems -- a lot of big college campus there -- is out of control. They can't control it, because alcohol is everywhere. And a lot of those businesses he's talking about -- whether it's a pizzeria, or any type of a food place -- the problem is, a lot of college students and high school students are working in those places and they have access to alcohol. It's created a problem.

The way they do it, though, is in a state system every state does it a little differently. Where you have a control state-- In a control state, like North Carolina, they decided that the local licensing for beer and wine will be handled by the local licensing authority. They have 170 of them; again, it's a statistic that's out there on the wire.

But what that means is, the town -- it behooves them, if they're interested in creating revenue streams for them, is to issue as many of those things there are, that there are businesses for them -- not thinking about the public safety and the job that -- that's law enforcement. Like they'll just say to me in this state, "Well, that's a law enforcement issue.; that will be their issue." As if they don't have enough to worry about in the State of New Jersey, let alone Carolina.

But again, at the end, the people who are typically making the decisions at the local level for how many licenses, when there are no caps -- like North Carolina -- they will issue, for as many people who want one, they will give them one, because if they're getting--

ASSEMBLYMAN HOUGHTALING: Do they own the license, or is it--

MR. SANTELLE: It's an annual permit that renews every year. It's a different system here. Now, keep in mind, we've invested a lot of money to licenses -- for how we buy and how we sell the licenses in New Jersey. And it's not just the value.

One last thing I want to say that you -- I think people need to understand about how licensing goes. When I bought my business for \$900,000, the license, in Perth Amboy, I could have bought for less than \$50,000. What you're buying is goodwill; you're buying inventory, you're buying fixtures, and you're buying goodwill. There's a percentage, like brokers and like companies traded on Wall Street, believe or not, that if your sales are high, you get a better price for selling your business. So there's a certain number, that is a calculation based on 40 cents on a sales dollar, that you can sell your business for, typically, for an off-premise

business that the license is one factor, it's a very small factor in Perth Amboy for what (indiscernible) probably worth about \$100,000 today. But businesses are -- all of them are worth well over \$1 million, maybe \$2 million based on the sales numbers. If you start having people come in and diluting with these less expensive licenses, than the value of that license-- Which banks are leveraging to you. You're being able to borrow money to meet your obligations to run your business on a seasonal basis, throughout the year -- sustaining it based on gross sales. When you dilute a marketplace and those sales are eroded -- it's a situation that Mike Halfacre gets involved with, with what's called a *threat of compliance*. And there are a lot of people who can't pay their bills, and that becomes a problem for Jeffrey Warsh's people.

ASSEMBLYMAN DANIELSEN: All right.

Anything else?

ASSEMBLYMAN HOUGHTALING: Just one more thing I'll throw out there.

We were in a food store, and they have a program there called *Sip & Stroll*, where you can literally buy beer or wine while you're shopping. And they have--

MR. SANTELLE: Yes, it's--

ASSEMBLYMAN HOUGHTALING: There are cup holders on the shopping cart. I mean, you can literally drink a beer, drink wine while you shop.

MR. SANTELLE: Yes, yes, it's shameful. As a matter of fact--

ASSEMBLYMAN DANIELSEN: It's close to being genius.  
(laughter)

MR. SANTELLE: And all I'll say is, we have very tough -- and we have the ABC here today -- but we have very tough Dram Shop laws that require insurance liabilities like that. And ironically, I just had a very close friend of the family, who was just in North Carolina; because their daughters goes to school there, and bringing her back home from school. And she was run over -- she was physically run over by a person who was drunk in the parking lot of a grocery store, who had just come out of there -- drinking, sipping and drinking. Great public policy, in a dense state like New Jersey; the densest state in the country. Think about it; we're not North Carolina here. We're the densest-populated state in the country, with the most liquor licenses in the country. No state has more liquor licenses than New Jersey, per capita.

ASSEMBLYMAN DANIELSEN: Okay; anything else? (no response)

All right, thank you, gentlemen.

MR. SANTELLE: Thank you.

MR. HAGEN: Thank you.

ASSEMBLYMAN DANIELSEN: I'd like to call up, from the League of Municipalities, Michael Cerra. Is he here? Paul Anzano, Mayor Anzano?

J O N M O R A N: (off mike) The Mayor is not going to make it.

ASSEMBLYMAN DANIELSEN: And your name, sir?

MR. MORAN: Jon Moran, with the League of Municipalities.

Yes, Mayor Anzano's daughter had a root canal today, and he was uncertain if he was going to make it or not. I guess he is with her right now.

But thank you Mr. Chairman, and members of the Committee.

The League of Municipalities supports comprehensive ABC reforms that would increase local control of licensing and permitting, and provide greater flexibility to aid communities in redevelopment.

We believe that change is needed to promote local economic development opportunities and to level the competitive playing field for smaller local businesses. Change is needed in order to recognize the social and economic realities in the present, and change is needed to provide municipalities with the tools to support local small businesses, revitalize downtowns, and more appropriately address the needs of both residents and visitors to the communities.

We've discussed Title 33 -- it was enacted at the close of Prohibition, and the population limits were put in place in the 1940s. In the 70 years since, society has changed and the statutory and regulatory scheme has not.

The restaurant industry has also changed. No one in the 1950s or 1960s could have foreseen the development of national and international restaurant chains, and the competitive advantage that they would have over local family restaurateurs. The population controls are simply outdated. They reflect the time when society was less mobile.

The decision whether, and to what extent, to issue licenses or permits should be left to the sound judgment of local issuing authorities. The governing bodies of our municipalities, as the representatives of their respective communities are in a better position to understand and evaluate the need. In fact, that analysis already occurs within the context of planning, and the development of zoning standards and master plans.

There are special interests that will oppose any substantive modernization, including the removal of the population formula, as it would threaten the resale market. Title 33 was never meant to protect against competition; neither was it intended to create a property right. Holding a license is a privilege, not a right.

Mr. Chairman, we're willing to work with anyone -- legislators or stakeholders -- who are willing to work with us.

I just want to comment -- a suggestion that local officials will only be concerned about the revenue, and not concerned about public safety-- They aren't the local officials that I know and represent, Mr. Chairman. And the suggestion that if towns are allowed to transfer licenses to other towns, you're going to have to build a new wing in a Federal penitentiary-- Again, Mr. Chairman, I resent those comments on behalf of our membership.

But again, I thank you for the opportunity.

ASSEMBLYMAN DANIELSEN: I didn't make that comment.

MR. MORAN: I know you did not; no.

I thank you for the opportunity, and I am welcome to entertain any questions.

ASSEMBLYMAN DANIELSEN: But let me ask you something.

What is the League's stance on the ability-- If one town had a redevelopment area, and a liquor license would benefit it, what's your stance on the ability to go to, like, a neighboring town that's been sitting on a license for 22 years?

MR. MORAN: Yes, we've supported legislation in the past that will allow towns to do just that.

ASSEMBLYMAN DANIELSEN: You like that, right?

MR. MORAN: Right.

ASSEMBLYMAN DANIELSEN: That's interesting to you; all right.

What about, you know, the towns having the ability to appeal, maybe, to the ABC, to give them another license to issue outside the current standard? You know, maybe with certain -- if they have a unique circumstance; what about something like that?

MR. MORAN: We'd have to consider the specifics of the legislation; what standards the ABC was going use in their determinations. But it's something that we'd be open to discussing, Mr. Chairman.

ASSEMBLYMAN DANIELSEN: Okay.

Anybody else?

ASSEMBLYMAN HOUGHTALING: I just have -- I have one question.

ASSEMBLYMAN DANIELSEN: Yes, sir.

ASSEMBLYMAN HOUGHTALING: When you're talking about outstanding licenses -- who actually owns all of them? I mean, typically, I was thinking that all the licenses would be owned by somebody, but they were unable to get it together. Are you talking, like, municipalities--

MR. MORAN: It varies. The pocket licenses, where there is an owner who renews the license every-- Is it three years, I believe? I stand to be corrected on that. But there's no limit on the number of times that that

license can be renewed. And they're basically holding it for a change in the economy--

ASSEMBLYMAN HOUGHTALING: But you couldn't force them to sell the license.

MR. MORAN: No.

ASSEMBLYMAN DANIELSEN: No, but the ABC could not grant them another extension.

ASSEMBLYMAN HOUGHTALING: Not grant them a renewal.

MR. MORAN: Right, right.

ASSEMBLYMAN DANIELSEN: And then it would go back into the pool, or does that disappear? One or the other.

MR. MORAN: It depends on the population.

ASSEMBLYMAN DANIELSEN: Oh, right.

MR. MORAN: Yes.

ASSEMBLYMAN DANIELSEN: Good point.

ASSEMBLYMAN HOUGHTALING: That was my question; thank you, Chairman.

ASSEMBLYMAN DANIELSEN: Okay.

Well, if the League has any specific recommendations for reform, that's what we're here for. We're waiting for you to submit.

MR. MORAN: Well, you know, we've supported the Burzichelli Bill. As I said, we've supported legislation in the past that would allow transfer from one town to another. We'd be happy to put a package together for you, Mr. Chairman.

ASSEMBLYMAN DANIELSEN: That would be helpful, I would think.

MR. MORAN: You got it; okay.

ASSEMBLYMAN DANIELSEN: Yes, because we would like to work in partnership with the League, because you have eyes and ears out there as well.

MR. MORAN: Very good.

ASSEMBLYMAN DANCER: Chair.

Thank you, Chairman.

Just on the Burzichelli Bill, has the League -- the Counsel for the League looked at the constitutional issue that was raised here today -- that there's a provision that it would be unconstitutional to make payments?

MR. MORAN: We have not; to be honest with you, we have not considered that issue.

ASSEMBLYMAN DANCER: All right, thank you.

ASSEMBLYMAN DANIELSEN: Yes, that's going to be an issue, if it's constitutionally noncompliant.

ASSEMBLYMAN HOUGHTALING: Well, we could just not -- you could just take that out of the Bill.

ASSEMBLYMAN DANIELSEN: Yes, then it wouldn't move. Okay; thank you very much.

MR. MORAN: Thank you.

ASSEMBLYMAN HOUGHTALING: Thank you.

ASSEMBLYMAN DANIELSEN: Okay, I'd like to call up, from the New Jersey Licensed Beverage Association, Alisha Miller.

Are you testifying along with Jim Filler and Matt Bacon?

**ALISHA MILLER:** Yes I am.

**ASSEMBLYMAN DANIELSEN:** Do they want to come too?

**MS. MILLER:** Oh, good; then I'm not by myself. (laughter)

**ASSEMBLYMAN DANIELSEN:** I have down here that you are all from the same Association.

**MS. MILLER:** Yes, we are.

**ASSEMBLYMAN DANIELSEN:** Okay.

Thank you, Jeff.

Okay, all right. I know which one is Alisha; which one is the other two? (laughter)

All right; Jim, raise your hand; all right. I know, pretty certain, the other one is Matt.

**MATTHEW R. BACON:** Yes.

**JAMES FILLER:** Chairman, thank you for having us here today -- and members of your Committee; I appreciate it.

I'm the President of the New Jersey Licensed Beverage Association. I'm also on the New Jersey ABC Advisory Committee; I've been a member there for 20 years, where we discuss a lot of these issues that have come up before us.

In addition to that, I'm on the Board of Directors of the Delaware Valley Purchasing Group, which is a buying co-op for restaurants. And we have 1,200 members, and approximately half of those members are licensees in the State of New Jersey.

And we also have, probably, in our organization -- although there are 9,000 licensees in the state, we probably have about 1,000 members who are members of the NJLBA.

I'm going to tell you a little bit about myself, because it's kind of funny. I hear everybody say that it costs so much money to get a liquor license, and I just want to share a couple things. I started out when I was 5 years old, 6 years old, and my father shit-kicking, or -- they had country music. And I used to do the floors, and he'd give me a nickel for doing the floors and tell me to go shoot a game of pool, and I could sit on the drums and play that -- the drums from the band, from the weekends.

And then I went away to college -- I grew up a little bit and went away to college. I came back and I was recruited into the family business. While I was in college, I was at the Wharton Business School and I took a course in real estate finance and real estate law; probably two of the best courses I ever invested in, in my entire life.

And I worked for my father for 15 years; for 15 years I was abused. He would go away on vacations, and I would work. And I got tired of that. And one day I went up to him and I said, "Dad, I have some good news and I have some bad news." He said, "What's the good news?" I said, "The good news -- I just bought my own place." And he looked at me and said, "With what?" I said, "Well, you know, Dad, I've been working three jobs." And he said, "What's the bad news?" I said, "I quit," I wanted to be a free man.

That's what everybody wants. They want -- that's the American dream; to work hard and get somewhere in life.

Well, the first place was in 1987. A year later-- Well, I'm going to tell you, I bought my first place -- it was on five acres of ground; it was an old, beat up, rundown place, and the guy who owned it was 9 years old. And what do you think I paid for that place? I hear, around here, people are paying \$1 million for businesses and licenses; licenses alone. I paid \$2,000, because I figured out how to talk to the guy, who was 89 (*sic*) years old, and I figured out how to get him to -- the income that he needed for his retirement; plus I figured out how to let him stay. I gave a lifetime estate in the house, and then I just worked every detail, every objection; I sat there and I worked, and I worked, and I worked. It was the longest transaction I've ever done. I've probably done many personal transactions; but I worked out every single detail.

And then, the second place-- What I'm trying to get at is, people have to learn how to look under the rock. You just can't go to government and get a free pass. You know, every time-- "I need a license for this." Well, you have to figure out; if it's not in your town, you know-- Suppose there's a license available somewhere else, like two miles away; well, can't you drive your car and go buy that license, where it's available?

Next problem.

I bought my second place in 1988. This was a real treat; and this is where I used the art of the deal.

I get in there, and I found out this guy died and the estate was running the bar. Okay; another old story. So I called and found out who the executor was; I got a hold of him, and I said, "Sir," and he was a banker in Burlington County. I said, "Sir, my understanding is you would like to sell this bar, but you can't find anybody to buy it." And he said, "Yes, how

did you get to me?” I said, “Well, your bartender told me. She came over to the place I just had bought in 1987, and told me that she wanted me to be her new boss in this other bar, so she gave me all the information.”

I bought that bar. When I walked out of settlement, I walked out of settlement with \$50,000 cash in my pocket to renovate the bar. Why? Because I bought the bar at the right price, and then I had it appraised. And then I took the appraisal, and I took the-- I got \$100,000 on my second mortgage, and I took the \$50,000 that I needed down, and then I got the estate to hold the mortgage that was in good keeping, because they wanted to have income in the estate.

Now, I've done this several times. I did this with an office building, I've done this with houses, I've done it with a lot of different pieces of property. So it's hard for me to believe that people can't find a license. It doesn't have-- Does it have to be in your backyard? Can't you drive a little? I mean, I live in Lumberton; and I go to Atlantic City a lot. I like to go down there because the restaurants are great, you know? I just find it to be very interesting.

When I travel all over the state, I talk to all the members of my organizations who are involved. And they all ask me the same thing. You know, I had a guy say to me -- he's got four big diners -- says, “Hey, this R1, R2; let me know what's going on. What can I do to help?” And then he says, “If it's going to happen, let me know; because I'm putting all my businesses up for sale.” All right; well, he has the right to do that.

Now, I did something here with liquor licenses -- some research -- and the recent liquor license listings in New Jersey. These are all

restaurant liquor licenses; no liquor stores -- based on listings within the past 24 months; and I'll give you a copy of it.

It's very interesting that my findings bring me to 31 licenses on this list; and the average cost of a license is \$277,000. These are listings; these are not sales. There's a big difference because, typically, you list high and you sell for a lot less. So if I take a 10 percent factor out and make it -- take off \$27,700, the average license listed now is probably going to sell somewhere in the range of \$249,300.

The reason I brought this up was because, at the latest hearing, somebody said that-- They were talking about the liquor license in Willingboro, the Ruby Tuesday. It is a very interesting scenario, and I can't -- and I must tell you that you were very misinformed. That liquor license -- it was said that there are three licenses sitting there for \$1 million apiece. Do you know what the licenses sold for? The Ruby Tuesday license, new issue, sold for \$2,000. Here's an example: There are three licenses, other than that, I think, in the town. The golf course doesn't want to take a license. An entrepreneur, with a little moxie, could go into that town and get started at a minimal cost.

ASSEMBLYMAN DANIELSEN: But that might not have been \$2,000. If they had cut a deal like you, they'd be paying annuities for about 100 years.

MR. FILLER: No, they did cut annuities--

ASSEMBLYMAN DANIELSEN: Maybe they gave them an office building too. (laughter)

MR. FILLER: Well, listen--

ASSEMBLYMAN DANIELSEN: Maybe they have someone like you working for them.

MR. FILLER: Well, I'm just saying -- it's not that I'm sharp, it's I'm hungry. I want to make a living. I mean, you'll hear when you talk to Alisha -- she's hungry; she likes the industry. We're there because we want to be there, all right?

I can go on and on; but I think you got the gist of what I have to say.

ASSEMBLYMAN DANIELSEN: We got the gist. Please, we don't want you to go on and on.

MR. FILLER: Yes, and I don't want to bore you with details.

The only other thing I do want to say, if you'll allow me, is that you said you were up on the *Game of Thrones*? Okay; did you see the *Avengers*?

ASSEMBLYMAN DANIELSEN: No, so don't say anything. (laughter) Don't say anything.

MR. FILLER: Okay; well, this process sometime--

ASSEMBLYMAN DANIELSEN: Easy--

MR. FILLER: --sometimes reminds me of the *Avengers*, and I feel like I'm Captain Marvel.

ASSEMBLYMAN DANIELSEN: Did he just give something away? (laughter)

MR. FILLER: I didn't give anything away; I promise. I promise I didn't give anything away.

ASSEMBLYMAN DANIELSEN: All right, okay.

You're up.

MR. BACON: All right, I'm up.

Good afternoon, Mr. Chairman, and members of the Regulatory Oversight Committee.

My name is Matt Bacon, and I serve as the Second Vice President of the NJLBA.

I run and manage the Whistlers Inn in Cinnaminson; we've been around since 1989. And prior to that, our family owned bars and restaurants -- and I grew up in there, too -- including I ran and managed one in Florida. So I have a little bit of insight in that -- so just letting you know.

Just recently -- about seven, eight years ago -- I undertook a big expansion to my restaurant, and took out a loan, and pledged the stock. The company has a backing of the mortgage, and were something to happen for devaluing of the license, there is a potential that the bank could call that in. That's a risk that was very palatable for me. I have a small, young family that I'm raising, and I'm choosing to raise in New Jersey. And the prospect of a lot of the changes from the business, that I thought I was running in the way that followed the laws, and then the potential changing of the laws has me considering a lot of things.

And, you know, I do consider myself a younger business owner, when it's all said and done. And, you know, it makes me question why the heck would I follow the rules in the first place if you can just, sort of, change them ad hoc.

In my capacity, as an operating licensee and member of the NJLBA Board, I've attended countless legislative hearings on alcohol beverage matters, particularly in the last two years. During these hearings, I and my fellow NJLBA members sit in disbelief as proponents of radical and

ill-advised changes to our system of regulation paint a picture of the industry that has no basis in fact, no basis in our market reality. I went to Rutgers, I studied as a scientist, and I really do believe in facts.

Time and time again our developer friends step up to the table and refer to our plenary retail consumption licenses as a *monopoly*. That statement, and the belief behind it, has no basis, whatsoever, in fact. Currently, New Jersey has about 5,500 all on-premise retail licensees, of which approximately 1,065 are currently inactive. In 1985, there were 15,000 plenary retail consumption licenses; 34 years later, 50 percent of the licensees are out of business, along with the licenses themselves.

Trust me, our licenses are not monopolies. They are licenses to compete, and history has shown that 50 percent of them fail. That's not a monopoly; it's a full-contact, all-out war for family survival.

Monopoly is obviously -- it's "exclusive ownership through legal privilege, command of supply, or concerted action, exclusive possession or control; a commodity controlled by one party." With 50 percent of the licenses, since 1985, out of business -- including the loss of functioning liquor licenses -- our licenses hardly confer a monopoly interest. In fact, according to the Credit Compliance Corporation -- which monitors and processes wholesaler credit -- nearly 33 percent of existing licensees are on credit default. Until resolved, these licenses must pay COD. This is the highest credit default rate in New Jersey history, and it is a strong and valid economic indicator, demonstrating a weak market.

When you add to this the calculus of the historically high number of pocket licenses -- which shot up from its normal historical level

of inactive licenses, about 300 to 400, to 1,400 -- you're beginning to see the real picture.

Our industry has not fully recovered from the Great Recession in 2008; and I think that was demonstrated earlier by the Assemblyman who was making some statements. To add new, virtually free liquor licenses to this already highly stressed sector has set the stage for economic ruination of our family businesses throughout the State of New Jersey.

I'd like to also add that, to me -- I take full responsibility for having the privilege to sell liquor and alcohol at my restaurant. And I really do view it-- And I think people tend to forget that alcohol is a drug; alcohol really is something I take very seriously. You know, selling to underage, over-serving, collecting the taxes -- all of this is important. And I feel that the ability to have that license just demonstrates that I am really very serious about taking that responsibility very true.

And, you know, I do give back quite a lot to the community; and I feel firmly that my business contributes to the city, contributes to the town. And I take-- I don't want to say I take credit, but I really do take the ownership of the responsibility of running a business in the community very, very seriously.

During my many liquor industry hearings, another clear truth is regularly peppered with inaccuracies and outright ignorance of the facts. From the inception of New Jersey's regulation of the sale of alcoholic beverages in 1934, the State has issued quarterly gallons reports. And Jeff has gone over all of that; due to the readily availability of the data, we know the details of all the alcoholic beverage products sold, current and historical, and the revenues they generate.

Most importantly, the New Jersey official gallonage totals track the total gallons sold across categories. It can be used to compare, interpolate, and extrapolate, year-to-year and quarter-to-quarter, gallonage. Over the course of 85 years since Prohibition has been repealed, an important clear fact has emerged -- whether New Jersey has 15,000 retail liquor outlets or 7,500 -- the gallonage purchase remains relatively stable. New Jersey will not sell more alcohol; but with more outlets, every licensee's slice of the gallonage pie gets smaller.

We already know that New Jersey cannot sustain 15,000 liquor licenses; yet many bills are pending to expand the number of licenses to the 1985 levels. These are ill-advised schemes to clearly threaten the stability of an already highly stressed sector. I will tell you what -- if I was making as much money as each one of my customers and each one of my vendors thought I was making, I wouldn't be here, that's for sure.

I have also sat through many hearings, where proponents for rapid change urge the State of New Jersey to change the census population to liquor license ratio. Facts are critically important in this analysis. New Jersey law specifies that, since 1946, towns are entitled to one on-premise license for every 3,000 census persons, and one distribution package goods store for every 7,500 persons. However, from 1933 to 1946, towns could issue as many as they wanted; and many of them did. If you divide New Jersey's census population by the number of on-premise licenses in existence, the actual true ratio is 1 to 1,200.

New Jersey has more licenses per capita than any state in the Union; and that's a fact. Our problem is, New Jersey -- it's not that we

don't have enough liquor licenses in the aggregate; it is that we don't have enough licenses in certain hot towns across the state.

The challenge for the Legislature is to accommodate the need for hospitality sector growth in downtowns across New Jersey, while not flooding the land with new, cheap licenses. It is an important balance to establish it, and it cannot be achieved without real fact-finding.

Thank you for the opportunity to testify.

But I would also like to mention that, with the idea of the population cap-- I think there are a lot of communities -- be it Camden or Jersey City -- that could benefit from relatively cheaper liquor licenses. I think when you talk about trading back and forth, you'd almost have to give up on potential growth in that town. There would be a certain point where you would just fold and say, "Well, maybe my town, Camden" -- you know, we recognize that liquor licenses and bars, etc., are crucial to the growth of certain towns. And if you're going to start (indiscernible) away, as if they were fungible across the state, then at what point does a community, like Camden -- which is close to my home-- Do they, basically, just kind of give up? Or in 30 years, will they be playing the same game? I think that's just a question, and it just occurred to me right there. So it's not like it's well-processed; but it was just a thought that came up to me right then and there.

Thank you.

ASSEMBLYMAN DANIELSEN: Thank you.

Ms. Miller.

MS. MILLER: Good afternoon, Mr. Chairman, and members of the Regulatory Oversight Committee.

My name's Alisha Miller, and I serve as the Third Vice President of the NJLBA. I also own, run, manage, and work at two family businesses that I have created into my family business. They were not handed down to me; I did not, you know-- My mom and dad did not give me money for my bar; I did not inherit it.

I grew up in Ashland, New Jersey, which is in Cherry Hill. But again, I say *Ashland*. My mother and father were blue-collar workers. My mother was the first woman to work for Bell Telephone and climb poles. I came from a strong, hard-working family. My father had a family business; he lost it because his partner stole from him. He refused to claim bankruptcy, and paid back every dollar that he borrowed.

They worked to put me in college. I'm the first girl of two generations, and I am the first of my family to go to college, let alone graduate. I graduated with a BA in psychology; and working through college, I was a shot girl, I was a beer tub girl, I was a bartender. And I worked at every place, from Monmouth County to Philadelphia. I worked at corner bars, I worked at nightclubs, I worked at fancy restaurants. I worked, I worked. I gave up things.

I'm a woman; I didn't become a mother until seven years ago. I didn't get married until nine years ago.

ASSEMBLYMAN DANIELSEN: Relate it to the licensing.

MS. MILLER: I'm going to relate it to the licensing--

ASSEMBLYMAN DANIELSEN: Okay; I want to help you get there.

MS. MILLER: --because what I want you to understand is that I feel as though small businesses-- I'm that small business; I'm that person

who sat there and was like, “You know what? This is what I want to do with my life. This is the business that I want to get into, and I’m going to save every single dollar in doing so.”

And I did that. I didn’t get anything from anybody. I worked for it, and I saved every single dollar; and I researched, by myself, I researched. I bartended at this little place; it was in Atco. I worked there for about five years, and I said, “You know what? I like this town.” On my own, I went to an owner of a bar around the corner. I knocked on his door, and I said, “Would you be interested in selling your license?”

Long story short -- yes. I saved, I saved, I saved, and I bought it; I bought it by myself. I didn’t have partners; I didn’t have Mom and Dad co-signing for me.

ASSEMBLYMAN DANIELSEN: We got the point.

Do you have a suggestion on legislation, or--

MS. MILLER: Yes, I have a suggestion that -- you know what? It’s called *work*; and you work and you save. You don’t -- “Oh, okay. Let me file for a permit and get a brewery license,” or file for a license and say, “Okay, you know what?” Like I wish the gentleman -- I think your Assemblyman, who was here earlier, who told his life story -- that he graduated from college and he wanted to open up a restaurant with a bunch of partners. And you know what? He didn’t get to do it. I wish I had partners; I wish I could have had that. But he didn’t get to do that. Well, you know what? I did, because I worked.

And I just don’t understand where it says, or where the thought process is, that, “Let’s give out liquor licenses,” because there are so many; like, there are so many already.

Okay, population. Liquor licenses are from -- determined through the town about population. So check into the population of the town. There are towns that are growing. You have Cherry Hill, you have Marlton, you have Voorhees. Well, are there any licenses available in those towns right now? No, there are not; but has the population grown? Yes, it has, so maybe that's something to look into.

But me, sitting here and-- I bought my first license in 2003. I built, from ground up, a building in 2009 during the recession. I took a chance; it was a risk. I took it, and I worked; I just worked. And then X amount of years later -- four years ago I bought another liquor license on my own, by myself, to make it something better than what it was. It was a failing business. I bought it; I implemented what I know. I worked day and night, and it's prospering.

I sit here and I'm like, "Oh, my God; now, is this going to be me, that I'm going to lose?" I have a five- and a seven-year-old. Am I going to lose, like, everything that I worked for because liquor licenses are just going to become--

MR. FILLER: Free.

MS. MILLER: --free? How is that possible? Like, what did I work for? What did I save, and build, and give up my life for, so that it could be -- all of a sudden one day go, "You know what? Other business people want to go with this, and there's not enough to go around." So we're going to look at the law, and we're going to change it, and make it so that they can get it.

I have no problem with competition, and I'm surrounded by it. I'm surrounded, day in and day out, because I'm not a big corporation. So

I get the competition; I'm okay with that. I'm good for a good fight; that's why I'm here. But I'm not okay with-- There are plenty of other ways to do this; instead it's putting-- Whereas, you want to make small businesses prosper, but you're killing the ones that are already here.

There are a couple points that I wanted to touch on from the last testimony that we were able to hear.

Acme -- Acme had said -- they testified and had said that they bought their supermarkets; two SuperFreshes. And attached to those two SuperFreshes, there were two liquor licenses with them. But when they found out that when they bought them -- after they bought them, they found out they weren't able to be used. I'm sorry, but if I'm just me, myself, and I, with no big corporate lawyers or anybody behind me -- I was able to find out everything there was to find out about the liquor licenses that I was buying on my own. You have a big corporation, like Acme, that didn't find out about their liquor licenses -- that they couldn't be used. I'm sorry; I find that extremely hard to believe and irresponsible.

Yes; I believe-- That's really-- I mean, there was one other point about fads and how funky restaurants are lately. You know what? I have to change with the times constantly. I have to reinvent, reinvent, reinvent. I have to come up with specials all the time; it's part of the business. Sometimes I fail with specials, sometimes I prosper.

Like I said, I'm a small business; and I just really hope that I'm not put out of business by the State wanting to help other small businesses.

That's it; thank you very much for your time.

ASSEMBLYMAN DANIELSEN: Thank you very much.

Any questions? (no response)

Okay; I'd like to call up, from the Brewers Guild of New Jersey, Eric Orlando.

**ERIC ORLANDO:** Good afternoon, Chairman, members of the Committee.

Eric Orlando, Senior Vice President of Kaufman Zita Group; and the Executive Director of the Brewers Guild of New Jersey.

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 comparably cannot.

New Jersey craft breweries still want to host their own beer festivals, own satellite tasting rooms, and sell New Jersey-made craft spirits 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 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 rest of the 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. To say the least, it's been an eye-opening experience into the State's alcohol industry, and where each tier of the 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 of what can or can't happen at a limited brewery.

Also, hopefully it is a malleable document, which can pivot and adjust, as a pilot system should, when it's employed in real-world situations at these small businesses.

On this issue, I'd like to reserve the ability to speak with this Committee, collectively or separately, about positive bills -- like Assembly Bill 4791 and Assembly Bill 4868 -- sponsored by Assemblywoman Carol Murphy, which the Guild has weighed in with her on and how it would impact the eventual Special Ruling.

Aside from these headline issues and requests, there are a few more mundane ones.

First, I'd like to touch base on the issue of current price lists, or CPLs. 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 the state is required to maintain and file, on a monthly basis, with NJABC. This monthly filing must be made by the 15th of each month, with 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 a 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 electronically filed with the NJABC; something which has yet to occur, to my knowledge, at the agency. Making this form, at the very least, electronic and part of the NJABC's POSSE online permitting system would ease this paperwork burden for the majority of the state's craft breweries.

Secondly, the State's excise tax reporting system remains a challenge for small brewers, due to changes allowed in the Federal collection timetables aimed to make tax reporting easier for breweries of all sizes. At the Federal level, breweries that are liable for not more than \$1,000 annually in Federal excise tax only have to file an annual tax return. Those breweries that pay more than \$50,000 a year in Federal excise tax can elect to pay those taxes quarterly. In 2015, and again in 2017, current Guild membership approached the New Jersey Division of Taxation to see how the State's tax collection of State excise tax could mimic Federal changes, so New Jersey breweries could file paperwork and pay taxes federally to the State, on the same time frame, using the same production calculations, using the same methods of measurement. Guild members even rewrote the

State's filing forms to assist the Division this process. Language contained in Title 54 of State tax laws requires breweries, and other manufacturers, to file State excise tax reports every two months, using a form known as a *Schedule J*, which still refers to "wine gallons;" and can only be sent into the State, again, via snail.

In the Guild's opinion, these forms and time frame should mimic Federal requirements and be able to be filed online. Statutory provisions to Title 54 are likely required to make these changes, and financial resources must be allocated to the New Jersey Division of Taxation so that computer systems can be updated and programming completed to deal with potentially new filing deadlines in 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 want to touch base 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 the 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 can 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,

which began in 2011, whereby a brewery could pay a single annual fee to the state and register a set number of brands over the course of a 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 in New Jersey costs \$23, and must be filed prior to a beer going on to 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.

That concludes my testimony; and I'd be happy to answer any questions at this time.

ASSEMBLYMAN DANIELSEN: Okay.

Eric?

ASSEMBLYMAN HOUGHTALING: I'm good, Chair.

ASSEMBLYMAN DANIELSEN: All right; the last thing you said -- to simplify the brand registration.

MR. ORLANDO: Sure.

ASSEMBLYMAN DANIELSEN: How is that done now?

MR. ORLANDO: So brand registrations are typically all done on, you know, a piece of paper; written down, filed, mailed to the State.

ASSEMBLYMAN DANIELSEN: And what report does that go on; a monthly report?

MR. ORLANDO: You have to file your CPL on a monthly basis, by a certain day of the month.

ASSEMBLYMAN DANIELSEN: What does *CPL* stand for?

MR. ORLANDO: It's the--

MR. WARSH: (off mike) Current Price List.

MR. ORLANDO: Current Price List; thank you.

ASSEMBLYMAN DANIELSEN: That was probably Jeff over there.

MR. ORLANDO: It was Jeff.

And we've actually had this conversation, over the years, with various members of the industry that use that *CPL*; whether it be the wholesale tier or the retail tier. One of the things that we were told, in the past, by ABC was that -- there was a willingness and there's actually some efforts being undertaken to actually make all of those things -- to be able to be filed electronically, just for ease of use, and to get everything updated as quickly as possible.

ASSEMBLYMAN DANIELSEN: So the *CPL* is not submitted electronically?

MR. ORLANDO: It hasn't happened; no. And from what I've been told, it goes through about two or three State post offices before it actually hits ABC; which, sometimes, smaller breweries, in particular, that are afraid of not hitting that deadline will pay the extra cost and put it in the mail UPS or FedEx and send it in, just so they know they could sell their beer the next month.

ASSEMBLYMAN DANIELSEN: So to register a new brand, is that basically a beer, a new recipe?

MR. ORLANDO: A new beer, a new size; yes.

ASSEMBLYMAN DANIELSEN: A new *size*? A new size of what?

MR. ORLANDO: Various containers; so if it's a keg versus a pint, versus a pint can; it has a variation of ingredient in it that might be different than the original recipe.

ASSEMBLYMAN DANIELSEN: So when you have a beer, and you're going to serve it, on-site, in a 10-ounce glass; if you go to a 16-ounce glass, you have to register that glass?

MR. ORLANDO: If it's sold outside of the brewery, yes; inside of the brewery, there's a different set of rules on that, and ABC is allowing that to happen.

ASSEMBLYMAN DANIELSEN: Okay. So at what point, if you wanted to tweak the recipe, does it become a new brand?

MR. ORLANDO: If it has different ingredients in it, or it is an entirely new brand. So breweries, if they're selling into the retail stream, whether it be into a liquor store or a bar, are forced to actually file something if they have new packaging, if they have a new size of a can, if there are new ingredients in the beer -- that forces them to do that.

So you can have a lot of small breweries; they're constantly changing beers -- adding new ingredients, coming up with new sizes -- that if they're actually selling into the marketplace outside of the four walls of their brewery, they should be filing that form always. Which, if you think about it, when you're talking about a smaller brewery, particularly, that might only have a couple of full-time employees, that's a big paperwork burden. So anything that can simplify just the everyday paperwork that goes into selling it, while still allowing all the tiers of the alcohol industry to

still have that information up-to-date and correct, would be very helpful, particularly to smaller breweries.

ASSEMBLYMAN DANIELSEN: Okay.

ASSEMBLYMAN HOUGHTALING: Chairman, could I just ask a question?

ASSEMBLYMAN DANIELSEN: Vice Chair, go ahead.

ASSEMBLYMAN HOUGHTALING: Is that \$23 -- that fee -- that's a month fee per brand? Or is that--

MR. ORLANDO: Every single time you file that, the initial is \$23. It's not monthly, it's initial.

ASSEMBLYMAN HOUGHTALING: And you have to do it monthly.

MR. ORLANDO: Yes.

UNIDENTIFIED MEMBERS OF AUDIENCE: (off mike)  
No, no.

MR. ORLANDO: No; it's initial. It's initial; one time.

ASSEMBLYMAN DANIELSEN: No, just initial.

ASSEMBLYMAN HOUGHTALING: Initial? That's a yearly fee, or just one time?

MR. ORLANDO: You pay it one time, as long as you're selling the beer, yes. And in Pennsylvania, I think it's a certain amount of money; and that form allows you put 20 separate brands on that form once. So you pay for 20 at a time, under one figure.

ASSEMBLYMAN DANIELSEN: Okay.

ASSEMBLYMAN DANCER: Yes, Chairman?

ASSEMBLYMAN DANIELSEN: Yes.

ASSEMBLYMAN DANCER: Thank you, Chairman.

Eric, with respect -- I know, in fact, in my District there are some farms that -- they have craft breweries and, in fact, even grow their own hops. What are your thoughts on being able to -- and I understand it would take legislation -- but to promote agritourism; to have the public begin to access these farms; and have some other activities there with a nexus to the craft brewery, of course.

Just quickly -- your thoughts.

MR. ORLANDO: And Assemblyman, it's-- You know, we're always looking at ways to promote, whether it be farm-to-table or agritourism, in relation to our breweries, since so many breweries are using local ingredients now in their products.

I know, specifically, the ones that you're talking about, in your District; some of the best in the state. And what I would say is that every little bit counts, whether it be actual dollars spent to promote those, whether it be marketing materials that are developed with the industry and the State together, or coming up with certain rules and regulations that would allow those folks, as part of other different agricultural activities, to have some component that relates to the beer. It's all welcome, and I think our group would be more than happy to discuss that.

ASSEMBLYMAN DANCER: Thanks.

Thank you, Chairman.

ASSEMBLYMAN DANIELSEN: Did the ABC just publish new rules for the breweries?

MR. ORLANDO: So we have had ongoing conversations since the last Special Ruling was rescinded and delayed, back in September of last

year. We've had a few meetings with ABC -- and I believe other folks in this room have as well -- to talk about, potentially, the next generation of that ruling.

From what I hear is that it's any day now -- what it's going to come up with. I'm hopefully optimistic for what is going to come out of it. You know, I think the priority issue for many of the breweries around the state has been that the Special Ruling initially impacted events on-premise at the brewery -- about how many and what kinds.

Also, too -- and I'm encouraged from our conversations with ABC -- that this will be a working document, that what will be initially put out there as the first Special Ruling, was that it was a pilot program for folks to work in, to try out; and that it could be periodically changed along the way as it actually happens and plays out in the real world.

So, you know, I look forward to seeing what ABC eventually comes up with and providing further feedback on an ongoing basis.

ASSEMBLYMAN DANIELSEN: Okay; thank you very much.

No other questions? (no response)

All right; thank you.

MR. ORLANDO: Thank you, Committee.

ASSEMBLYMAN DANIELSEN: Thank you.

Okay, that concludes our testimony.

Does any member have any questions or commentary? (no response)

All right; I'd like to adjourn the meeting.

Thank you; thank you, everyone.

ASSEMBLYMAN HOUGHTALING: Thank you.

**(MEETING CONCLUDED)**