

PUBLIC MEETING  
of  
ALCOHOLIC BEVERAGE CONTROL STUDY COMMISSION SUBCOMMITTEE  
on  
LICENSING

Held:  
October 5, 1983  
Room 348  
State House Annex  
Trenton, New Jersey

**MEMBERS OF SUBCOMMITTEE PRESENT:**

Assemblyman Joseph D. Patero (Chairman)  
Mr. Leo Bromley (Vice Chairman)  
Mr. John J. Garrity  
Mr. Anthony Napodano

**ALSO PRESENT:**

Mr. Norman Feldman  
Director John F. Vassallo  
Mr. William Jerlat

Aggie Szilagyi, Research Assistant  
Office of Legislative Services  
Secretary to the Commission

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**ASSEMBLYMAN JOSEPH D. PATERO (Chairman):** May I have your attention? The Study Commission will now have a hearing, and then will go into a discussion of licensing at the latter part of this meeting. Thank you all for coming here today, and also the public. What we are going to discuss, I think, is a very important matter, not only to the industry, but also to the State of New Jersey. We will start off by taking the roll.

(Roll call by Ms. Szilagyi)

Ms. Szilagyi: Licensing Subcommittee members: Assemblyman Patero.

Assemblyman Patero - Present.

Ms. Szilagyi: Mr. Napadano.

Mr. Napadano - Present.

Ms. Szilagyi: Mr. Bromley.

Mr. Bromley - Present.

Ms. Szilagyi: Mr. Garrity.

Mr. Garrity - Present.

Ms. Szilagyi: Non-Subcommittee members: Director Vassallo.

Director Vassallo - Present.

Ms. Szilagyi: Mr. Feldman.

Mr. Feldman - Present.

Ms. Szilagyi: Mr. Jerlat.

Mr. Jerlat - Present.

**ASSEMBLYMAN PATERO:** Okay. The first part of the meeting, what we are going to take care of, is in regard to a certain Assembly Bill, which I have introduced. It passed the Assembly with no reference, and it is now under Senate. What we are trying to do is get speedy action on this bill. There is some talk that they might want to have a public hearing. But, I think whatever comes up from this meeting, we should hand it over to the Chairman, Senator Graves, and to the Senate President, Carmen Orechio, and tell them what our findings are, and then maybe they will have a resolution supporting this bill and have them move the bill in the Senate without reference.

What Assembly Bill 3873 does, is penalize any under-aged drinker using false identification - their loss of license for a period of years. If a child, a fifteen or sixteen year-old minor, uses false

identification to purchase liquor, he would lose his license until the age of twenty-one.

There has been talk in the Assembly, but we have discussed this matter, that they thought there should have been a monetary fine. But, after we looked at it, we felt if there was a monetary fine, the parents would be paying. So, the onus or the responsibility would not be on the person who had purchased the liquor, it would be on the parents. If the parents pay, the kids will probably be out there a month to two months later trying to do the same thing again.

Also in this bill, it states that anyone who lets someone use his drivers license for false identification, would lose his license for a year.

The first person who brought this all to a head -- many of you probably read about this person suing in the newspapers. I am very happy she is able to be here today to testify before this Commission, for all of us to know some of the problems, and the problems that are existing right this day, after her case had come up in the papers about six or seven months ago. We are very fortunate and very happy that Mrs. Syburt is able to be here today to testify before this Commission. Mrs. Syburt, would you please step forward? Could you give us your name, the establishment, and where it is located?

**I R E N E S Y B U R T:** Okay. I am Irene Syburt, Syburt's Liquor Store, 26 South Main Street, in Manville.

**ASSEMBLYMAN PATERO:** Could you tell us what happened to make you take the action that you are taking in the courts?

**MRS. SYBURT:** First of all, I would like to thank you for inviting me here and allowing me to run my mouth -- I keep saying that -- to let the people know what goes on on my side of the counter.

What brought me here happened back in February. Two boys came into my store with and ID. My clerk carded one boy. He read his driver's license, the height, the weight, the color of the eyes, and it all fit, even the name. The name was indicative of what he looked like. I mean, he didn't look like an Irishman with a Polish name or with an Italian name. So, he sold. I heard two stories, whether it

was later that evening or the next day that the police came in, because they had picked up the boys. The boys saw the police coming. They knew that they should not have had what they had, and they saw the police coming. They dropped the liquor and ran. The police picked up some of the merchandise. The bottles in my store have a little sticker on them. I don't know if anybody else in town has it, but the police came to my store and asked one of my clerks, "Did you sell this?" I think they brought in a bottle of brandy and a six-pack. The clerk said, "Yes." The policeman said, "To who?" The clerk gave him the name, address and date of birth. So, the police went to pick them up. And now, I am here, because my store was closed. There were no "ifs," "ands" or "buts."

ASSEMBLYMAN PATERO: How long were you closed?

MRS. SYBURT: Five days.

ASSEMBLYMAN PATERO: Five days. And that was given by the governing body in the town?

MRS. SYBURT: By the governing body, yes. And strange as it may seem, I don't know if this is the way things are done, but my clerk has not yet been brought up on charges to have been found guilty. But, I was closed. I had my five days handed down to me. I was closed from Sunday before Labor Day through Thursday.

ASSEMBLYMAN PATERO: What are the penalties for a situation like this, Director?

DIRECTOR VASSALLO: Assemblyman, the municipality probably let her off light, as far as the State standards go. Normally, we will look at a fifteen-day closing for a first offense of serving under-aged people. Of course, we will consider extenuating circumstances, the efforts that the licensee used to ascertain if the person was of age, which -- I'm sorry to comment on it, and the matter wasn't appealed to me, so I can comment on it -- probably, there would have been some consideration given. We probably would have ended up with a ten-day suspension in the State, because the statute, as it exists, is very clear about what the responsibilities are, and the licensee apparently did not fulfill those responsibilities, as no statement was signed. I assume this was not a photo driver's license?

MRS. SYBURT: It was not.

DIRECTOR VASSALLO: All right. Then, it is clear that if it is not a photo driver's license, there would have to be two means of identification, but the proof of the regulations is clear on that, that the statute is clear that you must have a written representation in order to be insulated from liability on it.

ASSEMBLYMAN PATERO: But, in our area, I believe we are having more problems in that regard.

MRS. SYBURT: We certainly are.

DIRECTOR VASSALLO: If Mrs. Syburt had applied to the Division for a penalty in lieu of the closing, we certainly, on a first offense, would have looked favorably upon such a request.

MRS. SYBURT: Some of the interviewers did ask me, "Why didn't you appeal to the ABC?" I told them, "I didn't pursue that matter because I didn't wanted to hear, 'Mrs. Syburt, the law is the law is the law. You have to be closed.'"

DIRECTOR VASSALLO: We would have taken a monetary penalty in lieu of the suspension.

MRS. SYBURT: Sometimes you have to weigh the monetary penalties against the suspension.

DIRECTOR VASSALLO: They should about equalize.

MRS. SYBURT: I didn't know what the formula for monetary penalty was, so, I didn't pursue anything. I figured, "Well, I'll take it lying down. I'll take it as it comes to me." I wasn't going to raise a ruckus.

ASSEMBLYMAN PATERO: I think what Mrs. Syburt is doing is commendable, because I think we have to come to a stop. You know I am from the same community as Mrs. Syburt. Lately, I have been reading, just last week, about two kids, fifteen and sixteen, who went into a tavern and used false identification, and the same thing happened. Now, the tavern owner is going to be appearing before the governing body, I presume, for their determination. It seems that there is more and more of this happening in our area. I think the action of Mrs. Syburt has really brought this to a head, where the public sees the problems that we are having.

MRS. SYBURT: Some people are saying, or thinking, that the penalties are too harsh against those minors. They are not harsh.

When you are comparing that against penalties against us, in the stores-- We are not "seers." We cannot be present at the birth of everybody, to envision twenty years later or twenty-one years later, "Yes, I was there when that kid was born. He is of age." We can't do that. We have to rely on something. When the police pick you up, they rely on your driver's license as your identification. If that is good enough for them, it is good enough for me.

I would like to make a comment on what Director Vassallo was saying about the waiver. I had a situation in my store one day on the waiver. A boy came in and showed a driver's license. It was not signed. My son was waiting on him and said, "It's not signed, but, I have this waiver. If you feel you are that person on the driver's license, you will have to sign this waiver and then I can sell to you." So, the kid signed it, very willingly. I don't think I should use names. I have to protect the guilty, so I will use initials. The guy signed the waiver. He attested to the fact that he was born in January of 1963, and we sold the merchandise to him. He signed it, J.S. When he signed it, my son was thinking, "Gee, I think I know that boy, but not by that name." So, he checked with someone later and found out the real name of that boy. Now, I still have a chance to be picked up again for another violation, because had the police come in and said, "We picked up D.P." but we said, "Well, that kid signed the form." If I were to go through those forms, I would not find a form for D.P. So, that would then be a violation against me, if we had not remembered the proper name.

Two weeks later, D.P. came into the store. My son saw him coming. I was in the store. He said, "Card that kid, mom." So, I did. I dragged out the form, pulled out my pen, and I said, "Do you have an ID?" He said, "Oh, yes." So he put it on the counter. He said, "I don't mind signing it. I signed one a couple of weeks ago." My son said, "No, you didn't. Your friend did, to whom you loaned your license." So, he willingly signed his full name, J.W.S., Jr., the whole bit. When he left, on the bottom, I wrote down, "the real J.S." Then, when he was in the store, the real owner of the license, the man who loaned the license to J.S., my son was rifling through the papers where I keep the file of the kids who we do have fined, and he says,

"Mom, what did you do with that form? Did you give it to the lawyer?" I said, "Yes, the lawyer has it." That kid went out into the car, and he must have been in the first stages of a coronary. He knew that we knew he loaned his license to someone else. I could have had the kid sign on a piece of paper. I've had my waivers for about eighteen years. What we had the people do is, just sign -- even on a paper bag to compare signatures. I had incidences where I turned people down because the signatures weren't close enough for me to sell. I turned people down when their eyes weren't the right color on their driver's license. I turned people down when they didn't know how to spell their last name, or used the wrong name. A guy, Tom Jones, would come in signing "James something," and we'd look at each other -- a borrowed license again. We have this all the time. We can't recognize a phony from a not phony.

I found out now that you can go into New York, or, perhaps, any place, and get a legitimate-looking driver's license with your picture, for New Jersey. So, we have all of these things happening.

The bill that you have is okay. It is more than we had before, but I still feel it is not enough.

The two boys in my case came in on bicycles. Do we have to pass legislation to take their bicycles away from them? In my particular case, the small penalties that they get, apparently, are not enough, because they have been arrested four more times after leaving my store. How many times they were arrested before they came to my store isn't known to me, because in reading the police blotters, their names, at that time, didn't mean anything to me, if, in fact, they were on the police blotter. These are repeated offenders. We have to stop them. The penalties against the storekeepers, I feel, are too harsh. It's like, which came first, the chicken or the egg? Are you going to penalize the storekeeper so he doesn't sell to the minor, or, are you going to penalize the minor to ensure that he doesn't come in to buy? There are two ways of looking at that particular facet of the law.

ASSEMBLYMAN PATERO: I think some states are going the other way, maybe. Correct me if I am wrong. I think they are making it harder for the storekeeper now. The penalties are becoming more severe for the storekeeper rather than the minor purchasing.

MRS. SYBURT: I think that is wrong. I admitted to many people, I admitted to the police in town, that I used to be a lead foot on the road. I'm not anymore. I know the penalties. I know what is going to happen. I know the increased insurance, plus the points. If I know what is wrong, I am certainly not going to be a lead foot anymore. So, if these kids know what's wrong, they aren't going to bother to come into the store,

Just last Thursday, I had a boy arrested in my store. To me, he looked like he was twenty-three to twenty-five years old. But, woman's intuition told me, "card that kid." He was buying two bottles of wine. I said, "Do you have an ID?" He said, "No. I lost my wallet." I said, "I'm sorry, I can't sell to you unless I have something to show--" Also, getting back to those first two boys, they did show two pieces of identification. One was an expired motorcycle license, plus his driver's license. What else could we ask for?

Anyway, getting back to this boy, I told him I was sorry that I couldn't sell, because he did not have anything to show me that he was of age. I saw his car was parked right by my front door. I wrote down the type of car, the description. When he pulled away, I got the driver's license, and I dialed the police. I told them there was a suspected minor. I thought he was twenty-three to twenty-five years old. When I gave the information to the police, I said he is either driving without a license or he had one and didn't want to show it, because he, perhaps, was under age. So, he left. I really felt bad having to do what I did, because the fellow was a nice boy. He wasn't an arrogant person. He was not sarcastic in my refusal. He was just a college kid. He was a really nice kid.

Then, about twenty minutes later, he was picked up. The police brought him in and asked me to identify him. I said, "Yes, that is the boy." When the police officer was leaving, I said, "Wait a minute. I didn't sell anything to him, and he didn't get anything from me. I want you to understand that." He said, "Yes. We understand that, but we are booking him on an attempt to buy." I also found out, unfortunately for the boy, he was driving on a revoked list. So, he has two things against him now, just for trying to come in to buy. I saw the police later. He was born in 1964. He was nineteen years old.

That floored me. He looked twenty-three to twenty-five. Then, the police officer said to him, "With all the stuff that is going on now, especially in that store, why did you do it?" He said, "My mother sent me." That kid lives in a town anywhere from five to fifteen miles from my store. "My mom sent me." I didn't buy that.

Also, with the minor situation now -- I guess it is common knowledge -- it is usually, or all the time, that the word of the minor is taken as gospel. The minor could be picked up for having stuff on his person, and he will say, "Yes, I bought it down there." Who's to say he bought it down there? He, perhaps, was never in that store. Anybody could be fingered. I could be fingered again, just by friends of a minor trying to get even with me. If they know that the store is going to be closed by the minor's say so, I could be closed. I have no protection over that. Who's decision was it way back when to accept the word of the minor?

DIRECTOR VASSALLO: Assemblyman, may I comment on that point, as we are going along?

ASSEMBLYMAN PATERO: Yes.

DIRECTOR VASSALLO: I see Mrs. Syburt is bringing up different points, and it might be easier. It has been my practice to look very askance at that, because a minor in a situation like that, where the police have him and ask, "Where did you buy that?", it is much easier for a minor to pick out the nearest place, or any place, to get off the hook. I have dismissed cases on that, where that has been the situation. I want more proof than that, that the minor says, "I bought there." So, at least under this present Administration, that will not hold true. I believe, though, in the past, there have been situations.

MRS. SYBURT: Yes. I will buy that under the present Administration, because this is my twenty-seventh year that I have been in business. I have seen this being reported in the beverage papers so often. I haven't noticed it lately, but I am just speaking from what has happened in the past on these things.

ASSEMBLYMAN PATERO: Mrs. Syburt, you brought up an interesting point there, if someone uses false identification, and you have them carded, and the policemen come five or six hours later, you don't have that kid's signature on the card.

MRS. SYBURT: The right name. Right.

ASSEMBLYMAN PATERO: Even though you went through everything you were supposed to do.

MRS. SYBURT: Right. I have another person's name. This is it. This is why I feel those waivers are good, but are they really? You could write on a paper bag. This is what I have had in my experience.

Barry Gray, from station WMC, interviewed me when this thing first started. His comments were very interesting. As a matter of fact, he asked me questions to bring him up to date, just like I have told you what has happened in this particular case. And, in his closing remarks, he said, "I find it difficult to understand why you, the licensee, have to be the policeman, judge, and jury." He said, "In summation, Mrs. Syburt had been in business for twenty-seven years, two minors come in with false ID, the police go to arrest the boys, to pick them up on the strength of what her clerk has told them; consequently, Mrs. Syburt gets closed for five days." A long pregnant pause, and he says, "I think it smells." Right on the air. I was amazed that that didn't get bleeped. But, that all came through.

As I said, these boys were still being arrested. I still follow the papers hoping to find their names.

Another interesting point, that I was wishing would have been televised when Channel 4 and Channel 7 were there. After they finished their total interview in the store, they went outside and kids had gathered around on their bicycles and children were there, and they interviewed the boys outside. My son went outside to listen to some of the comments. Now, these kids were on their bicycles, thirteen and fourteen years old. When they were interviewing the kids, the kids said, "That's right. That's not fair. She didn't do anything wrong. Those kids were the ones who came in and fooled her. I don't see why she has to be closed. That's not fair." When you have thirteen and fourteen year-old children making comments like that, it should mean a little bit, I think, because it is hitting closer to their age bracket.

Also, I was interested in, in reading the newspapers, the "Inquiring Photographer." They have interviewed a few people. A particular question was, "Do you think owners of liquor stores and

taverns should be allowed to sue when people come in to produce false ID?" You have teachers and students here, and they are all for it. They say, "Yes. You shouldn't have fake ID coming into a liquor store."

ASSEMBLYMAN PATERO: Was that the Home News?

MRS. SYBURT: This is the Home News, yes.

ASSEMBLYMAN PATERO: New Brunswick Home News?

MRS. SYBURT: Yes. It said, "They should get in trouble, but it should be the same for everyone. A Piscataway College student said, "Yes. It would probably scare them from buying liquor." People on a like level of age and purchasing ability, if they feel the same way as the licensee does, there has to be some merit to that.

I also have to say that we have turned down a monetary settlement out of court. WOR asked me, "How much of the \$200,000 do I expect to get?" I said, "I really don't expect to get \$2.00. I'm not looking for the money." These boys had to pull resources to come into the store, to buy what they had. I said, "I'm not looking for the money. I'm looking for a way to open people's eyes to say, hey, it's about time we looked at these laws in New Jersey. Maybe they are a little bit unfair." I have written letters. I made a comment -- maybe I was shooting my mouth too much, but I just feel that the laws, the way they stand now penalize us, for being in business, for doing whatever we can. Minors walking in off the street are the ones who are doing-- We are the "wrongees," they are the "wrongors." I just feel that it is a violation of our rights under the Eighth Amendment to the Constitution. "We shall not be inflicted with cruel and unusual punishment."

I feel what goes on now, the way the laws penalize licensees for what they are doing or for what they are supposedly not doing, is a violation of our rights under the Constitution.

I am getting letters from all over. There is one particular comment that a lady from Florida wrote: "It's time someone taught them a lesson, and the low fines they were issued will not do it."

And, talking about low fines, there was another boy who was picked up at another place. My son got feedback on it from a boy who had bought the stuff. This kid is a college student. He said, "I

really don't mind the little fines." He said, "I have a summer job. That takes care of these little incidental fines that I am hit with." He said, "I've had about ten so far this year." He said, "As far as the bill, or as far as losing my license, or not being able to drive for a while, it doesn't matter to me, because I get a ride to college." He goes to Lafayette. He said, "I get a ride from the students in town. I don't need a car. I don't need my license. That doesn't affect me." He said, "I still get served in taverns."

I'm still trying to point out the fact that the penalties, the small fines that the boy gets, don't mean anything. He says he goes to school for eight months. His summer job pays for it. So, that doesn't help. And then, I mentioned to you about the boy who was nineteen.

Also, we know, licensees, the rules, the laws, the ramifications if we do something wrong, but the minors also know the legal age. When they are leaving their house to come to buy, they want to get that bottle of beer or that bottle of brandy. They know the law. They are thinking, they shouldn't do it. What business do they have to walk through those doors? They don't belong there. They know they are doing wrong. They are just playing Russian Roulette with us, the licensees, and with our licenses. They are going to gamble that we are not going to ask them. We are going to be dumb enough, they will say, to think, "Oh, well. I fooled them. I'm not that old, but I got by. I'm happy with what I got."

There was another boy who came into the store one day. My son refused to sell to him because he didn't have an ID. So, the boy said, "F---." He walked out. He left, went up the street, made his purchase, and he came back, the wrong way, down the street. I am on a one-way street. He came back the wrong way. He picked up a six-pack of beer and showed it to my son. "I got it someplace else."

Then, when one licensee is closed, to ensure that that minor doesn't go anywhere else to make his purchase, because he is under age, you just cannot close every licensee in the State at the same time to make sure that that kid doesn't get it.

I really feel some thought should be given to making it a little more difficult. If you make it difficult for those kids, just

like I explained before, with my situation, I don't want to go over the speed limit because I know the penalties. Now, these kids, they shouldn't want to have to come into a store or a tavern, because they know the penalties. If they are faced with a real thing, like a stiff fine or penalty-- You did mention before -- I appreciate that fact -- that yes, the parents will pay the fines. How often do you think a parent is going to want to pay that fine? Whether it is going to hit them in the pocketbook too severely, or just the idea of having to pay those penalties. "Hey, come on, now, Junior. Sit home, watch television, play scrabble, do something else, or do your homework." I think the heavier fine is the only answer. If the minors want to act adults, drink like adults, perform like adults, make them pay like adults. We paid for whatever we've done wrong. You pay your speeding tickets. These kids are minors, but they are not minors. They are eighteen. They are legal minors.

What each one of you gentlemen may consider a person to be eighteen, nineteen, or twenty-one, I might think is twenty-five, or, you may think it is twenty-five, but the kid is only seventeen. I tried to wait on guys who were built like a bison, but they were seventeen. One day I had a kid who was irate because I wouldn't sell to him. I saw him later working in a Foodtown. I saw the manager of the store later, and I said, "How old is that kid? He comes in the store. He's trying to buy something, and I keep turning him down." The manager went to his records. He said, "The kid is going to be seventeen." That was when the age was twenty-one at the time. This guy was big.

We're at their mercy. We really are. I hope somebody realizes it, finally, and really does a little bit more about it. If they are legally responsible at eighteen to sue, to be sued, where booze is concerned, they should be legally responsible for their acts of walking through a door to commit a crime. I consider it a crime doing what they are doing, to have things like this happen to the licensees.

If a licensee is flagrant enough to willingly sell, if he is interested in making a buck on that particular sale, let him rightfully pay the penalty if that kid is only fourteen, fifteen, or sixteen.

Come on. Nobody is that stupid to take a fourteen, fifteen, or sixteen year-old for eighteen, nineteen, or twenty-one. I don't think so. If you have a license, you have to have some degree of intelligence on anything. Anything is looking, and saying how old a person might be.

I still feel that kid walking through the door should be the only one held responsible.

ASSEMBLYMAN PATERO: Mrs. Syburt, I agree with your situation, but, just to let you know, in the Assembly, you need forty-one votes to get a bill passed, and in the Senate, you need twenty-one votes. Even the bill that we had, there were some legislators, Assemblymen, who were reluctant to vote on this because they thought it was too strict. What I would like to see is, at least, to put our foot in the doorway.

MRS. SYBURT: We have. Yes.

ASSEMBLYMAN PATERO: And, if we still have the same problem, then we could keep adding on. We have to do something to stop this.

MRS. SYBURT: Do these people have border-aged children, and do they figure, "Well, maybe some day I will have to pay the fine?"

ASSEMBLYMAN PATERO: I don't know. Could be.

MRS. SYBURT: It's a point to consider. In all fairness, we are supposed to be fair. Everything is supposed to be fair in this country. I don't feel we are being treated fairly, because as I said, I do consider it a violation of our rights, the penalties handed down to us. If the Assembly, or whoever they are, are so concerned about the penalties being so harsh against the minors, isn't there somebody there who is going to think, "Hey, wait a minute. Maybe those penalties are harsh against the licensees."

MR. FELDMAN: Mr. Chairman?

ASSEMBLYMAN PATERO: Mr. Feldman?

MR. FELDMAN: I would just like to add a comment for the record: This problem of false ID has been recognized by Congress. A law was recently passed, which now mandates punishment. It prescribes punishment for someone printing, producing, or distributing a false ID card. The severity was evident when the Committee between the house and the Senate, which met to take the two different versions, the Senate version and the house version, and Representative Rodino,

Chairman of Judiciary, was the Chairman of that Joint Committee. The Senate version was a harsh version, a version which went beyond just a government-issued card, like a social security card, the house version limited only to government. Rodino bowed to the Senate, and it is now a violation, at the Federal level, for any false ID card. Whether it is a registration card for Rutgers, a driver's license, or a social security card, these are all punishable by a Federal law which is now in effect, indicating that this is a problem, which is a very severe problem.

MRS. SYBURT: Was that Senator Gordon Humphrey in Washington, when President Reagan signed it?

MR. FELDMAN: Yes. Humphrey had the Senate version. He had the more severe version.

MRS. SYBURT: Right.

MR. FELDMAN: Rodino had the weaker version. Rodino now took Humphrey's version, and they adopted that as the law of the country today.

MRS. SYBURT: I have a catalog here which you can order from any specific company. You can tell them whatever name you want, whatever date, whatever social security card, or anything you want. These catalogs are coming out.

MR. FELDMAN: I will make that available, if you would like a copy, if you don't have a copy of the bill as it was passed and signed by the President.

MRS. SYBURT: I didn't read the wording of the bill, but I did read a statement about it in the trade papers.

DIRECTOR VASSALLO: Mr. Chairman?

ASSEMBLYMAN PATERO: Director Vassallo?

DIRECTOR VASSALLO: If I may comment on that, the law, as good as it is, only prescribes sending those through the mail. So, the way they are getting around them now, we are finding out, is, they are sending the kits. They are selling kits so they don't put the false date on it, but they return it to the individual complete, with the laminating supplies, in some cases, so they can fix their own date; therefore, the identification card with the false date on it, which would be violative of the Federal law, did not go through the mail. Only a blank went through the mail. So, they have gotten around that.

MRS. SYBURT: I've had a kid come in and show me -- and blazing on the top -- "Official New Jersey Identification." I threw it back to him. I said, "I want a real one. That is a phony." He said, "That's real." I said, "It is not. New Jersey doesn't have such a thing." He said, "The State Trooper gave it to me. I said, "Look. Do me a favor. You take that ID back, give it to the State Trooper, and tell him he has given you a phony ID. Ask him for a real one." I was just being facetious when I said that. He thinks we're stupid.

DIRECTOR VASSALLO: I just have some comments on the bill which Mrs. Syburt might be interested in.

ASSEMBLYMAN PATERO: Well, before you make comments, Mr. Bromley would like to ask a question.

MR. BROMLEY: I would like to ask Mrs. Syburt if it would not be helpful if driver's licenses, from their first issue, up through, let's say, a year after twenty-one, all had photos on them?

MRS. SYBURT: I think that is a part of some law now. At least the first-time license issued?

MR. BROMLEY: Well, I'm going to ask you the question. You indicated in your testimony that the two boys did not submit a photo license.

MRS. SYBURT: Right. They produced an ID for a nineteen year-old. That was not a first-time license, as I understand it.

MR. BROMLEY: What I am saying to you is, it should be mandatory that the license have a photo from the date of first issue, at seventeen.

MRS. SYBURT: Yes.

MR. BROMLEY: Right straight through the twenty-first year, because people of that age group, who you have to prove, often, are only provable if you have a photo ID to recognize them.

MRS. SYBURT: Exactly. But, as Barry Gray and I discussed, you can get a legitimate-looking phony ID with your picture on it. So, how are we to differentiate real from phony?

MR. BROMLEY: Let me ask you the first question. If the real ID had the photo, would that be helpful to you?

MRS. SYBURT: Oh, very definitely. That is our only salvation.

MR. BROMLEY: Then, I ask you the second question. Would it also be helpful to you if there was a penalty for the presentation of false ID?

MRS. SYBURT: Yes. I think there is now, or is there going to be with this new bill?

MR. BROMLEY: I don't believe there is a penalty for the presentation of false ID, to cash a check, or for any purpose.

MRS. SYBURT: Yes. I would definitely--

ASSEMBLYMAN PATERO: This is primarily for liquor.

MRS. SYBURT: There should be a penalty for the person printing that false ID, if it gets back to him, for printing it.

MR. BROMLEY: But how about the person who uses it?

MRS. SYBURT: Definitely.

MR. BROMLEY: You want the penalty on the person who uses it?

MRS. SYBURT: Definitely. I want to hit him with everything, because I am getting hit with everything.

ASSEMBLYMAN PATERO: The aggravation that you have.

MR. JERLAT: Mr. Chairman?

ASSEMBLYMAN PATERO: Mr. Bromley, are you finished?

MR. BROMLEY: I am. Thank you.

ASSEMBLYMAN PATERO: Okay.

MR. JERLAT: I thought he was finished. I would like to make a comment on this photo driver's license. As of right now photo driver's licenses is one of the amendments put on a bill the year before last, became an affidavit. The photo driver's license is an affidavit at the present time. As of January 1st, the driver's licenses, as driver's license become renewable, everyone is supposed to have a photo on it up until the age of sixty. Beyond the age of sixty, it self-destructs. If they want it, they can have it.

That is as of January 1st. That does not solve the problem. That maybe puts your foot in the door, as far as identification is concerned. I, personally, have seen many different types of identification, which you are pointing out now. You don't have to get them from out-of-state. The high schools themselves print them up, the colleges print them up. They pass them around. It is a very easy thing for any young person, whether they are in high school or college to be able to acquire an identification card.

MRS. SYBURT: I don't use those. I don't accept them.

MR. JERLAT: And use it for any means whatsoever. They are even making up phony driver's licenses. I think as far as this problem is concerned, as Mrs. Syburt is stating here, with the penalties, probably one of the things that the minor, or young person, values more than anything, a twelve year-old kid or a thirteen year-old kid can't wait for the day that he can drive an automobile and receive his driver's license. That is the one thing that he does value more than anything else. I, personally, have always been supportive of the loss of driver's licenses for an infraction of alcoholic beverage rules such as this, a minor coming in. I think it is a way to go, if we have to add some other stuff to it. We have to get our foot in the door.

MRS. SYBURT: That's a foot in the door. Yes.

MR. JERLAT: Because this is a tremendous problem for the licensee in the State of New Jersey, the retailer. I would say 96% of the licensees in New Jersey check very closely as far as minors are concerned. They are wide open as victims. There are people who don't care who comes in the door. That problem lies with the licensee, and they should be penalized for it. They are penalized. But, to penalize somebody like Mrs. Syburt is ridiculous.

MRS. SYBURT: But then, don't you also realize that if he sells to anyone who comes into the store, he deserves to be penalized, if he is just doing it flagrantly? But then looking at it the other way, if that kid realizes the penalties that are given to him, he won't go through that door, penalizing the storekeeper. I don't know where or how -- maybe they were stolen. A person was passing a driver's license in the store as identification. I said to the guy, "This, I will not accept." He said, "It's a New Jersey driver's license." I said, "Yes. But, that isn't regular New Jersey Motor Vehicle type." It was regular typewriter typing. I turned that down. He left angry. I said, "I'm sorry. I don't know where you got that from, but I won't accept it.

ASSEMBLYMAN PATERO: Director Vassallo?

DIRECTOR VASSALLO: Thank you, Mr. Chairman. While Mrs. Syburt and Mr. Bromley were speaking, it came to me. I am going to contact Director Snedeker of the Motor Vehicle Bureau to get a complete

discription. It just came to my attention the other day that the New Jersey photo driver's licenses have the word "New Jersey" embossed down the right side of them, in a series, "New Jersey, New Jersey, New Jersey, New Jersey," at a diagonal, which I don't believe any of the phony ones have.

MRS. SYBURT: Yet.

DIRECTOR VASSALLO: Yet. I am going to get a complete description so maybe we can publicize it through the Trade Papers, so that the licensees are aware of it. As we talked at one of our other meetings, our communication with the licensees is very poor. I am the first to admit that, but there are many dollars that stand behind improving that. But, that is not the issue here.

The Division, specifically the Director, talking as Director, I am in complete support of the bill. I have a couple of little technical problems which have gone through the Department of Law and Public Safety, which are not real problems with the bill or the content of it, one that will require us beefing up the regulations on the ABC cards issued by the county clerk. In that regard, there is one error in the bill. That is a technical error.

The bill itself, in proposing the strict penalties on the young people, I think is the best way that we can cope with the situation. Mr. Jerlat mentioned that about 96% of the licensees do what they are supposed to. I will go even a little farther than that, Mr. Jerlat. I think it is about 98%. Some of those 2%, between the 96% and the 98%, I think, Mrs. Syburt is one, is really a victim of circumstance. She didn't strictly comply with the law as it now exists, in having that statement signed, which would have given you the absolute defense. So, you got caught in a technicality.

MRS. SYBURT: But how could you use that as an absolute defense, when I explained that the guy signed someone else's name?

DIRECTOR VASSALLO: That's all right. If you had had him sign it, regardless of whose name was used, you had an absolute defense on it.

MRS. SYBURT: But, if the police were to come in and look for the real name, I wouldn't have that card. Or, if I wasn't there, and the clerk was in there, the clerk is going to look, and he'll say, "I don't have a card for that kid's name." I'm hung.

DIRECTOR VASSALLO: I understand the problem. The cards are a problem. I've never liked the cards, but the Legislature declared that the written statement is to be used. I have to enforce the laws as they exist, whether I like it or not.

MRS. SYBURT: Well, I think it is time the laws were changed.

DIRECTOR VASSALLO: I fully agree with you, and that is why I said I fully support the bill.

ASSEMBLYMAN PATERO: I think Mr. Bromley has a question.

MR. BROMLEY: If I may be allowed to interject, one reason that the licensees had historically had a problem with the representation in writing is, at the local level, often, if it is heard by the council or by the local judge, they say to the licensee, "Well, if you had a doubt of this person's age, you should not have sold to them. And, the fact that you asked for representation in writing means, to me, that you were in doubt." That is done so often, that it makes people not avail themselves at that defense.

MRS. SYBURT: And then you also get council members who will say, "What form?" They don't know what you are talking about. They are not aware of it themselves, and yet, they say, "All right, you're going to be closed."

MR. BROMLEY: We recommend to our members that they have a store policy to have every single person, from whatever the legal age is through age twenty-one, to sign a representation, so that they can show a complete file that every young person who came into the place signed it, whether they were of age or not.

MRS. SYBURT: Now, I do have a question which I would like clarified, you, perhaps, could do it, on these representation statements. I've had the boy come in and he has attested the fact that he is of age. So, I sold to him. I sold to him a second time, or a third time. The fourth time, a policeman would see him coming from a store, and he'll say, "Did you get him to sign?" I say, "Yes, I had him sign, but I didn't have him sign today. I had him sign three times ago." Am I still protected from day one?

DIRECTOR VASSALLO: If you personally sold to him, and you personally had him sign the prior time, yes. If one--

MRS. SYBURT: The first time. That will carry through--?

DIRECTOR VASSALLO: Yes. If one of your clerks sold to him and said, "Well, Mrs. Syburt had him sign a statement some time ago," no, because the statute reads -- the statute of the regulation -- that you have to personally rely upon the written representation.

MRS. SYBURT: All right.

DIRECTOR VASSALLO: There's kind of a mixed answer to that.

MRS. SYBURT: Then if I personally relied upon it the first time, I am still covered waiting on him the second, third, and fourth time?

DIRECTOR VASSALLO: As long as you are relying on the representation that you personally obtained. This bill would do a lot to get rid of that written representation. It doesn't make any sense. As I said, I don't like it.

The other thing I want to comment on, which I think is necessary, is, as I said, Mrs. Syburt, you were a victim of circumstance there. Nine out of ten of the disciplinary proceedings that we have involving minors, there has been no attempt to ask any identification at all. The tenth one, there has been some attempt. It is usually the phony identification and the technical failure, such as your called in to have them comply with this statute as it now exists.

MRS. SYBURT: That can also--

DIRECTOR VASSALLO: Let me finish. I have no problem with this bill, getting rid of the writing. I don't think it accomplishes a purpose. It is loaded with problems, as you have indicated and as Mr. Bromley has indicated. It is a very imperfect method, especially when you boil it down to-- The under-aged person who is coming and breaking the law in the first place, what do they care that they have to sign an affidavit or swear to a statement that they are of age? One more violation isn't going to hurt. So, they are going to do it.

We have had situations where licensees, after the arrest was made for selling to minors, while the processing was taking place, the licensee had the minor sign the statement, trying to use that as a defense. Their attorney wouldn't even go along with it. He wouldn't even attempt to use it, which I give him a lot of credit for.

It is loaded with problems. Assemblyman, let's get rid of it. Let's come up with a system. As I said, it is just a drop in the

bucket of the licensees. Most of the licensees do what they have to do and do help us in enforcing the law. I think we have to retain penalties for the licensee if he doesn't, because part of the license privilege is helping us police the law. That is really the only effective way we have of doing it. The under-aged people are going to attempt to purchase. The penalty should be very severe for their doing it, and we will have to also rely on the licensees to help us.

I agree, and I think this bill makes it very clear, if they do make a reasonable effort to ascertain the age of that person, then they have gone far enough, and they will be insulated by this legislation.

The situation that Mr. Bromley brought up, where you have a doubt, if you have them sign it, I can't ascribe to that at all. And I do point out, if anybody has that problem, everybody has an appeal to me. Hopefully, we have a uniform policy where as the local issuing authorities may get 517 different views throughout the State. The situation with that is, and if you look at any of these young people, a seventeen year-old might look to be thirty, and a thirty year-old may look to be seventeen. It happens with males and females. The only ones you can generally be sure of is a male who has absolutely no facial hair at all. Sometimes that doesn't even work. So, because you have questioned a person, means you may have a question but not necessarily a doubt. You have to make that difference.

ASSEMBLYMAN PATERO: Mr. Napodano?

MR. NAPODANO: Yes. Mrs. Syburt, since the publicity that you have had on the incident you reported to us today, have the incidents of attempts to purchase by minors in your establishment increased or decreased?

MRS. SYBURT: At first we thought, perhaps, they did, because I checked with the clerks. I said, "What does it look like now?" He said, "Well, we don't think we see as many coming in, or as many attempts." We really can't be sure. Right now, I think it has stepped up again. Whether it has stepped up out of curiosity to say, "I'm going to challenge her," or just to see if they can get away with, or if they knew that someone had gotten through one time, they'll say, "Well, maybe they can get through again."

ASSEMBLYMAN PATERO: I think in town, though, it is starting to spread to other establishments, if they are not going to yours.

MRS. SYBURT: Yes.

ASSEMBLYMAN PATERO: Because there is getting to be more and more in the community where they are going to other places.

MR. NAPODANO: That has been established by other minors who were--

ASSEMBLYMAN PATERO: Newspapers. Yes. We just had one last week, and I think there is going to be another one this week, that has been caught. We don't know how many have not been caught, who had been going to these other liquor stores.

MR. NAPODANO: I must apologize. I read your bill some time ago. I don't recall the specifics of it for today, and I don't have a copy with me. There is no question that the penalties for the minor have to be harsh.

MRS. SYBURT: They have to be.

MR. NAPODANO: I also would support a recognition by statute of the licensee's rights to pursue the minor in the event there is a penalty visited upon the licensee as a result of that infraction. I would suggest, just off the top of my head, that if we would devise a system whereby a licensee would not be closed, other than for an "intentional sale." When we talk about an "intentional sale," we're talking about, I believe, an evil-doing mind coupled with an evil-doing hand. As opposed to the way the statute now reads, which basically says, "Thou art guilty..." if it is established that you have sold to a minor, regardless of your intent or regardless of your procedures, I would not favor giving up, necessarily, the written statement, because I think the written statement would go to intent.

I don't think there should be a closing of any licensee where there was no intent to sell to the minor. Obviously, in those cases that come before the Director, where -- I think your statistics were nine out of ten -- there is no effort to prove, if there is no effort to prove in nine out of ten cases, then you have, pretty close, an intention just to increase your sales by selling to anyone who comes in the front door. Obviously, from what you have told us here this morning, that is not your method of doing business, and you have been unjustly penalized as a result of our present statutory scheme.

MRS. SYBURT: There was an attempted, almost, misuse in my store that also-- Channel 9 zeroed in on the form that I used to show people. A sister-in-law of someone in town, her parents live in Lake Hopatcong. The word got back into Manville that the parent's phone was ringing off the wall, wondering if this daughter is going to be sued also, or if she is part of our lawsuit, because I recognized her name. So, I said to the kid, "If you notice on the very bottom, it said, 'No sale made. Signature didn't match,'" That girl produced a driver's license. The description fit her. So, I had her sign. I didn't know. It didn't have a picture. I said, "I don't know that you are you. I will have to have you sign it." She signed it. I said, "Is that the way you normally write?" She said, "Yes." I said, "Would you do it again, please?" It was so close, I almost sold. So, she wrote it again. As I said, I was really going to sell it to her, but I thought, no, I'm not going to do it. That was back in July. I found out this weekend that her license was stolen, and the girl who used it was able to copy it and write that closely. So, I discribed it to the guy in town. I said, "What does your sister look like?" He said, "Better still, you describe the girl you waited on." So, I described her, four feet ten, ninety-five pounds..." He said, "That's not my sister." I said, "Birth date of April, 1962?" He said, "That's not my sister's birth date." So, he got back to his sister, back in July, and found out that license was either stolen or lost. This girl did make an attempt and almost succeeded in buying from me - stolen. She has written to Motor Vehicle, explained the situation to them that it was stolen, and that it already has been used in making an attempt to buy liquor.

MR. FELDMAN: Mr. Chairman, if I might make a suggestion. Oh, I'm sorry, Mr. Napodano.

MR. NAPODANO: Yes. I just wanted to be clear. I thought I heard you say that what you were suggesting, in the form of different treatment for this, was harsher penalties on the minors.

MRS. SYBURT: Most definitely, because if you are going--

MR. NAPODANO: I understand that, and you don't have to convince me of that. Is there anything else that you feel need be done with respect to a revision of this?

MRS. SYBURT: I really can't come up with anything right now. That has always been on my mind. Just a harsher penalty, to keep them out of my store.

MR. NAPODANO: Is your view of a harsher penalty monetary?

MRS. SYBURT: It most certainly is, that coupled with the license.

MR. NAPODANO: Coupled with?

MRS. SYBURT: Yes. Because as I explained to Mr. Patero, the boys in my store came on bicycles. A lot of small towns -- it doesn't even have to be a small town. They can live in an apartment in a city and walk to the licensed premises.

MR. NAPODANO: Would you favor a proposal, assuming one could be drafted and adopted, whereby the licensee, by statute, had a right to recover three times the penalties imposed upon the licensee against the minor or the person who is guilty of the infraction?

MRS. SYBURT: Well, many times a minor doesn't have the funds, or the parents couldn't care less. I don't know about that one. I would like to see a lesser penalty on the storekeeper, not to have him worry about recouping anything. Even in my lawsuit, I'm not looking for money.

MR. NAPODANO: But you lost money. You were closed for five days.

MRS. SYBURT: Five days. That's right.

MR. NAPODANO: So, you lost revenue for five days.

MRS. SYBURT: That's right. But, as I said, I am still not looking for money. I am looking for a way to breath a little easier when we come into business. You never know when you put that key in the door who is going to come in today. We have to worry about hold-ups, we have to worry about robberies, larcenies, coupled with these minors. I want to get the minors off our backs. I try to stay one step ahead of them, and already, they are two steps ahead of me.

I am very much in favor-- As a matter of fact, lay people have gotten letters from all over the State, and other states. One man came into the store. He didn't want to buy anything this particular day, but he asked my son where the petition is, that he would like to sign a petition. Another lady called me. She is a guidance counselor

in Newark. She lives in Somerset. She said, "Look, Mrs. Syburt, if you need petitions, I can get you all the petitions you need. We are so in back of you, you wouldn't believe." Everybody. There isn't one person who said, "Gee, Mrs. Syburt, don't you think you are too strong in your action in suing? They are only kids. They didn't realize." Nobody has said that. Everybody has said, up until yesterday, "Boy, you are doing the right thing. We are behind you 100%." I have lay organizations, not liquor organizations, who want to attend the court hearing just to support me in my cause, because they know that we are being raped. The storekeepers are laying on a bed of nails. This is what I am hoping might come out of it, after Mr. Patero's bill, and if we can go stronger, or through anybody's bill. Give us some relief.

Years ago, maybe in the early days of selling alcoholic beverages, there were those who didn't care. We have a sophisticated society now. We have sophisticated minors using sophisticated ruses to buy. We need sophisticated laws to counteract what these kids are doing. I feel sophisticated penalties are the only way.

ASSEMBLYMAN PATERO: And going a little further, I was really surprised after the bill, the amount of mail and phone calls I have received supporting it. It has been all over the State. It has been from Atlantic City, Newark, Jersey City and so on. I was really surprised.

MRS. SYBURT: My lawyer said the day the news broke that he got over 200 phone calls in his office that day.

ASSEMBLYMAN PATERO: So there is a concern out there, not just with the liquor store owners, but with the public themselves.

MRS. SYBURT: Right.

ASSEMBLYMAN PATERO: Primarily mad.

MRS. SYBURT: I have the whole State with me and mad. They all want to go to court. I have gotten letters. Some people have written who have young children. The people have written letters to me, "thank you for saving my daughters life," or "thank you for saving my son's life, because when they get older, maybe laws will be changed to make it harder for them to get booze." They are thanking me. It's incredible.

ASSEMBLYMAN PATERO: Are there any more questions?

DIRECTOR VASSALLO: Assemblyman, not directly, but on this bill we are considering, which is A-3873, which I realize is your bill. I hate to say it, but I am really not in favor of your bill. It wasn't the one I was thinking of. I am in favor of the concept. I thought we were talking about A-3890, which came to my attention the other day and which I commented on, in which it goes far beyond. There are much harsher penalties. It also provides for civil liability on the part of the under-aged people, very much the situation that Mrs. Syburt is finding herself in with the suit, where she would have a cause of action against the minors for the losses sustained and for the council fees. I just asked Aggie if she would get that bill. I believe it imposes \$750.00 penalties on the minor for the attempt to purchase.

My recommendation would be that either your bill be amended to include those things, or that the two of them be merged and you join in on the other one, Assemblyman.

ASSEMBLYMAN PATERO: Well, the thing is--

DIRECTOR VASSALLO: Because it addresses the same issues.

ASSEMBLYMAN PATERO: Right. But, what we are looking for is-- My bill has already passed the Assembly, and there is only going to be about two or three other sessions in the Senate. If nothing is passed this year, then we would have to go into the 1984-1985 legislative session. You have new members in there. The first thing that would go on would probably be public hearings and so forth. That is why I have asked Mrs. Syburt to be here today, so we could have sort of a public hearing right now. At least we have one bill out of the Assembly, signed by the Governor. We could even move something for next year.

Plus, we would also have a recommendation coming from the ABC Study Commission, that when we revise the law, we could probably put that right into -- if this is the feeling of the Commission -- the other bill.

DIRECTOR VASSALLO: Frankly, from everything that has come out that will be discussed here, I don't think your bill is really going to accomplish anything. We are going to have the same problems; whereas, this other bill addresses-- That is why I was talking while

thinking of the bill. It gets rid of the ABC card. It allows the ABC card to be used as a means of identification. Frankly, I have been at a loss since I knew about the card, even before I was Director. What is the purpose of the card? Issued pursuant to ABC statutes and regulations, and the statutes says, "But it doesn't mean a thing." A-3890 kind of cleans that all up, allows that card to be absolute proof.

ASSEMBLYMAN PATERO: The only thing that I am afraid of, monetary penalty was the problem when we had it in the Assembly. We would have sweat it out forty-one votes for the monetary penalty. If we go out with this other bill that says there is a \$750.00 fine for the first time, you might not have a bill at all. Even for the next session you might not even have a bill.

DIRECTOR VASSALLO: If that is the case, get yours through. At least it is a step in the right direction.

ASSEMBLYMAN PATERO: What we can do is, when we make our recommendations from the Study Commission, we can include those and see how far we get. I just don't want to see the bill, the whole ABC revision be defeated just for certain parts of the recommendations from the Commission. In the Assembly, I know that if there was a monetary penalty, we would have a hard time getting forty-one votes.

MR. JERLAT: Excuse me, Mr. Chairman. Under the legislative process, and understanding the legislative process, I think it would be a very good idea for us to press the bill that you have at the present time.

I know there have been some problems. When we talk about the ABC card, I assume what you are talking about is the county card?

DIRECTOR VASSALLO: Yes.

MR. JERLAT: I think in the past, some problems have arisen from the use of the county cards. I think we should look into it a little more thoroughly to make sure we don't have any problems. A lot of the counties have dropped it because of some of the problems. I'm not saying we can't alleviate the problems, but I think at the present time, we should go along with A-3873, and then whatever we can follow up with later on, great.

MRS. SYBURT: Why do they have on the back of the county ID, on the very bottom line, "Not to be used as identification for purposes of purchasing alcoholic beverages?"

DIRECTOR VASSALLO: Because the statute says that it can't be used for identification. It shall not be a writing within the meaning of 33:137.

MRS. SYBURT: Why do they tell you to go get it to buy, to use it to identify to buy? Why?

DIRECTOR VASSALLO: That is why I said I have been at a loss to explain the rationale for it.

ASSEMBLYMAN PATERO: You did say that.

DIRECTOR VASSALLO: It doesn't make sense. The whole card doesn't make sense, the concept of the card.

MRS. SYBURT: And the kids have to pay \$2.00 or \$3.00 for those cards, and it doesn't mean anything. There had been phony ones issued years ago, when these cards first came out. You have to hold it obliquely to look at the embossed New Jersey seal.

MR. BROMLEY: Mr. Chairman?

ASSEMBLYMAN PATERO: Yes.

MR. BROMLEY: Is a motion in order on A-3873? Would you entertain a motion?

ASSEMBLYMAN PATERO: Yes. That is what I was going to suggest, that a motion from this Commission be, in the form of a letter, sent to the Senate President, Carmen Orechio, and the Chairman of the Law and Public Safety Committee, Senator Graves, saying that it is the findings of this Commission that Assembly Bill 3873 be voted upon without reference.

MR. NAPODANO: Mr. Chairman, before we move the bill, is there anyone else who wishes to speak with reference to it?

ASSEMBLYMAN PATERO: Mr. Leach? Thank you very much, Mrs. Syburt. You could stay, if you wish.

**T O M L E A C H:** My name is Tom Leach, and I represent the New Jersey Liquor Stores Association. I did not intend to say anything, so I will be very brief.

As you know, a lot of the liquor stores in the State of New Jersey are struggling, for financial reasons, as a result of some changes made in regulations a couple of years ago. Mrs. Syburt might be able to afford five days of being closed, but there are a lot of storeowners out there who can't afford that. Had she appealed, she could have gotten ten, or five more days, according to the Director. So, it is not too smart to appeal if it is going to be worse than accepting your municipal penalty.

By the way, I think the term "victim of circumstance," in Mrs. Syburt's case, cannot be used too loosely. It is a serious proposition. She is doing what she feels is her responsibility, yet, she is being penalized.

We also have a regulation which has been proposed in the area of credit, which suggests that there are wholesalers who are concerned about retailers not being able to meet their debts. I think when retailers are faced with the prospect of going out of business because they are closed for five days, there is a serious concern about the plight of retailers.

I would also like to note that there are people in this room who would like to extend license privileges, the ability to sell certain kinds of liquor to establishments which are currently unlicensed. If Mrs. Syburt has difficulty performing her duty in proofing and checking identification, I would like to know how those establishments which want to be licensed will be able to do any better.

Thirdly, I would just like to show the inequity in the situation. Assemblyman Patero knows this. I happen to live a mile from Manville, and there is a drug store which is two blocks from Irene Syburt's liquor store. About the same time she fell into problems with the law, it was reported that this drug store had an employee who hadn't renewed his pharmacy license -- not the owner of the store -- for a number of years. He was caught selling drugs illegally. Now, I think someone who uses a false prescription is in trouble with the law. This employee was arrested, the drug store was not closed. I think the sale of drugs is considered by society to be far more dangerous than the sale of liquor. I think that highlights the inequity.

I just want to say that the New Jersey Liquor Stores Association strongly supports this measure, obviously. And, I believe if someone from the Tavern Association, the Licensed Beverage Association spoke today, they would be saying the same thing. It is not a sophisticated bill. It is a basic bill. It should be passed very quickly.

We have alcohol programs in the high schools. If kids are told in the 9th, 10th, and 11th grades that if they fool around with false ID, they are going to lose their driving privileges until they are twenty-one, I think a few of them will remember it. That is all I have to say.

MR. FELDMAN: Mr. Chairman, may I suggest that we include in our letter to the Senate, the expediency that is required, because we are coming to the period of the year, November and December, when based on our tax collections, 24.1% of all liquor is sold in the State; 22.45% of all distilled wine; 40.83% of all sparkling wine; 20.67% of all the vermouth sold in the year; and, beer, even though it is November, December, it is still the third largest period of the year for the sale of beer, 16.50%. So, action on their part, now, would be on the eve of one of the most important, from a sales point of view, periods of the year, vis-a-vis, the industry, and obviously, the pressure put on the licensees by minors.

ASSEMBLYMAN PATERO: Okay. Mr. Bromley, would you put that in the form of a motion?

MR. BROMLEY: I would like to move, as the Chairman has stated, on the Assembly Bill before us, and request that the applicable letters be sent if the vote is favorable.

ASSEMBLYMAN PATERO: Is there a second?

MR. NAPODANO: Mr. Chairman, I suggest to you that it is perhaps only appropriate for this Subcommittee to make that recommendation to the Commission as a whole. I understand the Commission, as a whole, is meeting next Wednesday. This Committee, if it is to adopt a motion of resolution, should suggest to the Commission, as a whole, at its Wednesday meeting next week, that a resolution be adopted by the full Commission to be sent to the Legislature.

ASSEMBLYMAN PATERO: The only thing is, it is not binding with the Senate President; it is just a recommendation from the Subcommittee.

MR. NAPODANO: But, I had believed that our procedures were that the Subcommittees were really to report back to the Commission with respect to their recommendations and findings, and that the Commission, as a whole, would issue whatever reports or whatever the recommendations were appropriate, are necessary. I'm not looking to circumvent this. I certainly will support the motion, but I don't want to find that what we do here today may be undone on Tuesday or Wednesday.

ASSEMBLYMAN PATERO: Mr. Jerlat?

MR. JERLAT: What I was going to say, Mr. Chairman, is, we do have seven members here. Because of the time involved, I just wanted to ask a question as to whether the Subcommittee could make the recommendation, as Mr. Bromley has already made a motion, and then we can bring it up again before the full Commission next Wednesday. I'm just asking a question as to whether or not we can do it.

ASSEMBLYMAN PATERO: Aggie, do you think we have that power, to make the motion as a Subcommittee? And then, you said bring it up to the Commission next week?

MR. JERLAT: Yes. In other words, if we make the recommendation now and send the letter to the Senate President, and at the same time, bring it up before the full Commission next week. As I said, half the Commission members are here.

ASSEMBLYMAN PATERO: Actually, there aren't any rules. The decision would have to come from the Chair. My feelings are, that I think we should move this, and then send the letter and make the recommendation to the Commission members. And also, get a letter from the Commission, as a whole, stating that they also support that.

Mr. Bromley made the motion. Is there a second?

MR. FELDMAN: I'm not a member of the Subcommittee.

MR. NAPODANO: I'll second the motion.

ASSEMBLYMAN PATERO: Are there any comments?

MR. NAPODANO: Yes. I would like whatever is offered in the form of a resolution to the Legislature, to very clearly point out that

the Study Commission recognizes that this bill only deals with the penalties to be imposed upon the minor, and that further study and suggestions would be forthcoming from the Commission to alleviate the dilemma that the licensee is confronted with. I think that is the second heart of this that must also be thoroughly reviewed and looked at, and certain recommendations are to be made to the Legislature.

ASSEMBLYMAN PATERO: Well, in regard to that resolution that we are sending out to the Senate President, we could put in there with the approval of the Study Commission as a whole. At least we will get our letter in so he knows where we going, and then he could move once he gets the letter from the Commission as a whole. Is that all right with you?

MR. NAPODANO: On that basis, I will second the motion.

ASSEMBLYMAN PATERO: All those in favor, say Aye.

(All respond "Aye")

ASSEMBLYMAN PATERO: Opposed? (no response) None opposed.

So moved.

DIRECTOR VASSALLO: Mr. Chairman, you have my okay, and if Mr. Jerlat, Mr. Garrity, and Mr. Feldman agree, you might indicate that four other members of the Commission were also present and concurrent.

ASSEMBLYMAN PATERO: Thank you very much. I have to be going back to Middlesex County. What we will do is, if you want, take a five or ten minute break. I will turn this over to Mr. Bromley. I think it is in order that we take a ten minute break. Thank you very much.

(Recess)

#### AFTER RECESS

MR. BROMLEY: Will the Committee please come to order? Mr. Barry Evenchick and Professor John Jordan, would you come forward, please? For the information of all parties and the record, the two speakers will identify themselves, and they are speaking to Item D on the agenda. That is, "An evaluation of the provision which prohibits

the acquisition of a beneficial interest in more than two alcoholic beverage retail licenses" - 33:1-12.31. Would you identify yourself, please?

**B A R R Y E V E N C H I C K:** Thank you, Mr. Chairman, members of the Subcommittee and of the Commission. My name is Barry Evenchick. I am an Attorney from Livingston, New Jersey. I am here today to introduce to this Study Commission, Dr. W. John Jordan, Professor of Economics at Seton Hall University. As you have indicated, Mr. Chairman, at my request, Professor Jordan has prepared a statement which he wishes to offer to this Commission with respect to the statute that you have identified, the "two-license limitation" statute.

I would, at this time, with your permission, ask Professor Jordan to offer that statement into the record.

**MR. GARRITY:** Mr. Chairman, through you, may I ask who you are representing here, what interests are you representing, and are you being paid by someone to appear here?

**MR. EVENCHICK:** I am here as an attorney who is presently conferring with a group of prospective clients relative to this subject, which is on your agenda. At this time, because that matter of representation has not yet been completed, I am not at liberty to mention who those parties are. So, I appear before this Commission, for the moment, solely in my own capacity and as one who is interested, from an intellectual point of view, in this subject, and who very likely will be representing clients in the near future to that end. And, because, as I indicated, I am engaged at the moment in discussions with prospective clients, I have asked Professor Jordan to prepare a statement. I did that knowing of this item on your agenda today, and candidly not wanting this opportunity to pass by as I continue discussions with my prospective clients in my role.

**MR. GARRITY:** Mr. Chairman, I have no objection to anyone testifying, as long as we have some disclosure as to what their interests are, who they are representing, and if they are being paid, who is paying them to do so.

**MR. BROMLEY:** Mr. Garrity, are you satisfied with the statement?

**MR. GARRITY:** I'll accept that for now.

MR. BROMLEY: Then, I would ask Mr. Evenchick to identify Professor Jordan, and proceed with his testimony.

MR. NAPODANO: Mr. Chairman, just for a point of clarification. Obviously these are open meetings, and any member of the public can appear before us to give testimony on subjects that we have within our agenda. The record should reflect, at least, at this time, that Mr. Evenchick and Professor Jordan, both appear in their individual capacity as members of the public. Is that what I understood you to say?

MR. EVENCHICK: Yes, Mr. Napodano. That is quite correct.

MR. BROMLEY: Is there any other unreadiness?

MR. GARRITY: Well, could I assume from that, that you are not being paid for being here at this moment?

MR. EVENCHICK: I think the assumption is quite accurate, and I think irrelevant. I appear here as a member of the public before this open body, and that is really sufficient, I believe, with all due respect, in terms of my role here today. I have explained to you the underlying reason for my appearance. There is no secret. But, it is true, as Mr. Napodano has indicated, that for present purposes, I appear here as a member of the public, and so does Professor Jordan.

MR. GARRITY: Well, I think it is clear, and it should be on the record, that they have failed to disclose and are unwilling to disclose who they represent at this time by being here, other than themselves.

MR. BROMLEY: I think the record would have to show that rather than that, they state they represent themselves as the public.

MR. GARRITY: I'll accept that.

MR. BROMLEY: Would you proceed with your testimony?

MR. EVENCHICK: Professor Jordan.

MR. BROMLEY: Please identify Professor Jordan, for the record?

MR. EVENCHICK: Yes. I indicated that to my left is Dr. W. John Jordan, Professor of Economics of Seton Hall University.

MR. BROMLEY: Thank you kindly.

**DOCTOR W. JOHN JORDAN:** Thank you, Mr. Chairman and members of the Commission. Just a correction, I am an associate professor of economics.

For the past three and one-half years, I have studied various aspects of the alcoholic beverage industry in New Jersey, and because of this, have been asked by Mr. Evenchick to give my views on N.J.S.A. 33:1-12.31 to 12.38, the "two-license limitation" statute. I will confine my remarks to the anti-competitive consequences of this law, but will be happy to answer any questions you may have after.

The disturbing aspect of this statute is that it prohibits the consuming public from benefiting from the cost-reducing efficiencies associated with a multi-store operation under a central management. By prohibiting an individual from owning an interest in more than two retail outlets, it is preventing the seasoned owners/managers of the most efficiently run alcoholic beverage retail outlets in New Jersey from fully utilizing the organizational and managerial skills they have developed over the years. After all, it is not the inefficient retailer who is looking to expand his business, it is the retailer who, through experience, is confident he can market his products in such a manner that he will continue to successfully compete against his many rivals.

The competitive pressures brought on by a relative increase in the number of lower cost retailers in this highly competitive trade, will ultimately manifest itself in the form of lower overall retailer prices. At present, consumers are harmed by paying higher prices than they would, absent this restriction on the expansion of efficient retailers.

The apparent rationale for the two-license limitation is, that it prevents regional monopolies forming and then exercising their monopoly power over price to the detriment of consumers. While this concern may have merit in some of the sparsely populated regions of New Jersey, my research has found that it is not a valid concern to those regions of the State where most of the people, and retail outlets, are located. The empirical study I have done revealed that for the densely populated counties of New Jersey, the relevant market at the retail level is much broader in a single municipality or even a small group of

municipalities. For a given municipality, no statistical correlation was found between the per capita number of package stores and retail prices for alcoholic beverages. Owners of a small percentage of retail outlets in municipalities, or the other extreme, 100 percent of the retail outlets, by a single individual, was not found to be related to the prices charged for alcoholic beverages. The reason for this is because the market perceived by the retailer, that is the group of individuals he is trying to entice to be his customers, is drawn from an area larger than the municipality in which he is located. This is probably due, at least in part, to the fact that the most cost-efficient mode of local advertising, newspapers, usually covers an area of at least several municipalities, if not an entire county or group of counties. The more prone to discount pricing a retailer is, the more likely he is to advertise in the broad of the area in which he will draw customers.

Simply stated, this statute provides unneeded protection from a scenario that is highly unlikely if ever to occur in those regions of the State where most of the population lives. Competitive safeguards are already in existence in these regions to prevent any consumer harm from occurring due to a tense and regional monopolization. Further, this prophylactic statute, in and of itself, causes consumer harm by preventing managerial and other multi-store economics-of-scale from being fully developed. This results in higher operating costs and higher prices charged to consumers than would otherwise exist. If there is concern over potential anti-competitive behavior in a sparsely populated region in the State, it certainly makes more sense to deal with the problem at the local level than to deal with it via a State statute that simultaneously imposes higher prices on most of the other consumers in the State. Thank you.

MR. BROMLEY: Thank you. Do any members of the Committee have any questions?

MR. FELDMAN: Dr. Jordan, I have just one question. You indicated that you have made a study of the industry, I presume, in depth.

DR. JORDAN: That is correct.

MR. FELDMAN: Did you review the minutes of the Trade Practice Subcommittee meeting that was held in Hackensack recently?

DR. JORDAN: No, I have not.

MR. FELDMAN: Well, I suggest that you read that, because it is completely contrary to what you have advanced today in the sense of pricing. So, I suggest that you read that. It might cause you to modify some of your observations on that score.

DR. JORDAN: My comments on this issue were based upon a study that I performed over the course of a year. To my knowledge, no other study has been done, of comparable magnitude or sophistication.

MR. FELDMAN: Well, this was a study-- The testimony was rendered by the industry members. It was not rendered by anyone in your field. People who would have been investigated -- I'm using the small "i" -- to determine the input into the results of a study in terms of pricing. So, I am simply suggesting to you, that you look at that.

DR. JORDAN: I am delighted that you pointed it out to me. I would be happy to look at it, and I will look at it.

DIRECTOR VASSALLO: Through you, Mr. Chairman. Dr. Jordan, are you referring to the study you did as being the one that primarily was centered in Bergen County about two to three years ago?

DR. JORDAN: Yes, sir.

DIRECTOR VASSALLO: You haven't done anything to update that, have you?

DR. JORDAN: I have done work, updating some of the results on that, but I haven't published it.

DIRECTOR VASSALLO: Is that considered in the remarks you made, the updating of it, or are you basing it just on the original study?

DR. JORDAN: My overall efforts in this field were considered in my testimony.

DIRECTOR VASSALLO: You haven't considered the areas of Camden, Trenton, any of that part of the State, have you?

DR. JORDAN: What I have done is, I have looked at what I considered to be a county that is representative of densely populated counties in the State, and I have drawn a conclusion on the basis of that. I have no reason to believe that there are any differences in the other counties that would alter those conclusions.

DIRECTOR VASSALLO: And you chose Bergen County as the representative county.

DR. JORDAN: Yes, sir.

DIRECTOR VASSALLO: Thank you, Mr. Chairman.

MR. NAPODANO: Dr. Jordan, do you contemplate publishing your study?

DR. JORDAN: It has been published in the Congressional Record. I think eventually it will end up in an other place. I presented it at several economic conferences, most recently in Venice, Italy, a conference sponsored by NYU. I'm trying to get it out, but it takes a long time.

MR. NAPODANO: Was the publication in the Congressional Record testimonial as opposed to the submission of the written report?

DR. JORDAN: That was a submission of a written report.

MR. NAPODANO: Is that written report available, so that you may submit it to members of this Commission?

DR. JORDAN: Yes, sir. In fact, I believe I sent a copy to the Commission.

MR. NAPODANO: Do we have a copy of that, and was it distributed, Aggie? I don't recall receiving it. I just wanted to point out, in respect to the testimony that has been called to your attention with respect to a hearing that occurred in Hackensack with the Trade Practices Subcommittee, that the testimony in that record was heard, if you will, from one segment of the industry, a limited segment of the industry. The entire industry was not heard of. So, if you were to look at that testimony, then I would suggest that there is to be another Trade Practices Subcommittee meeting, at which, hopefully, other members and other segments of this industry will appear and give testimony also. You may want to consider that before making any revisions in your study.

Have you done any indepth analysis of the origination of this two-license prohibition?

DR. JORDAN: I haven't. No, sir.

MR. NAPODANO: So, at this point, you are not able to comment or testify as to what views, thoughts, or problems may have existed that originated the two-license limitation?

DR. JORDAN: Not at this time.

MR. NAPODANO: Is it your testimony, Doctor, that whatever those concerns may have been, those concerns are not prevalent and present in 1983?

DR. JORDAN: My comment--

MR. BROMLEY: Pardon me, Dr. Jordan. I don't think the witness can answer that.

MR. NAPODANO: Why don't you let the witness determine whether or not he can answer that? Can you answer that question, Dr. Jordan?

DR. JORDAN: Let me continue with what I was going to say, and perhaps I will answer the question. If I'm not, tell me. What I addressed myself to was what I assumed, and those who I know who are familiar with the statute, is reason for existence, that being as a prophylactic statute to prevent regional monopolies from occurring. It was that issue that I was making comments on.

MR. NAPODANO: I have no other questions, Mr. Chairman.

MR. BROMLEY: Are there any other questions?

MR. JERLAT: Yes, I have one question. Dr. Jordan, in the study that you made, you said Bergen County. This would be 1980, 1979?

DR. JORDAN: It is 1982.

MR. JERLAT: All right. What did you use as a comparison in your study? You must have used some sort of a comparison?

DR. JORDAN: In reference to what?

MR. JERLAT: Well, in reference to the total study. Bergen County being probably one of the more financially lucrative counties, not only in the State, but in the United States, I was just wondering, in your study, what did you use Bergen County as, to compare to what? Compared to some other area, let's say, New York?

DR. JORDAN: I'm just a little unsure as to what you are asking. The study itself was a study of the retail end of this industry. Initially, its objective was to show the impact of deregulation on alcoholic beverage prices. In the process of doing so, I learned a great deal about the retail end of the trade, as well as other aspects. There were certain conclusions I was able to draw from the basis of my efforts, and one of those conclusions was what I gave you here.

As far as a comparison, I'm not really sure of what you are asking. Was I comparing what to what? I'm not sure of that.

MR. JERLAT: Your study was about the alcoholic beverage industry and the price structure.

DR. JORDAN: Yes. At the retail level.

MR. JERLAT: At the retail level. But, you are talking about the price structure at the retail level in Bergen County. This is since deregulation. As compared to the price structure where?

DR. JORDAN: As compared to the price structure--

MR. JERLAT: Just in Bergen County?

DR. JORDAN: Well, it was prior to deregulation versus after deregulation.

MR. JERLAT: Okay. But you just took Bergen County? You didn't compare it with any other county in the State of New Jersey, or any other state?

DR. JORDAN: No, sir. I didn't.

MR. JERLAT: Thank you.

MR. BROMLEY: I have a question or two, which I would like to ask Professor Jordan. One of those questions would be, whether or not you have any investigations, studies, or comparisons of New Jersey and its two-license limitation with other states that might have a different structure?

DR. JORDAN: I have not done that at this time. I think it best for me to say, not at this time. I am aware of the practices that exist in several other states. As you know, deregulation of alcoholic beverages is very complex. There are a great number of statutes and regulations. Even though another state may have something that is the opposite of what we have in this State, another statute or regulation that they have that we don't have, may make a simple economic comparison irrelevant. I have not undertaken that kind of investigation at this point.

MR. BROMLEY: I just wondered, having postulated some benefits, perhaps you might know where a situation of that kind did exist, where those benefits were apparent?

DR. JORDAN: I guess my answer to that question is, no, I haven't.

MR. BROMLEY: The second question I would like to ask you is, it is apparent, I gather, that you do not feel that a two-license limit is a beneficial thing for the people in New Jersey, and therefore, if two-license limitation is not beneficial, is there some other figure that you might find acceptable?

DR. JORDAN: The limitation to two licenses initially is somewhat confusing to me. I'm not sure why the number "two" was chosen, or why a ceiling at all was chosen. The point that I am making here is, it seems to me that for most regions of the State, a limitation on the number of licenses held by an individual or firm really isn't necessary, because competitive forces will mitigate any attempts the exercised monopoly power held by these individuals.

I did point out that in some of the more sparsely populated areas of the State, it is possible that some anti-competitive behavior could arise. However, I think, as I indicated, that would probably be best dealt with at the local level, attempting to protect that sparsely populated region of the State, or those sparsely populated regions of the State. By having a statewide statute, unnecessarily, in my opinion, causes more harm than good.

MR. BROMLEY: The last question I have for you is, the argument which you have raised on the two-license beneficial limit might well be raised on the limits regarding population. Do you have feelings on those also?

DR. JORDAN: I have thought about that issue from time to time. Yes. There are several considerations with regard to the elimination of the population restriction. You are referring to the 44 license per 7,500?

MR. BROMLEY: That is one on retail stores. There is another on consumption.

DR. JORDAN: There are several considerations issued that have to be taken into account in addressing that issue - efficiency considerations and equity considerations. Addressing the latter first, many individuals in this State have purchased liquor licenses on the assumption that they are buying an asset, basically, and that the rules of the game have been clearly established, and that the rules are not going to change. Now, perhaps their initial assumption was incorrect,

I'm not sure. Certainly, there is some uncertainty surrounding that premise.

If, at some point in time, the rules of the game are changed suddenly, the individuals who purchase those licenses are going to suffer a capital loss. Licenses in this State are limited by statute, based on population, and as a consequence of the demand for alcoholic beverages, there is an economic value to those licenses. The economic value of those licenses is going to be impacted by a change in the number of licenses that exist in the State. There is no question about it. There is no question, in my opinion, that you would see entry into this industry, at the retail level, if the population restriction were relaxed. As a result of that, those who currently hold liquor licenses would suffer a decline in the market.

So, if any consideration is made with regard to removing that statute, I would say, be mindful of the fact it is going to have an economic consequence on the value of those licenses, and some of those businesses are going to suffer because of that.

In addressing the efficiency aspects of it, I would say that it would tend to enhance the distribution of alcoholic beverages at the retail level, in that it would certainly add to what I already considered to be a relatively, very competitive industry.

MR. BROMLEY: Thank you kindly. Are there any other questions from the members of the Subcommittee?

MR. NAPODANO: Yes. Just to pick up again, Doctor, can you explain to the Subcommittee why you selected Bergen County for your study?

DR. JORDAN: I selected Bergen County because it was, in my opinion, typical of the highly populated counties in the State. Those of you who know Bergen County and know other counties, are probably aware of the fact that the income level in Bergen County is different than it is in other counties. I corrected for that in my study in attempts to establish the correlation of income levels to the variables that I was concerned with. I found, across the board, that they were insignificant. I was very mindful of the demographics of Bergen County, relative to other counties. In my opinion, they weren't sufficiently important to alter my conclusions, whether I chose Bergen

County, Essex County, Hudson County, Union County, or some of the more populated counties.

MR. NAPODANO: Before selecting Bergen County, if I heard you correctly, you made an evaluation of the State to determine which county you would study?

DR. JORDAN: That is correct. Before I undertook it and while I was undertaking it, I was constantly reassessing my initial premises and seeing whether or not they continued to remain valid. In my opinion, they did.

MR. NAPODANO: And you made adjustments in your study to account for differences in other counties, vis-a-vis, Bergen County?

DR. JORDAN: Differences in income. I looked at those factors that would influence retail prices. I did not find income to be significant.

MR. NAPODANO: Are you in a position to conclude, or did you conclude that your study of Bergen County was typical of other populated counties in the State of New Jersey?

DR. JORDAN: Yes, I did conclude that.

MR. NAPODANO: I would like to finish the question for the record and then have your response, if you will. Are you in a position, Doctor, or did you conclude from your study, whether or not Bergen County is typical with respect to other populated counties in the State of New Jersey?

DR. JORDAN: For the purposes of my study, yes.

MR. NAPODANO: Was it, or was it not?

DR. JORDAN: I did conclude that. Yes.

MR. NAPODANO: That it was?

DR. JORDAN: For the purposes of my study, I did conclude that it was.

MR. NAPODANO: Thank you, Doctor.

MR. BROMLEY: Are there any other questions? (no response)  
Gentlemen, thank you very kindly.

DR. JORDAN: Thank you.

MR. EVENCHICK: Mr. Chairman, I would like to express my appreciation for the opportunity to appear here. I think the

Commission is to be commended for including this important subject on its agenda. I have prepared and will submit, with your permission, multiple copies of Dr. Jordan's statement.

MR. BROMLEY: I thank you very kindly, Mr. Evenchick. I appreciate that. The next witness listed on the agenda of parties wishing to testify is Mr. Milza of Renault Winery, and Mr. Lefkowitz. Would you be good enough to identify yourselves for the record?

**J O S E P H P. M I L Z A:** My name is Joseph Milza. I am the owner of Renault Winery. I represent not just the winery, but the Association of Wineries in New Jersey.

**B A R R Y L E F K O W I T Z:** I am Barry Lefkowitz, President of MGR, Incorporated. My firm represents New Jersey Wine Growers Association and L.N. Renault Winery.

MR. BROMLEY: Thank you kindly.

MR. MILZA: I previously appeared before the Subcommittee on Trade Practices in Hackensack. I appreciate being here for this Subcommittee. I would like to be very brief on it, because there are very many of the same people on both of these Committees.

The point that I would really like to make is -- I'm talking about the industry right now, the wine industry itself and the help that we can give to it. They have changed their approach to certain things. Rather than operate as competitive wineries, a competitive industry, rather than look at itself as an industry within this State that attracts tourists, it turns out that most of the wineries right now, their approach is, of course, to become tourist operations, to allow people to come through their wineries, taste their wines, and buy their wines. We have seven wineries right now, and they are all quite interested in that activity. It goes along with the beaches and the casinos, and we feel it is a supplement to those things.

An extension of Title 33:1-10 2A Plenary Winery License, what we are interested in, would facilitate the growth of New Jersey wineries into viable business enterprises, and add to the tourist attraction, to encourage further tourism.

We have a copy that we proposed to go before legislation, which extend our licenses to have an on-site restaurant at the facilities.

We happen to have a restaurant on our facility already. The privilege at the present time is, I may sell or serve my wines, the wines that we make in this State and our winery. We would like to extend that privilege. The major provisions in the legislation would be, we would pay a separate fee to the State of \$5,000 for the extension of this privilege; in other words, to sell other alcoholic beverages in our restaurant at the winery. And then, an annual fee to be paid to municipalities, compatible to those fees that are normally paid by C licenses.

The New Jersey Winery can be spelled out as a winery having at least a 10,000-gallon storage capacity and the right to sell beverages on the premises in connection with a restaurant. It is obvious that anyone in the wine industry has spent thousands of dollars getting the license privilege, and operating as a winery.

Some of the other things I think are interesting: It would help the industry, help grape production, increase exposure to a New Jersey product and bring in added revenues to the State. I think they should be drinking more of New Jersey wines. I think it is important. We have three wineries in this State, including our winery, Renault. We have gone around to other states competing and winning awards for the type of wines we put out. I think it is important. One of the things that the people in New Jersey don't even realize is, there are wineries within our State. They don't even realize that just five years ago, we ranked fourth in the United States in the production of wine. I think this is kind of important, and sometimes a measure like this can help us do our job a little better.

Well, that is the whole project.

MR. BROMLEY: Mr. Milza, we thank you very kindly. Mr. Lefkowitz, do you care to amplify that statement?

MR. LEFKOWITZ: Well, I think the only thing to be added to the record is, to understand that one of the rationales for having an on-site restaurant is to encourage out-of-state tourists, and even our own citizens of New Jersey, to coming to the winery, and by having the encouragement of coming to the restaurant, providing them with exposure that may not have had before. It is part of a marketing strategy to encourage exposure of a product and recognition of the industry that we have.

I am sure many of you know that, for example, at the Renault Winery, there are tours set up for residents and tourists to go on. We feel that something of this nature would enhance that as well as it would enhance the capability of some of our other wineries, such as Gross's Highland Winery, which is also down the shore, Tomascello, which is in Hamilton, etc. So, we feel that there is much significance to having the marketing ability, which this type of legislation would afford us.

I think there are also economic impacts to the State that would be beneficial, as well as economic impacts to the local municipality. When you bring in more tourists to a municipality, it means that other merchants will have an opportunity to have the exposure to what they are doing. So, I think when you look at, in total, the potential and possibilities of what this legislation can do, and the fact that we are really only talking about five wineries, at this point, that would be eligible for such an undertaking, you can see that one, it is not a major change in what exists; two, it would be required with municipal concurrence, which I think is important and something that all of us consider as far as from the Home Rule concept; and three, most importantly, it would add to what we already draw in New Jersey, and that is our beaches and the casinos. And, as many of you know, you can go up to the Finger Lake areas in New York, they have a major wine industry there, which is very much geared towards tourism, and you can go to other places. I think the time has come for New Jersey to be able to get a share of that market.

MR. BROMLEY: Thank you.

MR. FELDMAN: May I ask the Director a question? Director, the suggested legislation proposed today, seems to me in variance with the current law in effect, the 2A provision, because the words are "In lieu of such additional fee of \$200.00, but upon the payment of an additional fee of \$600.00, the holder of this license shall have the right," etc. I don't see that in there. Is that still quoted in the Act?

DIRECTOR VASSALLO: Yes. That is still part of the Act, Mr. Feldman.

MR. FELDMAN: Because he makes no reference. He doesn't copy that portion.

DIRECTOR VASSALLO: There is no one who has invoked that privilege, but it is still part of the act.

MR. LEFKOWITZ: Yes. If you look carefully, Mr. Feldman, on Page two of the copy of the legislation that has been provided for you, the language change has been, "The addition of a \$5,000, one-time licensing fee, and an annual fee to the municipality." That is the additional language amending the existing statute.

MR. FELDMAN: Well, are you eliminating the \$600.00 privilege, which is currently in the Act? There is no reference in your proposed act.

DIRECTOR VASSALLO: It appears to be, Mr. Feldman.

MR. LEFKOWITZ: That may be merely an oversight that will be picked up by Legislative Services, when it goes through the--

MR. FELDMAN: I was wondering if you were proposing that to be eliminated. But actually, it is just an oversight, as you have indicated.

MR. LEFKOWITZ: This would be an addition to that.

MR. BROMLEY: While we are at that point, I presume that word is "concurrence," "municipal concurrence."

MR. LEFKOWITZ: Yes.

MR. BROMLEY: Are there any questions?

DIRECTOR VASSALLO: Mr. Lefkowitz or Mr. Milza, perhaps you would like to explain to the Commission why you feel it is necessary for the tourist to serve, other than your own wine, a retail privilege, which you now have and which is really an exception to the tied-house prohibitions that we have in this State, like most other states, and how we can also distinguish between--? You're talking about New Jersey wineries. It is something that very much concerns me, especially as Director, where I have to deal with the entire industry. We also have New Jersey breweries, New Jersey blenders and rectifiers. Would this not be discriminatory in giving a privilege to New Jersey wineries, that the breweries in New Jersey and the blenders and rectifiers in New Jersey, any distillers that might locate in New Jersey -- we presently have none -- and even the wholesalers in New Jersey, which are purely New Jersey businesses, why they shouldn't be allowed to have, in essence, retailing privileges, beyond the limited retail privilege that

New Jersey wineries now have to sell their own products at retail, which distillers don't have, brewers don't have? I see it as expanding an exception to the tied-house prohibitions, not that it can be done, but I think there has to be some clear rationale for doing it, and I think it should be set out for the Commission to consider.

MR. MILZA: My thought here is, to first look towards other areas. In the first place, wine has always been considered a food. It is a food. It is served with food. I can readily understand where perhaps some of the other beverages might fall into a category like that. But when I look at the privileges that they enjoy throughout Nappa Valley, throughout some of the Finger Lake areas, restaurants that you can go to in wineries. You find that they are well-rounded restaurants. They are restaurants offering what all restaurants can offer, and that is -- if they have a license at all -- all the facilities, that is, all the liquor in addition to beer and wine. I just think it makes for a better facility. It does a better job.

We have a restaurant there. Every once and a while, we do have some who just prior to sitting down, find out that you only have wine to sell or to add to their dinner, and they do walk out. You do get that occasionally. It is more of an embarrassment than anything else.

I just feel that you are not a true restaurant if you are not offering all that you should. If you are just going to offer part wines, just this little bit, and nothing else, it is a whole different act, I think. I just think it would be more helpful.

DIRECTOR VASSALLO: Isn't this also infringing on the municipalities and the two-license limitations? Are there other licensees in that municipality where the winery might be located?

MR. MILZA: Okay. That is a thought. I think, for instance, I can only fashion it after what I have. I have a winery. There aren't two wineries in my town. There are other restaurants, there are other licensees, correct. But, if they are going out to a winery for dinner, which is what we are offering, it is just totally separate from everything else. I don't think my license is infringing on anyone else and my privilege isn't infringing on anyone else in the business.

DIRECTOR VASSALLO: In other words, what you want then, is concomitant or an additional thing to your winery, your winery still being the primary thing there? But, if you had a plenary license or a plenary privilege in a restaurant, wouldn't that enable you to just attract people to the restaurant, having no interest whatsoever in the winery?

MR. LEFKOWITZ: I think, Mr. Vassallo, the notion here is, that the restaurant is a marketing tool to provide exposure to those individuals who may not have normally considered looking at Renault as a winery and the New Jersey product. The wineries in New Jersey are, in fact, supposed to be a part of the tourism industry. Most of the wineries, as you are aware, in fact do provide tours, do have buses coming in for the purpose of touring their wineries.

I think we also have to take into account that many other states provide different types of legislative assistance and other types of tools to help their own wine industries.

In addition, in regards to your question about the municipalities, the language in the bill very clearly states, "with municipal concurrence." So, the municipality would have to be able to provide the agreement to allow such an operation to exist. Now, the notion of the fact that you have other restaurants, well, the bottom line in the restaurant business is, the food. Which restaurants are going to provide the type of food and the type of pricing structure that will encourage people to come to their facilities?

DIRECTOR VASSALLO: Do you have any specific examples of legislation in other states which allows tied-house exceptions in similar situations?

MR. LEFKOWITZ: Well, I'm not so sure that we really see this as a tied-house exception.

DIRECTOR VASSALLO: It has to be. Mr. Milza is a supplier. He is a manufacturer of alcoholic beverages. He is a Class A licensee in this State.

MR. MILZA: This doesn't give me the privilege to go out into other towns and purchase a license. That would strictly be against tied-house. I don't have that privilege. I am only looking for an extended privilege on the present privilege that I have, and only in lieu of an operation of a restaurant.

MR. NAPODANO: Mr. Milza, do I understand that what you are looking for is a new license?

MR. MILZA: No.

MR. NAPODANO: To be issued?

MR. MILZA: No, no. This is my present license.

MR. NAPODANO: You are asking that your present license be extended to include all alcoholic beverages?

MR. MILZA: In a restaurant only.

MR. NAPODANO: Within the municipality. Your winery is in a municipality.

MR. MILZA: The winery is in a municipality.

MR. NAPODANO: The problem that I would like you to address is, I think, and maybe it is piggybacking on what the Director said, the municipalities have population quota with respect to the issuance of licenses. There are quota with respect to the issuances of consumption licenses. And, what you are asking for is a consumption on-premise license. We just heard Professor Jordan indicate to us, or at least caution this Committee, that when we deal with the agenda item that we have concerning population quota, that we should look very carefully, perhaps, at the equity impact on existing licenses, any removal, extension, or change that that population quota would have. So, the question I would put to you is, I would assume in the municipality in which your winery is situated, there are, presently, consumption licenses.

MR. MILZA: Yes.

MR. NAPODANO: And my further assumption would be, that the municipality probably does not have, by virtue of population quotas, the right to issue additional consumption licenses. Let's assume that for a second. Notwithstanding that, you would ask that this legislation grant to you, as an exception to the tied-house and an exception to the population quota, a license to serve full beverages at your restaurant. Is that correct?

MR. MILZA: Are we looking for a special license?

MR. NAPODANO: Whether you call it a special license or not, you are looking for the same privileges that a C license, on-premises consumption now has. Is that correct?

MR. LEFKOWITZ: Well, I think, Mr. Napodano, the issue has to be looked at in several vains. First of all, as you are aware, there are exceptions to--

MR. NAPODANO: Mr. Lefkowitz, if I may interrupt you, I am not, at this moment, addressing the relevant merits or lack of merits to your request. I really want to understand what your request is.

MR. LEFKOWITZ: I am going to try to answer that through this mechanism. First of all, as you are aware, in terms of the number of licenses that exist for any municipality, there already exists, in Title 33, exemptions to that. For example, if you own a hotel, you automatically, notwithstanding whatever the limit is-- There are existing precedents within the laws that provide the exemptions for the limit.

Secondly, in terms of the value of the license, one, I think Mr. Milza made the comment that wineries have phenomenal monies invested in their businesses already. In the case of Renault, you are talking about hundreds and hundreds of thousands of dollars. It does not suddenly turn around, and someone who does not have the same type of investment, if not, in fact, more of an investment as far as the wineries than some other individual that holds a C license. The thing here is, the license we are looking for, as far as the extension of the plenary winery license, the privilege that we are asking for is, only to be able to do on-premise serving of alcoholic beverages with no off-premise privilege whatsoever, and that consumption can only take place on-premise. We believe that it will not infringe on the value of anybody else's license, because it is merely an extension of an existing one that Mr. Milza presently has.

MR. NAPODANO: Mr. Milza, what is the seating capacity of your existing restaurant?

MR. MILZA: One hundred and eighty-six.

MR. NAPODANO: If you had the privilege of this additional extension, would you increase that?

MR. MILZA: If I had it? No, sir.

MR. NAPODANO: You believe your restaurant, at its present physical structure--

MR. MILZA: Yes. I'm certain that it would stay the same physical size. There would be no reason for more.

MR. NAPODANO: It was 180, sir?

MR. MILZA: Yes.

MR. NAPODANO: Do you have many vacancies during the normal weekend activity, or is your restaurant pretty active?

MR. MILZA: It is becoming quite active.

MR. NAPODANO: It is pretty active?

MR. MILZA: Yes, sir.

MR. NAPODANO: Then what is this additional plus going to give you that you do not already have?

MR. MILZA: Well, first of all, it becomes active at certain peak times, let's say, a Saturday, leaving open other days. We only open, at the present time, three days, Friday, Saturday, and Sunday, hoping to add on Thursday, perhaps Wednesday.

MR. NAPODANO: Are you presently restricted to three days?

MR. MILZA: No, sir.

MR. NAPODANO: You are not.

MR. MILZA: We restrict ourselves.

MR. NAPODANO: Yourselves.

MR. MILZA: We know that we could do more business. It is a gourmet restaurant, in the sense that we usually don't put out more than sixty to seventy or eighty seats in a restaurant like that. We don't turn over seats, therefore, people do sit there for a longer period of time. We don't turn over tables, in other words. They do sit there for a longer period of time. I'm certain that just this privilege alone, with the privilege that I already have, would just add to the whole concept.

I talked to other wineries, just a few. They have been to my winery. They noticed what I have done, and they can see that it is something different. It is a whole different bag now. We are dealing in tourism, rather than trying to just make wine and put it in a store and sell it in a store.

MR. NAPODANO: Do the other four wineries have restaurants on the premises?

MR. MILZA: No, they don't.

MR. NAPODANO: Yours is the only one.

MR. MILZA: We were the first one to do it, and, of course, they are very interested in it, and would also like to get into it.

MR. NAPODANO: Do you operate your restaurant as a separate cost center for accounting purposes?

MR. MILZA: Yes, sir.

MR. NAPODANO: Do you make profit at that restaurant?

MR. MILZA: We just opened in mid-June.

MR. NAPODANO: It's too early to tell?

MR. MILZA: It's really too early to tell. At this point, yes, it shows that it would be profitable later on.

MR. NAPODANO: Have you had any correlation in study with respect to the tourism traffic through your winery as a result of the restaurant?

MR. MILZA: Okay. That is very interesting and very important. It turns out that, yes, we are finding that one thing is beginning to help the other quite a bit. In other words, the tourists, the people who come through the winery itself on regular tours, are very much interested in coming up to a gourmet restaurant that cooks their food with wine, is offering little tastings of wine with certain courses and things like that. They find that very different. Also, those people who have not been to the winery, coming just to the restaurant itself, we're finding is having that other kind of backlash.

MR. NAPODANO: Will come back to the winery.

MR. MILZA: Coming back to the winery, because we are showing certain aspects of the winery within the restaurant.

MR. NAPODANO: Are the hours of operation of the restaurant similar to the tours that go through the winery?

MR. MILZA: Only on Saturdays. The dinner arrangement is from 5:00 to 9:00, the usual dinner hours of an A restaurant. We don't open in the afternoons, except Sunday.

MR. NAPODANO: Do you charge a fee for the tour through the winery?

MR. MILZA: In our winery, we do. It is a small fee of \$1.00.

MR. NAPODANO: I have no other questions, Mr. Chairman.

MR. BROMLEY: I would like to announce that we will question for about ten minutes longer, and then we will take a half an hour for lunch. If there are further questions, we will proceed with these questions at that time. With that constraint, Mr. Jerlat?

MR. JERLAT: Go ahead, Director.

DIRECTOR VASSALLO: If you had this privilege, what kind of wines would you carry? Only your own?

MR. MILZA: No. We would carry other wines. I know the type of clientele coming in would like to look at more expensive wines, those wines we couldn't possibly make.

DIRECTOR VASSALLO: How about other domestic wines equivalent to yours? Would you also carry that?

MR. MILZA: It is good marketing. If I am a good marketing person, I would develop my price wines as the basic wine for them to be interested, and then have a category considerably higher than mine, or steps up from mine that would make sense for them to be interested, or, make comparisons with.

DIRECTOR VASSALLO: Thank you, Mr. Chairman.

MR. BROMLEY: Mr. Jerlat?

MR. JERLAT: Mr. Milza, you referred to the Finger Lake region of New York and New York wineries. Can you tell me of any winery in New York that at the present time has this type of a situation, that has an open license that serves to the public?

MR. MILZA: We have about six wineries that are going through the same thing that I am going through right now, because of Taylor pulling out. A lot of the wineries left growing grapes that they have no market for right now. They have their own separate problems up there. They are looking to do the exact same thing.

MR. JERLAT: My question is, are there any wineries in New York State, that you know of at present, that have a full restaurant privilege where they serve to the public? I'm not talking about serving a private thing, but to the public, where they come in and charge for alcoholic beverages?

MR. MILZA: No, sir. I don't think there are any that have that right now. They are, as I said, attempting to get the same privilege that we are getting here.

MR. JERLAT: I understand what you are saying -- I may be wrong when I say this -- is, one of the ideas behind this is to promote your wines in New Jersey, in other words, the wineries in the State of New Jersey, right?

MR. MILZA: That's right.

MR. JERLAT: If you are interested in promoting the wines in the State of New Jersey, have you pursued the area of, such as the restaurant show, the hotel/motel show, the trade papers show, the Package Store Association shows? Have you pursued that area promoting wines?

MR. MILZA: Well, anyone who knows me, knows that I put a great effort into whatever I do. Yes, I have made that attempt to find out, in a lot of cases, that I am sometimes beating a dead horse. Renault Winery has not made money since 1964. Renault Winery was a million-gallon winery years ago. It served forty-eight states and six countries. Renault Winery found that, through the course of those years, it fell back because of competition, other states that were producing wine at a lesser cost, and various reasons of that nature. We had twenty-eight wineries in the State of New Jersey; we now have seven. There has been a whole change in the industry.

If we are going to conduct ourselves strictly as a winery did in those days, that is, to sell wines to retail stores, and therefore, have them sell it to the consumer, and that be the only method of the wineries operating today, I think any winery owner is a fool. He must think in terms of what facility he has there and how he can better develop that facility. We are talking about actually bringing tourists in from winery to winery. That is, not just to come into Joe Milza's winery, Renault Winery, but to go to Bernard D'Arcy's and to go to the various other wineries, Tomasellos and so on, to see what we all have to offer. I think that makes better sense.

MR. LEFKOWITZ: Two points relative to that, Mr. Jerlat. One is, as the Director is aware, we tried an experiment in April, I believe, in which we took one of the food and wine societies, which had not had any exposure to New Jersey product before, on a bus tour of four of the New Jersey wineries, starting at Antuzzi's in Delran, and then going to Tomasello's, D'Arcy's, and then over to Renault. Then, in between each of the stops, they then had the opportunity to sample products from the other wineries. It was a very full day.

We found that that exposure of that type of technique was very successful because many of those individuals in that food and wine society had indicated that they now had found some New Jersey products that they would be interested in having.

The other thing is, the New Jersey Wine Grower's Association, as an entity, is relatively new. Its coming about has taken place because of similar problems that Mr. Milza is pointing out to the Commission here, and that is, there is a need for those seven remaining entities, along with the Hunterdon County Wine Grower's Association, which is made up of two of the farm wineries, as well as a number of other farmers who are beginning to experiment in this area of being involved in wine growing. And, as a group, they are now trying to look at some of the suggestions and things that you are talking about, and attempt to find ways that they can market their product, expose the New Jersey public to New Jersey products, and then be able to broaden the base from there.

MR. JERLAT: All right. I am sure you are aware of the fact that there are brewers who went out of business in the State of New Jersey. Would you support -- the brewers that are left in New Jersey, or any of the distillers -- the same type of an operation for the brewers or the distillers that are here in New Jersey now?

MR. MILZA: Wow! I would support any kind of a project that would hold breweries and wineries in the State of New Jersey. I think it would be foolish for anybody not to support something like that. I employ some fifty-odd people in my winery. I can't operate it as a legitimate winery, the way wineries were known to be operated. To operate it as a tourist facility, I make money. I can make money. I am making money. I want to make it better and bigger. I foresee my facility as twice the size than it is now, down the road three years.

MR. JERLAT: What you are saying now is, you are not interested in promoting the wine?

MR. MILZA: Promoting the wine?

MR. JERLAT: Yes. You are interested in promoting the wine. How many outlets do you have in New Jersey--?

MR. MILZA: Wait a minute. Yes, I am interested in promoting the wine. After all, if I didn't have the wine, we wouldn't be here talking today. What we are trying to do is help the wine industry, help my winery.

MR. JERLAT: How many outlets do you have now?

MR. MILZA: I only have--

MR. JERLAT: I'm not talking about the winery.

MR. MILZA: I'm sorry.

MR. JERLAT: I'm talking about legal outlets, legal licenses.

MR. MILZA: There are seven--

MR. JERLAT: Package stores, bars, or restaurants throughout the State of New Jersey that are selling your wine at the present time.

MR. MILZA: We sell in seven counties. I don't know how many outlets. I would say, just off the top of my head, something like forty-five stores that use it on a regular basis.

MR. LEFKOWITZ: Mr. Jerlat, you have to understand, one of the overall problems for the New Jersey wine industry is, that most people don't even know we have a wine industry. That is the difficulty. So, even where there may be certain outlets for a product, people buy it and say, "What is this?"

MR. MILZA: We started our program in Renault Winery and calling ourselves the "Best kept secret in New Jersey." People do come into that winery and do not know that a winery even exists.

MR. JERLAT: Do you have any problems promoting the wine? In other words, do you have any problem selling the wine?

MR. MILZA: Once we are able to get people to the facility, taste the wine, no. We don't have problems selling it. As a matter of fact, they like it.

MR. JERLAT: Thank you.

MR. BROMLEY: We said that we would go to the questions from members of the Committee prior to considering a lunch break. Are there any further questions of these gentlemen? (no response) If there are no further questions, I want to thank you very kindly, on behalf of the Committee. We will examine the information you have given us today. I am sure it is very useful. There were many things which I did not know, and I am certain that the members of the Committee did not know. So, we thank you very kindly.

MR. LEFKOWITZ: Mr. Bromley, on behalf of the New Jersey Wine Grower's Association, we thank you for giving us your kind attention to this matter.

MR. BROMLEY: With the intention of the Chair to break for a half an hour lunch, there is a request that there are members of the public who intended to testify -- they were next on the agenda -- and

that their continued presence might be a hardship. I wonder if I can get some indication from the members of the Committee if they wish a recess at this time for a lunch break. All those people who do, would you--

MR. NAPODANO: Before that, Mr. Chairman, do you have an indication as to how many members of the public who are present here wish to testify?

MR. BROMLEY: Perhaps four more members of the public.

MR. NAPODANO: Oh, that many. Okay.

MR. GARRITY: Mr. Chairman, are they all testifying on the same subject?

MR. BROMLEY: No. Three of them are on the subject-- Mr. Dunn is the next party, and then there is one more remaining, Garden State Restaurant Association.

MR. GARRITY: Well, my suggestion is, if we could avoid inconveniencing some people here, rather than breaking for lunch, if we could expedite that and get this over with, it might be useful. But, if you feel the time element is going to be so long, perhaps we might have to break for lunch and come back.

MR. BROMLEY: Yes. I was wondering how the Committee feels about that. Would you like to take a half an hour lunch? I think that is the general feeling. We will stay in the building and come back and reconvene at 1:30. We will stand in recess.

(RECESS)

## AFTERNOON SESSION

**MR. LEO BROMLEY (ACTING CHAIRMAN):** Will the Subcommittee please come to order? The record should indicate that Messrs. Vassallo, Jerlat, Garrity, Napodano, Feldman and Bromley are present. Having recessed for lunch and returned, the next gentlemen listed to testify are Mr. Barry Lefkowitz and Mr. Craig Garrabrant of the Garden State Restaurant Association.

**BARRY LEFKOWITZ:** Mr. Chairman, for the record, as you are aware, I am Barry Lefkowitz, President of MGR, Inc. To my left is my Associate Director Lesa Migaleddi of MGR, Inc., and to my right is Mr. Craig Garrabrant, who is a member of the Board of Directors of the Garden State Restaurant Association and South Jersey Director of the same Association, and a restaurant owner.

I come to you today in my role as Executive Director of the Garden State Restaurant Association. Miss Migaleddi and I are the Legislative Representatives for the Garden State Restaurant Association. We thank the Committee for the opportunity to come before you today to discuss what we consider to be a major issue which has been surrounded by much controversy. In Hackensack, as all of you recall, since all the Committee members who are here today were present at the Hackensack Meeting, we provided the Committee with a kit in order to give you an opportunity to study various materials. We also indicated we would have provisions made that the Parker Study Commission Report from the State of New Mexico would be provided. It is my understanding that all of you have received that material.

I do not think it necessary that I go into too lengthy a discussion regarding the issue. We have dealt with most of you in one form or another in discussing the issue, but basically the issue is whether or not unlicensed restaurants in the State of New Jersey which meet particular criteria as established by legislation, would have the right to have a special permit which would allow the serving of beer and wine by the glass to seated patrons from the hours of eleven a.m. to eleven p.m., with a meal only. That is the basic issue.

Now as you are aware, if you have had an opportunity to study the legislation we have presented to you, that legislation has gone

through major changes based on meetings with the New Jersey Conference of Mayors, members of the liquor industry, Director Vassallo of the ABC, and various other interest groups related to this particular issue. After over a year of careful analysis and evaluation of the legislation, we have come up with significant changes. I believe you have copies of the proposed legislation in front of you. Assemblyman Marsella has A-3614, and Senator Russo has S-1863. For your information, A-3614 is the substitute bill for the previous A-1969, which Assemblyman Marsella will be withdrawing shortly. It is my understanding that the report from the Hackensack Meeting contains a copy of the legislation. That's why, if you're looking, you may not be finding it.

Let me highlight--

MR. BROMLEY: Pardon me. Just for clarification, are you referring to the Trade Practices Subcommittee meeting?

MR. LEFKOWITZ: Yes, I believe it was on September 8 -- was it September 8?

MS. MIGALEDI: August 18.

MR. LEFKOWITZ: August 18, okay. The August 18 Trade Practices meeting in Hackensack. You will find copies of the legislation in that report.

Let me point out some specific pieces of information regarding the proposition we have before you today. First of all, the bill was written in order to guarantee protection to home rule, and, also, to the existing Class "C" license holders, yet at the same time, the bill will provide needed impetus to major economic revival of what we have estimated, and what trade experts have estimated for us, of approximately 2,000 to 2,500 restaurants in the State. That number reflects economic growth and the addition of restaurants in the State.

The legislation will authorize the issuance of special permits to legitimate bona fide traditional restaurants for the purpose of serving malt alcoholic beverages and wine, only by the glass, only with a meal, by restaurant personnel to seated patrons, between the hours of eleven a.m. and eleven p.m., which are considered the traditional dining hours.

Now, industry statistics show that peak hours during which drunk driving fatalities occur are as follows: (1) 2:00 a.m. to 3:00 a.m., which is the high peak hour during which drunken driving fatalities take place; (2) the second highest time period is 1:00 a.m. to 2:00 a.m.; and, (3) 11:00 p.m. to 1:00 a.m. I highlight those figures because this legislation is designed timewise so that it does not take in the peak hours when drunk driving fatalities take place.

In addition, according to the Grand Rapids Study on Drunk Driving, most drunk drivers come from, interestingly enough, private homes, such as parties, then bars, taverns and pubs, in that order.

The legislation honors a municipality's home rule option, which states that -- and you will find this within the confines of the legislation -- a municipality shall authorize the issuance of beer and wine permits for that community by ordinance. So, unless the community passes an ordinance, there shall not be beer and wine permits within the confines of that municipality. The bill even carries home rule one step further. If a municipality authorizes each permit individually for a restaurant that is, in fact, seeking the ability to have the beer and wine permit, the governing body which is the entity that certainly knows best which restaurant will meet the criteria as established in this legislation, will be the Selection Body. The bill clearly excludes all fast-food restaurants. Certainly, a municipality that is making the decision is going to know which restaurants are fast-food, and which are not.

It is important to note that in the legislation you have to have a minimum seating capacity of fifty, and the restaurant must serve a full course meal consisting of soup, salad, appetizer, entree and dessert. So, we have attempted to establish very clear criteria as to what a restaurant is, much more clearly than what exists presently in statute as to what the definition of a restaurant is.

Within the confines of this legislation, there is a population formula. This formula will place a "cap" or a limit on the number of beer and wine permits that can be issued in a community. This is viewed as a protective measure for the municipality, and for the liquor license holder.

Now, in the booklet we presented you in the kit, you will find a chart that shows the significant differences between a liquor license holder Class "C," and what we are calling for as far as a permit holder is concerned. I will give the Subcommittee an opportunity to first locate it so I can go through it with you.

MS. MIGALEDI: It is Page 6x.

MR. LEFKOWITZ: Page 6x?

MS. MIGALEDI: Yes, in the back of the book.

MR. LEFKOWITZ: All right. If you go through that chart point by point-- The reason for this chart, and the reason we say the difference is significant, is because we know there is a question as to whether or not the development of a new type of entity, a beer and wine permit, will, in fact, have an impact on those who already hold licenses. When you look at the ability of what you can do with a Class "C" liquor license versus this special permit and, for the public, since we have members of the public here, if I may, Mr. Chairman, quickly go through the chart, since they do not have the opportunity afforded to them to see this chart.

A Class "C" holder basically has flexible hours based on municipal ordinances and, as you are aware, in some municipalities those hours are extremely flexible. A permit holder, those restaurants which are seeking the permit, will have restricted hours governed by State statute, of eleven a.m. to eleven p.m. Now, if a municipality has any special statutes, for example, not being open on Sundays, the permit holder must, in fact, honor that as well. Secondly, a liquor license holder may serve any type of alcohol, by the glass or bottle. A permit holder may only serve draft beer or wine. Now, industry statistics show that although 40% of consumption is hard liquor, that 40% in relation to profit, brings in a higher profit than the 60% which is consumed in beer and wine. That is based on the industry's own statistics. It was in one of the recent beverage license trade magazines that those figures were provided.

Thirdly, a liquor license holder may have a bar or a lounge. A permit holder may not have a bar or a lounge, because the beverage may only be served with a meal at lunch or dinner time.

Fourth, any type of alcohol may be consumed at anytime without a meal in an establishment having a liquor license. A permit holder may serve only beer and wine, by the glass, with a meal.

Now, the significance of that is that health statistics provided by the New Jersey HMO, as well as other entities -- included in the kit we presented you with -- clearly demonstrates that the consumption of alcohol with food is a more desirable way of consuming than without food.

Fifth, a liquor license holder has a broad selection of alcohol which may be consumed on the premises. Once again, a permit holder may only have beer and wine.

Sixth, mixed drinks, as I indicated, have a higher profit margin than beer and wine.

Seventh, a liquor license holder owns the license and has the right to transfer it or sell it. A permit holder cannot transfer a permit, nor can he sell it. It has no intrinsic value whatsoever.

In a full Class "C" license, as you know, packaged goods can be sold for off-premise consumption. A permit holder does not have the right to sell any product for off-premise consumption. A liquor license holder has a license which is primarily in the liquor business, or the liquor/food business. A permit holder is in the food business. Our attraction as an entity is food. All we are asking for is the compliment which has become the socially accepted norm, that is, to have a glass of beer or wine with one's meal.

Next, a liquor license holder will usually have regular daily or nightly customers. In a restaurant, the norm is maybe two to four times, at the most, a month. A liquor license holder has banquet privileges granted already; a permit holder, because of BYOB legislation, must receive a special permit to provide alcohol for a banquet facility.

Lastly, a license holder may serve drinks to waiting patrons and, as you are aware, there are many facilities which have long lines where they utilize the opportunity to provide drinks, obviously for pay, to their patrons. Under this legislation, a permit holder may not serve any drink to any patron unless he or she is seated and having a meal.

Because of these reasons, we see the differential of having a Class "C" license versus a permit of such significant value that it will, in fact, not devalue the license of a Class "C" license holder. We are business people just as the Class "C" license holders are and, therefore, we are sensitive to the needs and desires of the Class "C" license holders and their concerns with regard to the value of their licenses.

Now, if I may continue, we have evidence supporting those statements from the States of Kentucky and New Mexico, which were two of the last states to adopt the special category of beer and wine in restaurants. According to Ed Ferris, Chairman of the Kentucky ABC, there has been no diminishing of the value of a full liquor license in their state since they have had this. A license in Lexington, which was used as something comparable to the nature of New Jersey, was worth \$100,000, and is still worth \$100,000. A positive observation made by Mr. Ferris was that there was a growth of ethnic restaurants in Lexington.

In addition, New Mexico, which is a tourist state not unlike New Jersey, conducted a full scale study known as the Parker Study Report, of its liquor industry through the University of New Mexico. All of you have been provided with a copy of that. In reviewing this report, we have found there are many similarities between New Mexico and New Jersey in the problems encountered in each state's liquor industry. We believe the Parker Report could be of some assistance to this Study Commission in its reviewing of the New Jersey liquor laws, not just for this issue, but I think for many other issues as well, and in making recommendations for possible alternatives for a better alcoholic beverage industry in New Jersey.

At this time, I would like to discuss with you some of New Mexico's liquor problems and how they were solved with the incorporation of beer and wine licenses. New Mexico encountered license quota problems. In some communities, such as the larger cities, there was an overabundance of licenses. In the smaller, urban communities, there were not enough licenses to take care of tourist industry needs -- very similar to the State of New Jersey. Eventually, New Mexico experienced a situation where, in some cases, the price for

a liquor license exceeded \$300,000. This is not unlike New Jersey where, I believe in Englewood Cliffs, there was a license which sold six months ago for \$350,000.

The Parker Report also examined in-depth, the relationship between the number of licenses and the per capita alcoholic consumption level. It was found that there is not a close relationship. This has been one of the arguments that opponents of this particular legislation have raised. This conclusion, by the way, is consistent with results of another study. The New York State Moreland Commission of the Alcoholic Beverage Control Law, The Relationship of the Alcoholic Beverage Control Law and the Problems of Alcohol, also showed and demonstrated that there was not a relationship between the increase and the amount of per capita consumption.

Now, according to the Parker Report, after studying the relationship between the number of licenses, alcoholic consumption and traffic accidents, "The available evidence does not appear to support the conclusion that increased availability of alcoholic beverages (more licenses per 1,000 population) will result in an increase in traffic accidents and/or traffic fatalities." You will find that information on Page 83 of the Commission Study Report from New Mexico. In fact, what we have done is, we have put specific page numbers in the body of the text of my statement, which relate to the Parker Study.

In conclusion, the Parker Report lists a number of alternatives to the liquor system under which New Mexico has been operating. One of the alternatives New Mexico has chosen establishes additional license classifications which include beer and wine licenses. However, you must keep in mind that they are talking about a license, and we are talking about a permit. Their license had more privileges than the permit we are requesting here.

According to Mr. Romeo, Deputy Director of New Mexico's ABC, New Mexico now has a system for the issuance of beer and wine licenses very similar to our own legislation, A-3614 and S-1863. "New Mexico's new system," Romeo says, "has been very advantageous to the tourist-oriented business in providing full food and beverage services, and has provided New Mexico with much needed tax dollars."

The time has come for this kind of legislation in our own State. New Jersey must stand up and be counted as the forty-seventh state to have beer and wine permits. New Jersey is one of only four states in this country that does not have some form of beer and wine licensure for restaurants. We must be able to compete with our neighboring states, because the only neighboring state that does not have a beer and wine permit, besides New Jersey, is Delaware. Many of those other states send tourists to our State, and even our restaurants, and we do not have that ability here.

Now, what I would like to do, Mr. Chairman, before there are questions and in order to save time, is have Mr. Garrabrant make his comments as a restaurant owner, to put the full element of this issue in perspective, and then open up for questions.

MR. BROMLEY: That procedure will be satisfactory. Mr. Garrabrant.

**C R A I G G A R R A B R A N T:** Mr. Chairman, members of the Committee, my name is Craig Garrabrant. I am the South Jersey Director of the Garden State Restaurant Association. I own Garrabrant's Seafood Restaurant in North Wildwood. I am also the Director of the Cape May County Chamber of Commerce.

I have been in the restaurant business for ten years, operating a restaurant which has been a part of the North Wildwood community for over sixty years. As you are aware, those restaurants in the State which are unable to obtain a liquor license can, if they so choose, have their patrons bring their beer or wine with them when dining out. This leads to problems for the restaurant, as well as discomfort and embarrassment on the part of the patrons.

I am besieged with questions year in and year out as to why I have no liquor license, because people do not like to have to carry their own beer and wine with them. This question is extremely hard to answer when one realizes that New Jersey is one of only two states that allow casino gambling, and yet we are one of only four that do not allow restaurants to serve beer and wine.

The Association has gathered evidence through a massive postcard campaign which proves that the dining public, the constituents of this State, want to have the right to be served beer and wine with

meals wherever they choose to dine. During the ten years I have been in the restaurant business, the combination of many factors has led to a dramatic shift in the tastes of the dining public. Beer and wine have become accepted and expected accompaniments to a fine meal. With the rapidly changing economic conditions of today, small businesses become the core of the economic society. Small family-owned restaurants such as mine employ many people young and old, and yet we are not granted the same privileges as the same types of restaurants in the rest of the country.

Beer and wine permits would allow restaurants such as mine, which serve a full course meal, to operate more profitably, employ more people and serve dining patrons as they expect to be served. The same permit would also contribute to the economy of restaurant-related businesses, which in turn would make a significant contribution to the State's economy. Unlicensed restaurants in the tourist communities experience an even more unique problem. Liquor licenses have become so scarce as to make the acquisition of one almost impossible. There are not nearly enough licensed restaurants in the tourist areas to cater to the hundreds of thousands of tourists who visit our beautiful State every year. Many out-of-state tourists find it absurd that in a State which allows gambling, they are unable to order a glass of beer or wine with their meal.

How can we possibly justify this lack of rationale? How can small restaurants continue to contribute to the State's number one industry, tourism, when our neighboring states enable their restaurants to operate according to progressive industry standards, and we do not? I ask you to carefully consider this and study our legislation, which has been painstakingly prepared. I believe you will find this legislation to be beneficial to the entire restaurant industry, and to the State.

Thank you for the opportunity to speak before you. I will be very happy to answer any questions you may have.

MR. BROMLEY: Thank you, Mr. Garrabrant, and thank you, Mr. Lefkowitz. Are there any questions for the witnesses?

MR. FELDMAN: I have one question.

MR. BROMLEY: Mr. Feldman.

MR. FELDMAN: There was a bill, A-1969, introduced in the Assembly. Does A-3614 take the place of A-1969?

MR. LEFKOWITZ: Yes, Mr. Feldman, it does. The reason is that when we were able to get S-1863 out of the Senate committee, there were substantial amendments that were made by the committee in order to tighten and strengthen the bill, in order to guarantee home rule and other elements. Rather than go through the process of trying to amend A-1969, it was decided to just do a complete substitute. So, A-1969 is being withdrawn by Assemblyman Marsella, I believe, within the next two weeks.

MR. BROMLEY: Is there anyone else who has a question?

MR. GARRITY: I have a question.

MR. BROMLEY: Mr. Garrity.

MR. GARRITY: My question is more or less an academic one. Why did you exclude bottled beer, going narrowly just for draft beer?

MR. LEFKOWITZ: Mr. Garrity, I'm sure you are aware that in the legislative process there are times when one puts language in a bill that one would rather not have. However, in the negotiating process, and in an attempt to as narrowly as possible refine the issues so we could demonstrate we are not attempting to cut into anyone else's business or trade, we opted to use that approach. However, it is my understanding that it now may include, I believe, as a recommendation from the Administration's notion of malt beverages, the area of bottled beer, if I am correct.

MR. GARRITY: I'm not sure I understand that.

MR. LEFKOWITZ: Well, let me respond two ways. One is that in the negotiating process, that is what was requested.

MR. GARRITY: You felt that was more powerful.

MR. LEFKOWITZ: Secondly, it was also to try to make clear that we are not interested in consumption per se. If you deal in bottles, then there is a likelihood, psychologically, that it is going beyond the parameters of what we are trying to do, and that is to have the compliment of a glass of beer or wine with the meal. Does that better answer your question, Mr. Garrity?

MR. GARRITY: Yes. I think basically what you are saying, though, is you tried to make it more palatable to the legislators and to the opposition.

MR. LEFKOWITZ: Yes.

MR. GARRITY: Thank you.

DIRECTOR VASSALLO: Mr. Chairman?

MR. BROMLEY: Director Vassallo.

DIRECTOR VASSALLO: Mr. Lefkowitz, first of all, I would like you to please explain what you meant by the comment that the Administration -- you commented that the Administration is opting for something about malt alcoholic beverages.

MR. LEFKOWITZ: What I meant by Administration was, there are those in the Administration who recommended.

DIRECTOR VASSALLO: What part of the Administration? I mean, when you speak about the malt beverage industry and the Administration, generally you would think of me as Director. That takes me by surprise.

MR. LEFKOWITZ: No, it shouldn't.

DIRECTOR VASSALLO: Regarding bottled beer?

MR. LEFKOWITZ: Regarding the use of the terminology "malt beverages."

DIRECTOR VASSALLO: Well, malt beverages and beer, there is no difference in any bill.

MS. MIGALEDDI: I think I can answer that question, in that when we originally had A-1969 in there before Senate Bill 1863 came out of committee, we had just draft beer in there, which limited the choice of what a restaurant could provide their customers. So, what we did, with some negotiations and just talks among people, we decided to include malt alcoholic beverages, which would give the restaurateur a broader choice when picking the beers to provide to his customers.

MR. LEFKOWITZ: I believe, Director Vassallo, that that language was provided to--

DIRECTOR VASSALLO: Emanated from me.

MR. LEFKOWITZ: That's right. I was avoiding answering that. But, yes.

DIRECTOR VASSALLO: You could have said that I said, if the reference was to beer, "We will word it as malt alcoholic beverages, not beer, just for consistency." That does not indicate any -- it has nothing to do with bottled beer, or the type of containers for it.

I have another question dealing with Page 7x. You indicate that if there are 2,000 restaurants, or 2,500 restaurants, new jobs would be created, 4,000 or 5,000 new jobs. Doesn't this imply an anticipation of a rather sizeable increase in consumption of alcoholic beverages?

MR. LEFKOWITZ: No, I do not believe so whatsoever. I'll let Mr. Garrabrant give you some indication of why this creates new jobs.

MR. GARRABRANT: The unlicensed restaurants as they exist now have no need to have employees whose function is to serve alcoholic beverages. I sell coffee, tea and soda. The waitresses very simply go back and pour themselves whatever they need. If I were serving beer and wine to my customers, that is a much more complicated, time-consuming function than simply getting a glass of wine, and I would not want twelve different people doing that job. I would have to hire somebody -- I would feel more comfortable hiring someone to carry out that function and to do that job.

DIRECTOR VASSALLO: It is implicit in what you are saying, that people then would be drinking beer and wine instead of soda, coffee, tea or what have you.

MR. GARRABRANT: Or instead of the beer and wine that they bring with them now.

DIRECTOR VASSALLO: Okay, but then if they don't bring it with them, they will be purchasing it from you instead, so if you were providing additional jobs-- I read this as, if there are new jobs created, it is going to be because of an increase in consumption, or there is going to be a decrease in jobs on the part of other licensees where they are presently buying the alcoholic beverages.

MR. GARRABRANT: No, sir. Our intent in this whole matter, and I am a political neophyte, as most of the members of our Association are. We have never really been involved in anything before. But, our intent in this whole matter, really and honestly, once you cut through all the rhetoric that has gone back and forth, is really to be able to operate our businesses the way a restaurant should be operated and the way they are allowed to be operated in almost the entire world. Beer and wine are a part of a meal. I cater to people from Canada, California, Ohio, all over the East Coast and everywhere

else. All summer long they come into my restaurant, they sit down for a meal, and they want to have a glass of beer or wine. I am not trying to sell more beer; I am trying to give the people who come to my restaurant for dinner what they want as part of their meal. It is really no different than if suddenly there was a law that said you have to have a special license to sell dessert.

Now, that sounds ludicrous, but that is really what we are involved in. I am being restricted -- I representing the entire industry -- I am being restricted from practicing my business according to industry standards. We are besieged with competition from every quarter. It used to be-- Ten years ago, there were no casinos; there were no McDonald's Restaurants on every corner. The taverns sold liquor, and the restaurants sold food. People who came to the shore went out for dinner seven nights a week, if they were there for seven nights. The economics of the country have changed. It costs a lot more to go on vacation than it used to cost. There are the casinos; there are forty buses a day which leave the island of Wildwood to take people on free trips to Atlantic City, where they get a free meal, a roll of quarters, free drinks and a free show, that I have to compete with.

DIRECTOR VASSALLO: I have nothing to do with that.

MR. GARRABRANT: Yes, I know you don't, I know you don't, but these are all things that I have to compete with, the people in my industry have to compete with. There are McDonald's Restaurants on every corner. The motels offer efficiency units and the people have cookouts at the motel pool, where they used to come to my restaurant for dinner. The taverns, to stay in line with the competition, offer food, open restaurants. There are no laws or regulations saying that taverns cannot sell food. But, our clientele, if you will, is constantly being narrowed and eaten away by all these outside forces and all this outside competition. Once you get through all the stuff about, "You are just trying to make people drink more liquor," and you're trying to do this and you're trying to do that, all we really want is the right to operate our businesses the way our businesses should be operated, and the way they are operated, as I have said, in almost the entire free world.

When people come to my restaurant, they come for a meal, and if they drink a beer or a glass of wine with that meal, it is not going to cause increased consumption or drunk driving or anything else. Probably more beer and wine will be consumed in the State than was consumed in the past, but it is going to be to such a small degree, one or two beers with every meal. It is not like you are opening up a free-flowing tap and, you know, everyone can run with their cup and get however much they want. The consumption of alcohol, just like the consumption of food or gasoline, or any other service is a self-restricting item. People are not going to suddenly-- If you create 2,000 new licenses, that doesn't mean that you are going to have all kinds of drunkenness and drunken driving. People will drink a glass of beer with their meal, fine. You can do it in California. You can walk down the street in San Francisco and buy a dungeonese crab and a glass of beer and walk down the street. There are no drunken people falling all over Fishermen's Wharf. There are quite a few weirdos. But, it is not going to contribute to a whole change in our society. You would have to be in our industry and deal with the problems of trying to explain to people why we have such a seemingly progressive State, and yet, "No, I'm sorry. If you want a glass of wine with your meal, you have to bring it with you." They just can't understand it.

MR. LEFKOWITZ: I think, first of all, we already have BYOB, which means there is consumption taking place in our restaurants that we have absolutely no control over, because people are bringing those products in. Plus, for example, we have a North Jersey restaurant which is a member of the Association, where 40%, according to his survey, of BYOB is alcohol brought in from the State of New York to his restaurant. Now, I contend that in fact there are two elements to this, that because there are many fine restaurants in our State, along the Pennsylvania and New York borders, we have out-of-staters coming into our State bringing alcohol with them. Now, granted we have just had legislation passed about the issue of, you know, having the open container. However, I think the danger of that if that the out-of-staters will make sure they don't leave the restaurant with the open container and will, in fact, consume more than they might have.

But, those patrons are coming to restaurants bringing product from out of state, which means that our New Jersey industries are not getting the benefit of their business, and every one of our restaurants pays to have someone come in with BYOB, because you have to provide the setups, the ice and the glasses and, if you know anything about the restaurant industry, you understand that there is a lot of breakage. That means that Mr. Garrabrant and the other restaurateurs pay for that.

Now, all they are saying, is that the consumption is there. Let's control it, number one, and number two, let's provide that our restaurants can be full service to all of these out-of-state tourists, because, depending on who you talk to, tourism is either the number one or the number two industry in our State. These restaurants want to be partners with the State, contribute to the State, and be a part of that tourism.

MR. FELDMAN: Mr. Chairman, may I ask Mr. Garrarant a question?

MR. BROMLEY: Yes, Mr. Feldman.

MR. FELDMAN: As distinguished from employees on licensed premises, do the employees of the Garden State Restaurant Association now qualify as to the minimum age permitted to serve alcoholic beverages, or are the majority of waitresses and everyone you have there under the minimum age required?

MR. GARRABRANT: No, I would say the majority are over the minimum age, but there are people who worked for me this summer, that if I have a beer and wine permit next summer, I would not be able to employ them next year. Then, there are people who served as waitresses who would not be able to work for me as waitresses again for a couple more years until they become of age. This is a problem. There are kids who have relied on us for jobs, who would have to go somewhere else. But, there are jobs available to them.

MR. FELDMAN: The question is, does the Association realize it would have to change its method of operation so as to--

MR. GARRABRANT: We surely do. It is an unfortunate by-product, but that is something we are aware of, and are willing to accept.

MR. LEFKOWITZ: It should be pointed out, Mr. Feldman that some of the restaurants are looking at the notion of hiring specific people who will only handle the beer and wine, so it will eliminate the problem of other waitresses and waiters providing the food service. Now, one thing I think should be pointed out regarding the question Director Vassallo raised, actually two things. You know how those things are, one becomes two. Most of the restaurants in the State that do not have licenses tend to close earlier, and one of the positive aspects of this will be the fact that these restaurants will be able to stay open a little later. That means expanded working hours for employment. We think that is an important aspect to take into consideration when we look at the overall positive impact, economically to the State, and to the employment needs of our State. Now, I forgot what the second thing was.

MR. BROMLEY: Director?

DIRECTOR VASSALLO: Why does it go to eleven p.m.? Isn't that well past the dinner hour?

MR. GARRABRANT: It is well past the dinner hour for an unlicensed place, but there are a number of people who do consider the dinner hour to be up until eleven or twelve o'clock at night. The only places open at that time and doing business are the places that serve alcohol. Personally, right now, I close at nine-thirty, and from eight-thirty to nine-thirty I have very few people coming in. I don't know that I would automatically stay open until eleven if I had a beer and wine permit. I probably wouldn't; I might stay open until ten. It would depend on how many people are coming in. I think eleven is a realistic hour. It depends on the type of establishment it is. The Chinese restaurant in the middle of Wildwood stays open until four o'clock in the morning, because the clientele is there. They are walking past his place all night long. I'm tucked up in the corner, and by eight-thirty, nine o'clock, only the die-hards who know where I am are coming to eat there. So, it fluctuates. But, I don't think eleven o'clock is an unrealistic time.

MR. BROMLEY: I wonder if you might indulge the Chairman in a question prior to Mr. Jerlat, because I think he will probably have several and I only have one. I wonder, Mr. Lefkowitz, if you could

explain to me, since the surrounding states have the beer and wine privilege, why people are leaving the surrounding states to come into New Jersey, bringing their own alcohol?

MR. LEFKOWITZ: I think a very simple answer is because we think we have better restaurants and better food. Plus, I think New Jersey has many attractions that bring people into our State, both in terms of culture and in terms of some of the aesthetics. I am a strong proponent. I have the privilege of traveling nationally, and I will be holding the flag for New Jersey every time I go, because I think we have better places.

MR. BROMLEY: So, they come here for the better food and better service?

MR. LEFKOWITZ: Yes, and I think that is the key. What we are trying to emphasize is that restaurants are in the business of food and shortly, by the way, our restaurants are putting together a cookbook of many of their best recipes, and we hope all of you will have an opportunity to exhibit some of those.

MR. BROMLEY: Thank you. Mr. Jerlat?

MR. JERLAT: I have been jumping around here so much because I think you have covered so much ground, that it is a little hard to follow some of it. Some of my questions have already been used up; somebody else has seen fit to ask these questions ahead of time. First, I would like to know where you got these figures about beer and wine through a study of different states? We have a beer and wine license in the State of New Jersey, incidentally, now. I hope you understand that. If somebody in New Mexico was making a study, they would discover that New Jersey has a beer and wine license. I would just like to know where you got those figures.

MR. LEFKOWITZ: Well, to respond to your former question, Assemblyman Marsella's office conducted a national search, and contacted the ABC offices of every state in the nation. The data was collected by Anita Timko from Assemblyman Marsella's office, based on those pieces gathered from each ABC director.

Now, with regard to the beer and wine issue, I am not sure exactly what you are referring to, so if you will enlighten me I will certainly appreciate it.

MR. JERLAT: Anyone who writes to other states to find out what their licensing procedure is, if they write to the State of New Jersey will find out there is a beer and wine license in the State of New Jersey, which is a full consumption license. There are some states that utilize-- If you go back in history to when repeal came about, you will find that New Jersey just haphazardly issued licenses. Anyone who asked for a license, got a license, and they issued a full license -- a full consumption license. There are many states that issued nothing at repeal and, therefore, they came along with certain restrictions, some were beer and wine licenses. There are states that serve nothing but beer, or beer and wine. I have gone through this myself to try to come up with some kind of figures. We have a pile of books in our office, but it is a mammoth job just trying to figure them all out. I discovered, from the first twenty-eight books I went through, that there are fourteen states that do not have what you are talking about here, a beer and wine individually licensed type--

MR. LEFKOWITZ: I would suggest, Mr. Jerlat, that we will be more than happy to provide you with the report. I can tell you that when the--

MR. BROMLEY: (interrupting) Perhaps, Mr. Lefkowitz, you would be just as happy to provide the whole Commission?

MR. LEFKOWITZ: Yes, I would be more than happy to. The basis of the gathering of information was specifically on the issue of whether or not there was a separate beer and wine license, or by some nature, a limited license relevant to that, based on the issue that we come before you today on.

MS. MIGALEDI: Some states may not have beer and wine. They may have a beer or they may have a wine, or a combination of both. Again, what we are contending here is that every state with the exception of the four we have mentioned, has some form of a beer and wine permit, or beer or wine permit, for their restaurants.

MR. GARRABRANT: The point we are trying to make is that the rest of the country recognizes that restaurants do, in fact, constitute a special category and should, in fact, receive special treatment, because beer and wine are accompaniments to a meal. This is not an avenue for people to come who want to drink. There are plenty of

taverns right now for that. We want the State to acknowledge the fact that there are many, many fine restaurants in the State. They should be considered as a special category because they are a special category. As I said, it is the same as if you passed a law that said I had to have a license to sell desserts. You are restricting me from being able to do business the way I should be allowed to do business, the way everybody else in my industry is allowed to do business. That is the point we are trying to make; that is the sole goal of this legislation -- to allow our industry to operate the way it should.

MR. JERLAT: The point that is coming across to me, and I don't know whether it is coming across to others, the way you talk about this is that there are no licensed restaurants in the State of New Jersey, and I think we have some very, very fine restaurants in the State of New Jersey which are licensed. In fact, I believe the finer restaurants in this State are licensed to serve alcoholic beverages.

MR. LEFKOWITZ: I think many of our members may take exception to part of that comment. There are some restaurants which have been written up in magazines in New Jersey, including the New Jersey Magazine, which comes out every month, and they highlight certain restaurants. When you do through that list, you will find some that, in fact, do not have a wine license. Right near here, all you have to do is go to Hopewell, New Jersey, and visit the Soup de Jour, which is a well-known, gourmet restaurant. You will find that that gourmet restaurant, which has been written up and recognized as one of the top gourmet restaurants in the State of New Jersey, does not have a license. I think the issue here is, we're not saying there are not very fine restaurants that have licenses, but we are saying, there are a lot of fine restaurants which do not have the ability to be able to function as a full service facility for the patrons of New Jersey, and for out-of-state tourists. I think that is the issue.

MR. JERLAT: Mr. Lefkowitz, are you aware there are townships in the State of New Jersey that could issue liquor licenses if they so desired, under the statute?

MR. LEFKOWITZ: Yes, because that is why we have home rule. But, we also recognize that some of them do not care to issue the full liquor license because they are not desirous of what they feel brings

in certain elements with having full liquor licenses. At the same time, we have spoken to some communities, which by the way are dry, which indicated they would be very interested in having beer and wine permits because they would have the types of restaurants and types of facilities they feel would be compatible with the nature of their communities.

MS. MIGALEDDI: To add to that--

MR. BROMLEY: Just a moment. The Chair would like to request that this not become a debate.

MR. LEFKOWITZ: I agree, Mr. Chairman.

MR. BROMLEY: It should be a process of information for the record, so that when we sit and consider we will be able to form an opinion.

MR. LEFKOWITZ: I stand corrected, Mr. Chairman.

MR. BROMLEY: So, as best you can, please respond to the questions briefly. I think you make the points you are making very effectively. Mr. Jerlat, do you have further questions?

MR. JERLAT: No, thank you.

MR. BROMLEY: Mr. Napodano?

MR. NAPODANO: Mr. Lefkowitz, or Mr. Garrabrant, how many restaurants are members of the Garden State Restaurant Association?

MR. GARRABRANT: Right now, we have slightly over 400.

MR. NAPODANO: Four hundred. If you know, how many restaurants are there in the State of New Jersey?

MR. GARRABRANT: Our figures show-- When we say restaurants, we are talking about the restaurants we feel would qualify for a beer and wine permit under the definition of the legislation.

MR. NAPODANO: I did not want to limit my question to that, because as Mr. Jerlat rightfully pointed out, there are a number of restaurants in this State that have full consumption licenses. So, I was more curious as to how many restaurants -- and let's use your criteria of fifty seats or more -- are there in the State of New Jersey? Do you have any feel for that?

MR. LEFKOWITZ: We have the information, but not with us, because when we gathered information from the ABC in terms of the number of licensed establishments, and then with the data we collected,

we do not have that, Mr. Napodano, at our fingertips, but we can provide it.

MR. NAPODANO: Can you give me your best guess, which I will not hold you to on the record? I am just curious as to what the difference is in the number of total restaurants versus the number in your Association, and the number that presently holds full "C" licenses.

MR. LEFKOWITZ: I would rather not.

MR. NAPODANO: If you can't give it to me today--

MR. LEFKOWITZ: I would rather not, for the record, make an attempt to guesstimate, because part of the problem with that is that the whole definition of a restaurant versus--

MR. NAPODANO: (interrupting) I'm using your definition, fifty seats plus.

MR. LEFKOWITZ: As I indicated, we would have to take a look-- Let me explain. The problem with that, Mr. Napodano, is that there are a number of restaurants that have full Class "C" licenses that under this legislation would not be eligible. There are a number of diners. There are even some pizza places, and other types of establishments that somebody sold a liquor license to, that Class "C" license, to be able to have the ability for on-premise consumption, and even in some cases, off-premise consumption, that under the criteria in this legislation would not be eligible.

MR. NAPODANO: Then I misunderstand your bill, because it appears to me that you have included in your bill a mechanism whereby, subject to local option and waiver, those same restaurants, diners and pizza parlors of which you now speak, could qualify for this special permit, could they not?

MR. LEFKOWITZ: All right. The waiver you are talking about which is built into the language of the bill--

MR. NAPODANO: It is under Subsection 3(b), I believe.

MR. LEFKOWITZ: We are familiar with that. The basis of that was in order to ensure-- For example, there is a restaurant in Cape May County called Louise's Cafe. It is rated number two in the State for gourmet cooking. The size of that restaurant is fourteen seats. The problem for that restaurant is that it has not had the ability to

expand because of its location. Therefore, the waiver is provided so that in the wisdom of the municipality, in recognizing that here is a restaurant that is recognized number two in the State as far as gourmet restaurants are concerned, they could, in fact, be eligible to have the beer and wine permit. That is the rationale of having that waiver.

MR. NAPODANO: In the wisdom of that municipality, but perhaps in the lack of wisdom in sacrificing uniformity throughout the State with respect to the Director, who has the responsibility, as he does with all licensees, including these permit holders, to police them and to be sure they are in compliance. Your provision in the bill is giving to the municipality the option to waive the requirements that you have built into the bill, without the concurrence of the Director, if I understand it correctly. I don't think you need to respond to that, but we could conceivably have a lot of other restaurants that have fourteen seats, that would qualify in their own mind as gourmet establishments, seeking the same exception in the--

MR. LEFKOWITZ: Except, if they were turned down, the Director has the right to hear the appeal.

MR. NAPODANO: If they were turned down, the Director would have no right to grant the permit, if they did not otherwise qualify with the criteria that you have set forth in this bill. While the municipality would have rights to grant that permit, the Director would not. So, there would be no appeal.

MR. LEFKOWITZ: I believe that if a restaurant is turned down within the confines of this legislation, they would have the right of appeal to the Director of the ABC.

MR. NAPODANO: That is correct. I read an inconsistency in that also, if you will. But, before I go to that inconsistency--

MR. LEFKOWITZ: Laws are always inconsistent.

MR. NAPODANO: The ability of your members at the present time to serve alcoholic beverages is limited by their willingness, financial capital and whatever else may be applicable to a particular municipality, to really go out and secure a "C" license. Is that not correct? There is nothing that prohibits you from doing that, if one is available?

MR. GARRABRANT: If one is available. The tourist areas are especially hard hit by this, and I can only speak with what I feel is some bit of knowledge about the tourist areas. For instance, in answer to your earlier question, there are twenty restaurants in North Wildwood, licensed and unlicensed. Four of them have licenses, and the rest of us do not. Now, in other areas of the State--

MR. NAPODANO: (interrupting) Are there any other "C" licenses available?

MR. GARRABRANT: There is one license available in North Wildwood, so if one of us was to fork over the money necessary and, on a four-month season, try to pay off that bill, if he were lucky enough not to lose everything he owned, there would still be fifteen others who would not have a license. So, especially in the case of the tourist areas, the existing licenses that may or may not be available, do not come anywhere near accommodating the needs of the tourist communities, where our population increases tenfold during the summertime. The reason the businesses exist is to accommodate these tourists because the business is there. I can see no way that the State could make full Class "C" licenses available to the shore restaurants on an equitable basis, unless they based their quota on the summer population and granted seasonal licenses. That would be the only alternative to those of us at the shore. Then, of course, you are telling us we cannot operate in the wintertime, but most of us do not operate anyway, because economically there is no one there to serve.

MR. NAPODANO: Just to move ahead, because I don't want to be on this one issue for the remainder of the day. Mr. Lefkowitz, I have not read the entire bill. I have scanned it, and I have some questions for you. Just as a point of information, is there a requirement in your bill that a full course meal be served by a waitress or waiter, while customers are sitting?

MR. LEFKOWITZ: Would you repeat that?

MR. NAPODANO: Is there a requirement in the bill that the full course meal, and that, I guess, is soup to nuts, be served at a sitting table, as opposed to self-service?

MR. LEFKOWITZ: Yes.

MR. NAPODANO: Therefore, you exclude cafeteria operations from the bill?

MR. LEFKOWITZ: Yes. It states very clearly that the patrons must be seated by restaurant personnel.

MR. NAPODANO: Okay. And that the entire meal has to be so served?

MR. LEFKOWITZ: Yes.

MR. NAPODANO: That would also perhaps exclude a Friday or Saturday evening buffet?

MR. GARRABRANT: Technically it probably would.

MR. NAPODANO: Some of the problems that I -- not necessarily problems, but inconsistencies that I see in the bill are in Section 2(a), where you specifically provide for a referendum, a public referendum in dry municipalities.

MR. LEFKOWITZ: That is required by law.

MR. NAPODANO: I understand, but there are referendum statutes on the books right now that would deal with this. My question is, is the referendum you refer to in 2(a) specifically to be limited to the beer and wine by the glass permit?

MR. LEFKOWITZ: Most assuredly, yes.

MR. NAPODANO: Just that?

MR. LEFKOWITZ: Just that.

MS. MIGALEDI: It was also at the request of certain members from the League of Municipalities and the Conference of Mayors, that we put that section in there.

MR. NAPODANO: Paragraph 2(c) talks with reference to home rule, but then goes on to require the municipalities to hold a public hearing before issuing these permits.

MR. LEFKOWITZ: That is part of the normal procedure that takes place now for a Class "C" license. In other words, the--

MR. NAPODANO: If there are objections filed, it would be part of the normal procedure. It is my understanding that if there are no objections filed after publication, there would be no necessity for a public hearing. Isn't that correct?

DIRECTOR VASSALLO: That is correct.

MR. LEFKOWITZ: But, the hearings are in reference to, I believe, whether or not the municipality will have the issuance of permits.

MR. NAPODANO: I see, the adoption of the municipal resolution?

MR. LEFKOWITZ: The ordinance, yes. Not a resolution, it has to be an ordinance. I think there is a significant difference.

MR. NAPODANO: Yes, I stand corrected. Therefore, with respect to the right to appeal that you have set forth in 4(b), if the municipality did not adopt the ordinance, there would be no right to appeal to the Director?

MR. LEFKOWITZ: No, it is only if a municipality, in fact, has the willingness to have beer and wine permits. The only thing that can be appealed is if a restaurant is turned down.

MR. NAPODANO: I'm not quite sure that 4(b) is clear enough on that point.

MR. LEFKOWITZ: Well, I'm sure that can be clarified.

MR. NAPODANO: With respect to Section 7, if I read that correctly, it concerns a function or an affair of some sort that will be held at the restaurant, but in the non-public portion of the restaurant.

MR. LEFKOWITZ: Yes. I am not sure whether you are aware or not, but because of the BYOB legislation, it requires that you have to get a special permit in order to have a banquet function at the facility; you would have to get it from the municipality. This was an attempt to make sure there was consistency, so if you had the permit you could do the same.

MS. MIGALEDDI: To have full alcoholic privileges, if you were to have a wedding or a cocktail party.

MR. NAPODANO: Okay. That is the question I have, because it really doesn't say that. It says, "Nothing will prohibit," and then it goes on to talk only with respect to draft beer, fermented wine, treated wine, blended wine, fortified or sparkling wine. My question to you was, did you intend thereby to exclude all other alcoholic beverages except those mentioned?

MR. LEFKOWITZ: An honest answer is, no. We did not intend to exclude all other alcoholic beverages. No, because obviously, if we have the beer and wine permits, we would already be able to do that. The purpose of Section 7 was in order to ensure that if you have

a banquet function, be it for a wedding, or be it for some political function, or whatever, you would be able to have the right to have that function at your facility.

MR. NAPODANO: Percentage-wise, if you can, how many restaurants that do not have full alcoholic privileges are there in the State with respect to the four hundred you represent?

MR. LEFKOWITZ: Could you--

MR. NAPODANO: Okay, let me rephrase it. What percent of the restaurants in the State of New Jersey which do not have any alcoholic beverage privileges do you represent?

MR. LEFKOWITZ: Oh, do you mean including those which do not have the BYOB privilege?

MR. NAPODANO: No, let's put the BYOB privilege aside for the moment.

MR. LEFKOWITZ: Well, are you asking me, do we have members in our Association who have liquor licenses?

MR. NAPODANO: No. You told me you had four hundred members in your Association -- the Garden State Restaurant Association.

MR. LEFKOWITZ: Correct.

MR. NAPODANO: Does that include all the restaurants in the State of New Jersey that do not presently serve alcoholic beverages?

MR. LEFKOWITZ: No.

MR. NAPODANO: What percentage does that include of all the restaurants in the State of New Jersey, that do not serve alcoholic beverages and would fit under this definition?

MR. LEFKOWITZ: Well, if you take, say, approximately three hundred, or plus, of the 2,000 that is estimated for existing--

MR. NAPODANO: So, there are 2,000 restaurants that would qualify under this definition?

MR. LEFKOWITZ: Based on industry experts, that is how many restaurants that would potentially meet the criteria.

MR. NAPODANO: And, you represent roughly--

MR. LEFKOWITZ: A fifth of the industry -- a fourth of the industry.

MR. NAPODANO: Roughly 20%?

MR. LEFKOWITZ: Yes, but like any other association, Mr. Napodano, I'm sure you realize it takes time for an association to be able to build its membership. The Garden State Restaurant Association is only about fourteen months old.

MR. NAPODANO: Fourteen months old, but even with my limited knowledge and exposure to this issue -- this issue has been in the newspaper for probably fourteen months -- I would think that by now you would have rallied the other 1,600 to come and join with you in this request. I am a little surprised by the numbers, frankly.

MR. LEFKOWITZ: Well, I tend to disagree with you, Mr. Napodano, but I will let Craig give his response, and then I will give you my response.

MR. GARRABRANT: A great number of these unlicensed restaurants -- a great cause of this fact is that we do not serve alcohol and, thereby, cannot partake of the profits alcohol would generate. We are what you would refer to as "Mom and Pop" operations.

MR. NAPODANO: But, do they qualify under your definition?

MR. GARRABRANT: They qualify under our definition, but in my own particular case, when I am open in the summertime, I am in my kitchen seven days a week, fourteen hours a day, from June until October. I have 140 seats. We have people in our industry who we are trying to reach, who do nothing but run their businesses. They are in there working. In the morning they do the prep work, at night they act as waiter or waitress, and they do the cooking and serve the meals. If you go to them and try to tell them, "Hey, we have a good deal for you," they say, "Yeah, come back and see me when you have it." It is an educational process. It is getting these people to realize, "Hey, take off your apron for one day a week, or two hours a week, and get involved in helping us out, and you are going to gain from it. You are so restricted and so used to being in your kitchens, that sometimes when you get out of your kitchens you are a little afraid of the outside world."

It is a time-consuming, back-breaking industry, and we have people who live and breathe and are consumed by their restaurants. I am fortunate that mine is only open six months a year, because I could not operate under the same conditions on a twelve-month basis. There

are a lot of people -- I don't know how they do it, but that is how they operate. To try to enlist them in an organization, or something like that, is extremely difficult.

MR. LEFKOWITZ: Plus, the nature of the industry is such that they have never had exposure to dealing with issues before. So, part of what the responsibility of the Association is and why it takes time for building-- You know, any association, when it first starts, takes time to build, but given the nature of the fact that there is an educational process in terms of involvement and willingness to take a stand, that is probably the biggest thing that has to be overcome. In addition, you do have restaurants that are not interested, or desirous of beer and wine permits.

MR. NAPODANO: How many would that represent?

MR. LEFKOWITZ: We have no data on that, other than the fact that we do have some restaurants that as we talk to them, they make it very clear they are not interested. We also have, by the way, some members who have liquor licenses, and who have joined the Association for a variety of reasons.

MR. NAPODANO: I have no further questions.

MR. BROMLEY: I am going to ask that the questioning be kept as succinct as possible, due to the fact that we have other members of the public here to testify on another matter. Regarding the matter before us, I think we have had submissions in writing, and have had most exhaustive questioning on. Mr. Garrity?

MR. GARRITY: I don't think this has come up before, and I hope it hasn't. I wonder if, on the basis of the criteria you have set, that they have to sit down, that they have to have a full meal from salad all the way through to dessert-- Would that be on an individual basis or a collective basis? Let's say a group of four came in.

MR. GARRABRANT: It would be on a collective basis. Really, what the legislation says is that to qualify, "A restaurant has to have the ability to serve a full course meal." If someone came in and said, "I don't want dessert," I can't say, "Well, then I can't serve you a beer," because I don't know whether he wants dessert until he has finished his meal.

MR. GARRITY: Well, I'm wondering about the way the regulation would be written, and whether you would be exposing yourself to a violation if there was one person who said, "I'm just with this group, but I'm not hungry. All I am going to have is dessert." Would you be within your rights to serve him a drink?

MR. LEFKOWITZ: No. In that particular case, it is very clear.

MR. GARRABRANT: In that particular case, but in the case of the restaurant being qualified, we have to have the ability to serve a full course meal. This is really designed to categorize the restaurant from one that doesn't have that ability.

MR. LEFKOWITZ: Although I think your question, Mr. Garrity, is related to assuming that a restaurant has been deemed as meeting the criteria, having the beer and wine permit, okay, you now have patrons. Is there some fine line you have to deal with?

MR. GARRITY: I think you have painted yourself into a corner in that respect, the way you have recommended that regulation be written.

MR. LEFKOWITZ: I will give you the same response I gave Mr. Napodano. There are some things in the bill that if we had our druthers, we would rather have not had. We are sure that in the drafting of the regulations these things will be taken into account.

MR. JERLAT: I have just a couple of questions here that have not been brought up before. Mr. Lefkowitz, do you have any idea how many fast-food restaurants there are in New Jersey?

MR. LEFKOWITZ: No, and I'm really not interested.

MR. JERLAT: Well, let's assume that fast-food restaurants, or half of them, made some little modifications, which certainly would not lead to much, to be able to qualify under this bill. Would you be supportive of them?

MR. LEFKOWITZ: I think to give a legitimate response to your question, Mr. Jerlat, is, first of all, the municipality is going to know who is attempting to come under this by making some quick modifications to be eligible, and those who, in fact, are legitimate restaurants, as regards the issue of this legislation. So, we believe, and we believe very strongly, that there are safeguards in there to

ensure that someone is not going to be able to be a fast-food place, be it a Roy Rogers, or whatever, and then be able to turn around, make modifications to meet the criteria with the seated service and the waitresses, and have the municipality say, "Well, I guess they are a legitimate restaurant." You know, the municipalities know their businesses. So, I think that is the critical point. As I recall, one of the major arguments we have heard for fourteen months, and one of the major arguments that the opponents to this legislation have used when they have gone to the municipalities using the original A-1969, which was introduced fourteen months ago, was that there is no home rule. This bill very clearly provides for home rule. There is no doubt; it is not left to the imagination, because Sections 2 and 3 of this legislation relate to home rule and the decision-making of the municipalities.

MR. GARRABRANT: Mr. Jerlat, there are also provisions in the bill which limit the number of permits that would be allowed to be issued. So, if every fast-food restaurant in the State suddenly decided they were going to become full-service restaurants, there would be far too many restaurants for them all to qualify.

MR. JERLAT: I have one other question. Under the bill, you would be able to serve from eleven a.m. until eleven p.m. Is that correct?

MR. LEFKOWITZ: Yes.

MR. JERLAT: After eleven p.m., you would revert back to the BYOB. Am I correct?

MR. LEFKOWITZ: No. If you have the permit, you have the permit, eleven a.m. until eleven p.m. There is nothing provided here that you can then have BYOB. The only ones who can have BYOB would be those restaurants that do not have the permit.

MS. MIGALEDI: If need be, we can state that in the legislation, that if you have a permit -- if you would like it clarified -- then you are eliminated from the BYOB law. We do not want our restaurants to have both privileges. They don't want both privileges.

MR. GARRABRANT: One thing you would have to consider--

MR. BROMLEY: Pardon me, just a moment. The Chair will recognize the Director.

DIRECTOR VASSALLO: Thank you, Mr. Bromley. I would just like to clarify something. The BYOB law you speak of is really a restrictive disorderly person statute that doesn't say where you can bring it and where you can't bring it. It only says you can bring your own bottle to a restaurant that does not have a liquor license, provided it is only beer or wine -- malt alcoholic beverages or wine, and that the municipality can forbid that. There is nothing in the law anywhere that says you can't bring a bottle to a licensed premises. If the licensed premises permits you to bring it, you can bring it. I don't know of many who would, but we are talking about a BYOB law, and there is nothing that speaks of that.

MR. GARRABRANT: One thing you have to keep in mind, restaurants do not like the BYOB law. We put up with it because there are so many people who insist on having wine or beer with dinner. Regardless of how good our food is, that is about the only way we can get them to come in. It is as if you owned a service station, would you let them buy their oil at K-Mart, bring it to your place, and you put it in the car for them?

MR. LEFKOWITZ: I think we have to get back to Mr. Jerlat's question. Is it your recommendation, or is it a rhetorical question, in regard to whether or not after eleven p.m. someone could come in, or continue to come in with BYOB? Now, according to the Director, you could come into a place that had a liquor license with your BYOB, which I have to admit I was not aware of. What is it you are actually asking rhetorically?

MR. BROMLEY: It wasn't rhetorical.

MR. LEFKOWITZ: All right, what are you asking us?

MR. BROMLEY: After eleven p.m., would the restaurant revert to BYOB?

MR. GARRABRANT: According to the Director, it could.

MR. JERLAT: For a point of information, just let me say I think when you are talking about "Bring Your Own Bottle," prior to that legislation being put in, in every restaurant in the State of New Jersey anyone was allowed to bring in a bottle. The only reason why that thing was put in, was to put some restrictions on the fact that they did bring their own bottles, because, prior to that, there were no

restrictions whatsoever. There were no restrictions on advertising; there were no restrictions on who handled it, what they did with it, or anything else. Every restaurant in the State of New Jersey had that right, to allow anyone to bring anything in that they wanted to. The only reason that legislation was put through was to put some restrictions on it.

MR. BROMLEY: Are there any further questions? (no response) If there are none, Mr. Lefkowitz, Ms. Migaleddi and Mr. Garrabrant, the Committee thanks you very kindly for your time, and for your very informative presentation.

MR. LEFKOWITZ: On behalf of the Garden State Restaurant Association, we would like to thank you, Mr. Chairman, and the members of this Committee, for allowing us the opportunity for a lengthy discussion on this issue. We truly appreciate it. On behalf of not only the members of the Garden State Restaurant Association, but on behalf of the industry, we truly appreciate it and thank you very much.

MR. BROMLEY: The next item on the agenda -- the next party listed is Mr. Warren Dunn from the State Beverage Distributors. Mr. Dunn, please feel free to introduce those who have accompanied you.

MR. DUNN: Yes I shall, Mr. Chairman.

MR. BROMLEY: Would you please sit down, sir, and identify yourself for the record?

**WARREN DUNN:** My name is Warren Dunn. I am a lawyer, an attorney with offices in Denville, New Jersey. I am happy to say that I have been retained by some clients who want me to speak on their behalf. I represent a group of SBD licensees. If the Chair would like me to identify those people for the record, there is a group of twelve who I met with on Monday night. Would you like those names or companies read into the record?

MR. BROMLEY: Perhaps for the record, sir.

MR. DUNN: I represent at this point, simply because I haven't met with any others, Beverages Unlimited of Rahway, New Jersey. Mr. William Shaiman is present today and would like the opportunity to speak on the record. I represent Lyndale Beverages of Wayne, New Jersey, Hoboken Beer and Soda Outlet of Hoboken, New Jersey, the Bal Kel Distributors of Irvington, New Jersey and Elliott Home

Beverages of Bridgewater, New Jersey. Mr. Baldi of Bal Kel Distributors is here and would like to speak, and Mr. DiLorenzo of Elliott Home Beverages is here and would like that opportunity also. I represent the Whoopee Soda Water Works of Garfield, New Jersey. I represent Neighborhood Home Beverages of Edison, Lake Beer and Soda Distributors of Rockaway, New Jersey, Jax Beverages of Aberdeen, New Jersey, Grieco Beverages of Brielle and Kalb Beverages of Howell. Mr. Kalb is here representing that company today. I represent Newark Beverages, and Mrs. Jean Enderly is here today. Mr. Richter of Lake Beer and Soda Distributors would also like the opportunity to address the Subcommittee, members of the Commission and the Director, who are present today.

MR. NAPODANO: Mr. Dunn, before you commence, have these individuals joined together in the form of an association, or an ad hoc committee that has a name, or are you representing them individually?

MR. DUNN: No. May I say this, Mr. Napodano, these people, or many of them, are members of an existing association, but they are associate members of the New Jersey Beer Wholesalers' Association. However, I do not represent them in that capacity, nor in their capacity as associate members, and I do not represent that organization. For some unknown reason at this point in time, apparently there was a lack of communication throughout all of the SBD industry with respect to this hearing. Many of the people who are present here today did not receive a written notice, although I understand that Miss Szilagyi did send one out to as many names as she could get at the time. I met with this group-- I was first called in last Friday by telephone; I suppose we might call the meeting we had on Monday night an emergency meeting. The people I mentioned and the companies whose names I mentioned, were present at that dinner meeting on Monday, and were in the process of attempting to communicate the problem, if indeed there is a problem, and I hope there isn't one, to the balance of the SBD licensees, so I could hopefully, truly represent a larger segment than I can represent to you today that I do.

DIRECTOR VASSALLO: Excuse me, Mr. Chairman, if I may interrupt. I don't mean to interrupt you, Mr. Dunn, but for a point of clarification for everybody, I don't understand how this even got on

the agenda. Has there been a proposal to eliminate a SBD license, or did someone mention that? I may have rhetorically made the comment at one point that maybe we want to look into whether we want to retain the SBD in its present form, or take a look at some modifications of it, but I am puzzled as to how this comes up, and you said "problem."

MR. DUNN: Well, Mr. Chairman--

MR. BROMLEY: Pardon me for just one moment, let's clarify this. There has been a question on a point of information raised. Director, I am informed that this finds itself on the agenda from a culling of the previous meeting of this Licensing Subcommittee, and it was on only as a remark, just in that fashion. The Subcommittee, as everyone is well aware, has not considered taking any testimony heard from anyone, nor prepared anything on this. I hope that will be--

MR. DUNN: I'm sure my clients and I are relieved to hear that. I might suggest that perhaps the concern arises from some comments the Director made, which I found in looking over the transcript of the meeting of July 21. In fact, on Page 16, the fourth paragraph down, Mr. Chairman and Mr. Director, Director Vassallo said with reference to the SBD licenses, "Maybe they should be eliminated altogether," and I'm quoting, "and if they are going to wholesale they should wholesale, and if they are going to retail they should retail. Otherwise, the licenses should be classified as wholesale or retail, with no technical wholesale license." I'm sure that caused the alarm in my clients' minds.

DIRECTOR VASSALLO: It was more meant along the lines that I just explained. That was a broad overview I was giving; it was not to suggest the elimination of the privilege, but maybe the elimination of the SBD per se as it is defined, by reclassifying the privileges along the lines of what people are doing. I'm sorry if -- the wording of it, I have to admit, does engender some confusion, and I can understand the concern. But, I can assure you that is not what I meant by it.

MR. BROMLEY: May I just say, I thought perhaps this might be the case. Apparently this was taken out of context. There was, on Page 14 of the same document you quoted from, a question from me, to the Director, and the inquiry was directed to the point of certain people having retail privileges, and not conforming to the ordinances

or hours of sale within the municipality. The Director's response was very broad range. It was intended, I think, to clarify the status of various people who have retail privileges other than "C" licensees.

MR. DUNN: Well, I'm happy to hear that. I admit that--

MR. BROMLEY: May I clarify just a step further?

MR. DUNN: Yes, sir, please do.

MR. BROMLEY: One of the things that brought it to mind occurred earlier in our hearing today, when we had someone with a winery license seeking an extension of privilege at retail, to take place at his winery. The concern there is, if the municipality has passed an ordinance and said, "No liquor or beer or alcoholic beverage shall be served in our town on Sunday," would that limitation apply to a wholesaler who also had a retail privilege? There is no doubt it applies to the municipal licenses issued within that town, but the problem arises in the way some of these retail privileges are issued. I believe that was the context in which the Director--

DIRECTOR VASSALLO: I was just giving a broad overview that eventually these are things that perhaps should be looked at to reclarify privileges. The SBD license is a hybrid animal, almost a Heinz, you know, fifty-seven varieties. They can do a little of this and a little of that, but nothing really well of one. We had to clamp down on those that were operating as wholesalers, because they were exceeding the privileges that the SBD allowed, and were really operating as a limited wholesaler is allowed, and we had to insist that they get limited wholesalers' licenses. You have some of your members where the wholesaling privilege really doesn't mean anything to them. They are really selling at retail.

MR. DUNN: It is a hybrid; there is no question about it. I think if we are availed the opportunity today to spend some time to put on the record the history of this, I think we will see there was good reason for it. Unlike other people who have appeared before you today, my clients do not seek a change. They are perfectly happy with the way things are. We don't want you to give us anything else, but we don't want you to take anything away from us either.

MR. BROMLEY: And that is on the record. That is the first time, so--

DIRECTOR VASSALLO: Your clients also got a-- The Legislature last year gave them something very valuable. All of a sudden, their license has some value.

MR. DUNN: I worked on a phase of that, Mr. Director.

MR. BROMLEY: Mr. Dunn, I think the Committee will afford you the time to place on the record a statement which might be informative, and which you might want to have carried over, and I trust you will cull your witnesses to be certain they just amplify.

MR. DUNN: We certainly do not intend to be redundant, Mr. Chairman. If I could just make a very brief statement, and I'm sorry to hear, Mr. Director, that the best client I have gotten in years may not have needed me at all in the first place.

DIRECTOR VASSALLO: I'm sorry to do that to a fellow attorney.

MR. NAPODANO: Well, I really think, in all deference to Mr. Dunn and his clients, the matter is on the agenda, why, I guess we all question. There may not necessarily be an emergency, but I'm happy you had a dinner last week on the basis of an emergency.

MR. DUNN: Unfortunately, I couldn't stay for dinner.

MR. NAPODANO: I don't think anyone here can give you any assurances, I certainly cannot, that this is a matter which this Commission may not study and, therefore, I think it very appropriate that given the fact that a question was raised, you do put on the record whatever it is you have to offer in the way of testimony for your position.

MR. DUNN: Given the fact that we haven't had an awful lot of time to prepare, and given, also, the fact that we are vitally interested in this because this is the business of my clients and, of course, I use the editorial we in this sense, we would like not only the opportunity today, but in the future, should the question come up again.

I would just like to say preliminarily and by way of preface, Mr. Chairman, that unquestionably this license we are dealing with, the SBD license, is a unique license in the State of New Jersey, because it does, indeed and in fact, have two privileges, a retail privilege with respect to the sale of malt beverages, and a wholesale privilege. We will understand, I'm sure, what the limitations are.

We feel and we think you will hear from people who have been in this business for a long time, that the license was created originally because there was a public need for it. I understand it came up as a result of a need for servicing on a retail basis and on a wholesale basis; on a home delivery basis, with respect to the retail aspect, and with respect to the wholesale end of things, areas where the breweries could not serve.

So, the SBD license is one of the oldest, and I believe it may be the oldest wholesale license with respect to beer in the State of New Jersey. We feel since there was a public need for the creation of the license, and we feel very strongly that that public need still exists, although times have changed, we think that perhaps while the market may have modified to some extent, there is a definite, genuine public need -- this you will hear from my clients -- with respect to the continuation of both the retail and the wholesale aspects of this license in one business. You will also hear, I believe, that these privileges are very significant and have a great financial value. Perhaps that financial value has increased because of recent legislation, but these businesses consist of very substantial financial capital investments by the people who run them, and should either part of those licenses be modified in any way, or even eliminated, there would be a very severe financial hardship to those licensees who hold them.

I would respectfully suggest, therefore, for today's consideration and for the future, that there must be a demonstration of a very compelling reason, based upon a demonstrated public need, or a demonstration that an existing evil must be eliminated by any projected or prospective change in the license privileges. After you have had an opportunity to hear the people present today, if available, I would like to supplement their remarks at a subsequent time, by submitting a written position statement, after I have had a little more opportunity to speak with my clients and understand the views of all of them who are licensed under these provisions.

Unless there are any questions of me, I would like to go on to call the four people who I have indicated would like to address you today.

MR. BROMLEY: Just a question for the record. You identify the SBD as a license which is the oldest for the sale of beer.

MR. DUNN: I understand that; someone told me that.

MR. BROMLEY: I wonder if you or one of your clients might know the year that license began? If not, we'll go to the first speaker.

MR. DUNN: Well, I would think it was sometime in the early '30's, possibly 1933, but I am not sure of the date.

MR. GARRITY: I think Sam Gold might add something to that.

MR. GOLD (FROM AUDIENCE): I wouldn't remember the date.

MR. GARRITY: It was in the '30's.

MR. GOLD: Oh yes, it was in the early '30's. It's an old license; it's nothing new.

MR. GARRITY: You're quite correct, it was the only license for awhile for the wholesaling of beer.

MR. DUNN: It was? That is what I understood.

MR. BROMLEY: In other words, that was the original wholesale license.

MR. DUNN: I believe so; I believe it was. I didn't get that from research, I got that from hearsay, and I hope I will be able to confirm it because I think it does have some interesting significance and importance.

MR. BROMLEY: Mr. Dunn, would you like to proceed with your clients?

MR. DUNN: If there are no questions of me, Mr. Chairman, I would like to offer the opportunity at this time to Mr. Baldi, who is one of the proprietors of Bal Kel Distributors.

MR. BROMLEY: Just one moment. Are there any questions of Mr. Dunn?

MR. FELDMAN: I just have one question. As I understand this license, you can sell both to retailers and consumers?

MR. DUNN: Yes.

MR. FELDMAN: Do you have a percentage breakdown of how much of the volume of the business in SBD would be done with retailers, and what would be done with consumers?

MR. DUNN: As far as I know, there has been no data collected to enable me to give an answer to that, but my belief is that the businesses of the licensees in different areas are so different, you would almost have to make an inquiry to each of them to determine what the various percentages are. I think it would be all over the lot, so no median or mean average would really make any sense.

MR. FELDMAN: Would you say that would be because of the geographical location, or what would be the reason for the changes in different areas?

MR. DUNN: I think it is geographic. Some inner city SBD licensees might have entirely different types of businesses than those in the outlying areas. Again, that is just-- I don't mean to plead ignorance, Mr. Feldman, but that is my impression without having had any great study done on it.

MR. FELDMAN: Would you have any idea, a guesstimate, on a State basis, of the total business?

MR. DUNN: None whatsoever. I am prepared to offer the testimony today of one such licensee who will, I believe, indicate that the percentage of his business is about two-thirds retail and one-third wholesale, but that is just in one instance.

Mr. Baldi, would you come forward? Mr. Chairman, I do not intend to do this on a court basis. I am simply going to ask Mr. Baldi to identify himself for the record, and then tell his story as to why he feels his license is important to his business, how he operates it, and what concerns he has if there are any changes.

**M A R I O J. B A L D I:** My name is Mario Baldi. I am co-owner of Bal Kel Distributors, which trades as Wrap Beer and Soda. It is located on Clinton Avenue in Irvington, New Jersey.

In answer to your question, Mr. Feldman, my particular distributorship services about 80% wholesale, that is to the so-called "Mom and Pop" liquor stores and taverns, mostly confined to the Essex County area, and about 20% retail. That 20% is, I would say, mostly directed to community functions, clubs, American Legions, some Knights of Columbus that have no licenses and, in general, wherever deliveries have to be made and where the franchised wholesalers find it very difficult to gain access to the establishments.

This license, it's true, was formed roughly around 1933, and at that time it was basically a home vendor operation. This was a gentleman who had a truck and he went from house to house, because in those days there were no liquor stores to speak of, and everything was in deposits. The supermarkets were not formulated yet, and he would drop off his case of beer and his case of soda. Then he would come back the following week and pick up the empties, and so forth. At that time, most of the beer was distributed by the breweries. There were no distributors as we know them today, because the breweries were all local function breweries which had direct deliveries. They found it difficult, I believe, to service some of the outlying areas. Therefore, they appointed a State beverage distributor license, and gave the licensee a two-fold privilege, one, to sell retail, as his basic livelihood, and two, to sell wholesale, so he could assist the brewery to provide the smaller, out-of-the-way licensee with his normal supply of beer. It was a mutual agreement that worked out very well.

Times have changed, I guess, and the suburban gap has been narrowed, and yet the problem today, in my opinion, is more complex than it was at that time, since now we have a much more severe problem because all the stores in the urban sections, which because of deregulation, and because of economic factors whatever they may be, have been severely hurt financially. Many of these outlets find it very difficult to conform to the regulations of the franchised wholesalers. By franchised wholesalers I mean those which are licensed by the breweries to sell, Budweiser, etc. In their regulations, they usually have a ten-case minimum. It probably isn't economically feasible for them to deliver less than ten cases. Many of the Mom and Pop taverns then which handle six beers, would be forced in a given week to buy sixty cases of beer, because they are buying from ten different sources. They cannot afford to do this, for many reasons other than financial. In some of these areas, they do not even want to have that much inventory in their small stores, which are broken into so many times during a week. So, they rely on a State beverage distributor, such as myself, to make a daily delivery to them so they can fulfill their requirements of maybe two cases of each product, two Bud, two Schaefer, two Rheingold, and with a sixth of the money they

can operate their day's business, and then they can feel free to call me again Tuesday morning and Wednesday morning, and I will service them within an hour. On Saturdays, when the franchised wholesalers are not available for delivery, that is when these small Mom and Pop stores have the most money available, because they are getting ready now for their weekend sales. They can't call the franchised wholesaler; he is not available to them. But, they can call a State beverage licensee.

So, I think we perform a very valuable service in those communities where this service is needed most, in the small urban communities that are being serviced by the small Mom and Pop taverns and liquor stores. I think they depend on us very, very much.

Now, there again we have a retail privilege. You might say, "Well, gee whiz, you're doing so well with the wholesale privilege, what the heck do you need the retail privilege for?" As I said before, about 20% of my business is retail. It would be very difficult for me to operate without that 20%. It is that little extra I need in order to make a substantial profit, a decent living. So, we do have two basic privileges, but there are so many other licenses that have more than one privilege. We are only allowed to sell beer and soda, that's it. We do not sell allied products; a "D" license can sell many other items. We have broad "C" licenses in this State, which were founded, I think, in the late '40's, where they have the opportunity to be both on premise and off premise. They have the privilege of acting as a package store, and they also have the privilege of acting as a saloon keeper. I mean, this is a dual privilege that I don't think anyone has questioned.

So, there are cases where a dual privilege is beneficial to the public, and I sincerely believe that the State beverage distributor's license will become even more beneficial as time goes on, because the breweries are disappearing and the distributors are gathering many, many brands of beer. One distributor is handling seven, eight, ten or fifteen items. There is an awful lot of pressure on this guy to be able to inventory every item and service every customer with that item. When he does make a mistake, the small Mom and Pop places don't have to suffer by it, because they have the opportunity to come to us, not on a regular basis, but just to cover

him until the State beverage distributor can get to him. That is why we perform a dual purpose. I think we do it very well, and I think it is important that we continue doing it. Thank you.

MR. BROMLEY: Thank you very much. Are there any questions?

MR. FELDMAN: I have just one question. From whom do you buy your beer?

MR. BALDI: I make it a point to buy my beer from a franchised distributor in the State of New Jersey.

MR. FELDMAN: But, you buy from a distributor, not from the brewery directly?

MR. BALDI: No -- well I do. In one case I do, Budweiser. Budweiser is a direct distributor in our area, and this is something I have to do. I mean, it was understood when we were given this privilege again by Director Vassallo to sell wholesale, that that was the only reason we would continue to keep this privilege, and I rightfully agree. I think the way to do it is to buy our beer from a franchised distributor in the State of New Jersey.

MR. FELDMAN: In the State of New Jersey?

MR. BALDI: That's right, sir.

DIRECTOR VASSALLO: Mr. Chairman, I think something should be clarified there. There is no restriction that you can't buy directly from the supplier.

MR. BALDI: I beg your pardon, sir.

MR. FELDMAN: No, I just asked as a matter of practice how they were operating.

DIRECTOR VASSALLO: You said you buy from the brewery -- you buy from the supplier, the brewery itself, not the wholesale branch?

MR. BALDI: The only brewery I buy directly from is Budweiser, because they have no supplier in my area. The rest of my beer I buy from the supplier, who is a franchised supplier in the State of New Jersey.

DIRECTOR VASSALLO: How about Pabst, don't you buy directly from them?

MR. BALDI: No, Pabst is now a distributor in Newark. They were direct until a short time ago, then they appointed a distributor, B&N Distributing, which is located in--

DIRECTOR VASSALLO: (interrupting) They won't sell any directly to you?

MR. BALDI: No, sir.

MR. BROMLEY: Mr. Baldi, doesn't Anheuser Busch have a distributor for Essex County? Isn't Anheuser Busch separate and distinct from the brewery?

MR. BALDI: Anheuser Busch and the brewery, I think, are listed as two separate corporations, one that sells direct--

FROM AUDIENCE: They have a brewery license -- Budweiser has a brewery license; they also have a WL. (Remainder of this statement lost, since speaker was not near microphone.)

MR. BALDI: It is only used to supply their franchised distributors outside their direct distribution area, if you follow what I mean by that. They are listed as having a WL. That is a separate corporation of the Budweiser Brewery that is used to supply their franchised distributors outside of the seven counties they service themselves.

DIRECTOR VASSALLO: Excuse me, Mr. Chairman. That should be clarified for the record. That is not the case. Anheuser Busch, although their plenary brewery license in the State allows them to sell directly to wholesalers, has chosen not to sell directly to anyone, except through their WL license or their limited wholesale license in the State -- except their franchised distributors.

MR. BALDI: Yes, right. Maybe that is not the way I said it, but that is the way I meant it.

DIRECTOR VASSALLO: So, you are buying it through their WL license, as I understand it, not directly from the brewery?

MR. BALDI: That's right. But, that might be the confusion Mr. Bromley had, because of the two--

MR. BROMLEY: No, I just asked the question because of your remark. Are there any further questions? Yes, Mr. Napodano.

MR. NAPODANO: Mr. Baldi, how long have you had your license?

MR. BALDI: Five and a half years; it will be six years in February. I was formerly with the Rheingold Breweries.

MR. NAPODANO: This is a State-issued license, is it not?

MR. BALDI: That's right, sir.

MR. NAPODANO: How did you acquire your license?

MR. BALDI: I bought it from an existing owner as an operating business.

MR. NAPODANO: You bought an operating business?

MR. BALDI: That's right.

MR. NAPODANO: No other questions.

MR. BROMLEY: Thank you kindly, Mr. Baldi.

MR. DUNN: Mr. William Shaiman of Beverages Unlimited would like to address the Subcommittee.

**W I L L I A M R. S H A I M A N:** I am William Shaiman of Beverages Unlimited of Rahway, New Jersey. I have been in the beverage business for twenty-eight years. I acquired the license from the original owner, Rahway Bottling Works, and I believe that license was one of the original licenses issued right after prohibition.

Basically, years ago, our business was home delivery of soda and beer. The business changed with the advent of throwaway bottles and cans and people now pick up their beverages, so our home delivery has diminished. We do business at our warehouse supplying people with soda. When they have a party or need soda for the house, they stop by our warehouse and we load their cars. We have picnics in the summer months, and even in the fall of the year we have companies and organizations that run picnics and when they can't get delivery from a brewery on a Saturday, or maybe even on a Sunday, we do that type of work delivering keg beer; we have the necessary equipment. That's about the extent of our operation. Are there any questions?

MR. BROMLEY: Mr. Napodano?

MR. NAPODANO: Mr. Shaiman, can you give us, as Mr. Baldi did, a breakdown of your wholesale versus your retail business?

MR. SHAIMAN: I would say my business is 98% retail, and maybe 2% wholesale. I am in a different geographical area, and the licensees in our area are covered well by the distributors. We don't go out of our way to encourage any wholesale business, because there is no profit. Years ago we did get quite a bit of business from the breweries, when there were breweries left in New Jersey. If they had a truck that broke down, or for some reason they couldn't get a delivery out on the weekend, or whatever, they would call the local SBD and he would fill the orders for the local taverns and package stores, but now

that only two or three major brands are being sold and most of the outlets are well-stocked, I don't get that wholesale business like I did in the past. I do have a few clubs I supply that want small orders on the weekends, or in the afternoons when the custodians open up the clubs, where the brewers are unable to supply them.

MR. NAPODANO: Who are your retail customers, Mr. Shaiman?

MR. SHAIMAN: Who are?

MR. NAPODANO: Yes.

MR. SHAIMAN: General consumers.

MR. NAPODANO: Do they come to your warehouse to secure the product?

MR. SHAIMAN: What was that?

MR. NAPODANO: Do they come to your warehouse to purchase the product?

MR. SHAIMAN: Yes, and we do have routes where we service homes. We have a truck that goes out and delivers to the homes.

MR. NAPODANO: You still do home deliveries?

MR. SHAIMAN: Yes.

MR. NAPODANO: How much of that 98% is home delivery?

MR. SHAIMAN: Oh, I'd say 5%.

MR. NAPODANO: Thank you.

MR. BROMLEY: Is there anyone else who has a question?

MR. GARRITY: Mr. Chairman, I think it would be informative if one of these gentlemen would tell us what their limitations are, with regard to what the license requirements are, as compared with another type of license, the WL.

MR. BROMLEY: Mr. Shaiman, could you tell us in what way you are limited, what is it that you must do and not do as a SBD, for instance, cold beer?

MR. SHAIMAN: Well, we cannot sell chilled malt beverages, except for the change made last year on keg beer. We are limited by no sale less than 144 ounces. Most of the home distributors in our group do not have a franchise brand per se. We buy all our products from the franchised distributor or brewery in that given area, county or whatever. At one time, I used to bring in two or three brands from Pennsylvania, which we used to distribute ourselves, but since most of

your small breweries have gone out of business, we do not have our exclusive brands. Most home distributors always had one or two brands which were more or less their own beer which they would promote, but they couldn't buy locally. We used to bring it in from Pennsylvania or whatever state we could get our beer from. Some brought it in from Ohio, and in New York State there were a few small breweries, but they have all dried up.

MR. GARRITY: Mr. Shaiman, one other question, what other items may you sell? I think this was lightly covered before.

MR. SHAIMAN: We are permitted to sell carbonated beverages and, also, other drinks in cans and bottles. That is the extent of it. We are not permitted to sell any related items, which if we could sell would help our business. People would like to get paper cups from us. Large parties would like to buy chips or pretzels, or straws. There are quite a few related items we could probably sell if we were permitted to sell, but under the legislation we are not permitted.

MR. BROMLEY: You are limited to the sale of beverages, alcoholic and non-alcoholic -- only beverages?

MR. SHAIMAN: Well, we are permitted to sell malt beverages and bottled or canned beverages.

MR. BROMLEY: Thank you very kindly, Mr. Shaiman.

MR. DUNN: Vincent DiLorenzo of Elliott Home Beverages.

**V I N C E N T D i L O R E N Z O:** Mr. Chairman and members of the Subcommittee, my name is Vincent DiLorenzo and I own the Elliott Home Beverages Company in Bridgewater, New Jersey. I have been in business for twenty-three years, in the type of business I am operating today. I came into this business when there were two privileges with my license; one was a retail privilege, and one was a wholesale privilege. The retail end of my business was strictly home delivery. We started out with one truck, my partner and myself, and we ended up with, I guess, a little over five trucks at one time. I ended up buying out my partner, and I maintained the five trucks until the industry changed.

One of the things I did with my wholesale license at the time was, I had about three different brands of beer that I was able to bring in from Pennsylvania, and they were exclusive for me. No other

wholesaler wanted them in the State, and they gave me the right to distribute these three brands of beer. As time went on, breweries were consolidating and slowly we lost these different brands of beer, and I no longer bring these brands of beer in.

The other service I performed in doing home delivery was -- I would have to say 98% of my business at that time was in returnable bottles. Alcoholic beverages had a minimum fair trade price; we were able to perform a service, because we could deliver the beer to the home for the same price that the consumer could pick it up at the store. At that time, the returnable bottles were priced about seventy-five cents to a dollar less than when the cans and throwaways started coming into the market. When the throwaway bottle became popular, and the can, the bottle industry, to make it easy, I guess, for the glass industry to produce more glass, convinced the breweries to price their throwaway bottles and cans less than the returnable bottles, the result of which was that the returnable bottles began to fall away from the marketplace.

The home delivery end of my business slowly began to lose its potential. I then had to pursue another end of the business, and I started to promote a retail/pickup operation. Today, I am basically retail selling, not because I want to be, but because I am restricted in selling wholesale -- no, I am not restricted from selling wholesale, I am in a position where I could not buy wholesale if I wanted to, to make it profitable, or to price it so that the stores which could use my product would be able to buy it from me. There was a time when as a SBD, our suppliers recognized the service we could do for them. Along with selling their beer, they gave us a special price. This entitled us to wholesale for them when they had a problem.

One of the reasons why I am unable to buy today, is because I am not able to be in a co-op, where we are able to buy some of the items listed in volume price where we could share with our other members here. If I were able to do that -- again, I wouldn't be able to do it with all of the items, I would only be able to do it with some of the items. Right now, in my marketplace, it doesn't warrant the type of a marketing condition that Mr. Baldi has at his business. But, conditions changing, the way things change in business, possibly

someday there may again be a potential for my wholesale privilege. I would hate to lose this privilege. I have it now. I bought my business with the privilege, and I would like to maintain both ends of that privilege.

One of the things we have had to tolerate in the twenty-three years I have been in business was, when they legislated Sunday beer sales, someone said they inadvertently forgot the SBD's. It took us ten years and a lot of money to get that privilege for Sunday beer sales. I don't want to tell you how many times I had to explain to my customers that they could buy beer across the street from me, or next-door to me, but I could not sell them beer. They didn't think it was fair; I didn't think it was fair. We now have that privilege. I'm not saying I use that privilege; I am not open every Sunday. But, at least if I want to be, I can be when the time warrants it.

Someone mentioned cold beer. We are not allowed to sell cold beer. Someone mentioned related items. That is another thing we get some pressure on. People say, "Well, gee, how come you can't sell potato chips?" or "How come you can't sell glasses?" "How come you can't sell paper cups or charcoal as the other stores do? You, again, respect the fact that the customer is asking you, but you kind of have to explain to her, the best way you can, why you cannot sell these items.

The last thing we had a problem with, which we almost lost the privilege on, was quarter keg sales, was draft keg sales. At one time, we were able to sell a gallon can of beer. I did not sell a lot of gallon cans of beer, but I had people who wanted a gallon can of beer. If a lady comes in my place now and wants to buy a gallon can of beer, I have to try to explain to her that I cannot sell her a gallon can of beer, because it is not legal for me to sell this gallon can of beer.

FROM AUDIENCE: Cold.

MR. DiLORENZO: Cold? Well, can we sell it not cold, I don't know?

FROM AUDIENCE: If it is draft, it has to be chilled to maintain it.

MR. DiLORENZO: If it is draft, it has to be chilled. These are just some of the things, some of the hardships, that I have had to go through to try to maintain and build the business that I have today. Three of my four children are sons. I have one working in the business with me now. Hopefully, the two younger ones will come in. They are interested in working into the business. I would hate to lose any privilege I have today to do business. That is all I have to say.

MR. BROMLEY: Thank you, Mr. DiLorenzo. I think Mr. Feldman has a question.

MR. FELDMAN: Did you say that 100% of your business today is retail?

MR. DiLORENZO: Yes, 100% of it is at retail today, only because-- I can sell wholesale but I don't encourage it, basically because I am unable to buy the items right to resell them. If a liquor store calls me, or a tavern calls me, and says they would like to buy beer from me because they ran out of an item -- and we do get these phone calls -- and this puts me in a position where I don't use my wholesale license, I tell them I can't sell to them, or I don't want to sell them, based on the price that I have to get when I post my price list.

MR. BROMLEY: Mr. DiLorenzo, I would like to pose a question to you, but I am a little lost. You hold a license and are a distributor, and yet you say you cannot purchase beer on the same basis as every other distributor?

MR. DiLORENZO: We are not allowed to be members of a co-op.

MR. BROMLEY: That is a little different than what I am asking you. I'm a little lost. You say that a franchise distributor can sell to retailers in your area.

MR. DiLORENZO: Yes.

MR. BROMLEY: But you, as a distributor, cannot sell to retailers in your area.

MR. DiLORENZO: I do not have a franchise brand.

MR. BROMLEY: Because you can't buy it at the right price?

MR. DiLORENZO: There was a time--

MR. BROMLEY: (interrupting) What price do you buy it at then if you just persist?

MR. DiLORENZO: At the listed price that every other licensee--

MR. BROMLEY: (interrupting) In other words, you can only buy at retail, even though you hold a wholesale license?

MR. DiLORENZO: No, I buy it at the wholesale price that every other licensee pays for it, I buy it at that price.

MR. BROMLEY: That is the price at which a wholesaler sells to the retailer? You are sold as a retailer, not as a wholesaler?

MR. DiLORENZO: That is correct. There was a time--

MR. BROMLEY: (interrupting) I think you should make that very clear and put it in the record, because I think there is a good deal of misunderstanding on that point, that you gentlemen buy basically as retailers, not as wholesalers.

MR. DiLORENZO: We buy as a retailer buys; that is correct. There was a time when we were buying differently than the retailers. The other point I wanted to make is that still today -- I'm sorry for forgetting this point -- today, I would say 35% of my volume is in returnable bottles, soda and beer. With the bottle bill, I think, sitting in the wings, I think possibly there is a good potential for my business. Basically on my method of operation, I think I can be of service to a lot more people in this State.

MR. BROMLEY: Are there any other questions? (no response)  
Thank you very much.

MR. DiLORENZO: Thank you.

MR. DUNN: Mr. Leon Richter would like to address the Subcommittee.

**L E O N R I C H T E R:** Good afternoon. My name is Leon Richter. I am the owner of Lake Beverage Distributors in Rockaway. I bought my business, which was a going business, at the time I was about seventeen years old. I bought it in 1972. It is a SBD license. At that time, we were doing approximately half of our business in home deliveries, and half of our business as a drive-in cash and carry warehouse. A very small percent of our business, maybe 2%, was wholesale.

The home delivery business consisted of the delivery of syphoned Seltzer bottles, returnable soda and beer, some of the beer in

returnables and some in throwaways and cans. Over the last eleven years, there have been a lot of changes that have occurred in my business due to the economy. The price of gasoline has gone sky-high, and the maintenance of trucks, and as a result, instead of running three trucks everyday on home deliveries, we now run just one truck a day.

Deregulation has also caused my home delivery business to decline, because the people are out there shopping now, and they are not willing to pay the service charge I have to charge on soda and beer. So, they shop much better. Also, packaging has changed. At one time, everybody bought everything in returnable bottles. You always saw a returnable nickel bottle of Coke and Pepsi -- that's gone. Hammer, which is our house brand, still makes a returnable bottle, but our drive-in business really hasn't increased that much, only since deregulation, because we try to compete now with the liquor stores, when before we really couldn't because you couldn't even advertise. As Mr. DiLorenzo said, we buy from a wholesaler at the same exact price that a retailer, a regular retailer buys from a wholesaler. If I want a hundred cases of Budweiser, I look at their current price list, and I pay the hundred case price. If the liquor store across the street wants to buy a hundred cases, he pays the hundred case price too. The only time we have a little difference is when that wholesaler has a thousand case price on Budweiser, and I can't take in a thousand cases. It doesn't have to be Bud, it could be Peel's. A thousand cases of Peel's would last me all year long.

But, a co-op of ten or fifteen different liquor stores can get together and buy that thousand case deal, and maybe buy it for fifty cents or a dollar a case less. His price then to the consumer is a lower price than mine. So, we are at great odds with the retail industry, in that they have certain advantages that we do not have.

As a result of these changes in the industry, the economy, deregulation, what have you, my business has changed over the past eleven years, because basically when I bought my business I paid a lot of money for it, and I had a ten year payout, and I had to try to generate enough money to pay that off, plus make a living. My business has changed in that my home delivery business instead of almost 50% --

I told you I'm down to one truck, I'm doing about 15% home delivery. My cash and carry business is still about 50%, drive-in. People drive in, my guys come and take out the case, put in a new case and service the customer, and they drive out. My wholesale business now is 35% of my business, not 2%. Okay? This has, thank goodness, given me enough of a profit margin to pay my debts and to make a decent living.

I am only afraid if you want to change the SBD license and take away some privilege -- I'm afraid that my investment in my business, the value of my business and, maybe, the eventual salability of my business will be diminished so that I would have a problem. Thank you.

MR. BROMLEY: Thank you very much, Mr. Richter. Are there any questions for Mr. Richter? Yes, Mr. Napodano.

MR. NAPODANO: Not necessarily to Mr. Richter, unless you can answer it, but perhaps to Mr. Dunn. How many State beverage distributor licenses are there in the State, do you know?

MR. RICHTER: There are about seventy; I'm not sure that all of them are active, but there are about seventy.

DIRECTOR VASSALLO: It is frozen at seventy-two. There is a maximum of seventy-two that can be issued, and all are issued.

MR. NAPODANO: Are they all active?

DIRECTOR VASSALLO: No.

MR. NAPODANO: Do you know how many are active?

DIRECTOR VASSALLO: No, because a lot of limited wholesalers hold both licenses, and really they are not using their SBD in the true sense of the word. But, they are actively in business, so in one sense it is active.

MR. FELDMAN: Tony, you will notice in the definition in the law, in 33:1-11, they have a two-year limitation, "No State beverage distributor's license as defined in subsection so and so shall be renewed if it has not been actively used in connection with the operation of a licensed premise within a period of two years."

MR. BROMLEY: Are there any other questions?

MR. NAPODANO: Just a point of clarification from the Director. Do I understand there are full wholesale licensees that also have this license?

DIRECTOR VASSALLO: Yes, a limited wholesale license. There is no restriction for someone holding both licenses, because they carry different privileges.

MR. NAPODANO: I have no other questions.

DIRECTOR VASSALLO: I point out for the record, the SBD license is a Class "B" license; it is basically a wholesale license, with a retail privilege. It is not a retail license with a wholesale privilege. But, the State chose to classify it as a wholesale license, under the Class "B" licenses.

MR. NAPODANO: I apologize, I do have another question. But, there is no requirement anywhere with respect to the breakdown of wholesale versus retail business?

DIRECTOR VASSALLO: No.

MR. GARRITY: Mr. Chairman?

MR. BROMLEY: Yes, Mr. Garrity.

MR. GARRITY: Mr. Richter, I would like to ask, if you have any knowledge, how many other licensees are operating under the SBD license similar to the way you are doing, throughout the State, who may not be a part of your group? Would you be able to estimate how many, in total, you think are operating that way?

MR. RICHTER: Do you mean operating more as a retailer than as a wholesaler?

MR. GARRITY: Using both the privileges that you witnesses spoke of.

MR. RICHTER: I would say around twenty, as an educated guess.

MR. GARRITY: About twenty out of the seventy-two?

MR. RICHTER: Yes. The other SBD's are acting strictly as wholesalers with an authorized brewery-appointed brand, if they haven't converted already to, you know, WL's.

MR. BROMLEY: Any further questions? (no response) Mr. Dunn, do you have anyone else?

MR. DUNN: I have no one further who wishes to address the Subcommittee, Mr. Chairman. On behalf of my clients, I would like to thank you for the opportunity afforded to us today, and for the courtesies extended. I would like to ask that if there is a mailing

list for people to be notified, that my name at least be placed on that. I would hope to get a complete list of the SBD licensees, so that the clients I represent here today might circularize them to see what their sentiments are, in the event there is a future discussion on this subject.

MR. BROMLEY: I can assure you on behalf of the Chairman, who had to leave, that we will comply with that request. Mr. Richter and Mr. Dunn, and those who came with you, we thank you very kindly for the patience you showed while waiting until so late in the day, and for the very fine presentation you made. Thank you kindly.

MR. DUNN: Thank you.

MR. BROMLEY: For the members of the Commission who are here, I am asked to announce that on October 12, the Commission as a whole will meet in this room at ten a.m. pursuant to the agenda which has been mailed. On October 14, which is Friday of that week, the postponed meeting of the Trade Practices Subcommittee will also be in this room at nine-thirty a.m. Is there any further business?

DIRECTOR VASSALLO: Mr. Bromley, I believe when I spoke to Assemblyman Patero there were two bills which I want to bring to the Subcommittee's attention. Although they were not put there for me to bring to your attention, I think it would probably be most expeditious if I do, Assembly Bill 3667, which was sponsored by Assemblymen Bocchini and Patero, and Assembly Bill 3874, sponsored by Assemblyman Marsella. I understand Senator Costello also asked that the Subcommittee consider them today.

They are being considered by the Assembly Judiciary Committee, which is meeting today in the Gloucester County Courthouse. I had several discussions yesterday with Assemblyman Herman, and then with his staff concerning them, so everyone is aware of what they are. They are really technical amendments for specific purposes, although I know Mr. Jerlat has recently expressed the vehement opposition of the New Jersey Licensed Beverage Association on behalf of A-3874.

We can deal first with A-3667. It is an amendment to the tied-house statute. The basic reason for it is, we are getting a lot of questions, a lot of opinions and a lot of shenanigans have to be played in the setting up of corporate structures, especially where

hotels are concerned. Hotels just cannot operate today unless they have some large corporate financing behind them. Specifically, we have had a problem with Howard Johnson Hotels, recently with the Stouffer Hotels, the Treadway Inn, and the biggest one, the one of most concern to the State, and important to the State, is the Scanticon International, and the Scanticon Princeton, of which Grand Metropolitan is the corporate conglomerate which is financing it. In the case of Scanticon, Grand Metropolitan makes J&B Scotch, Grand Marnier and Bailey's Irish Cream, among other products, and subsidiaries of their's do, who are not directly in there. Unfortunately, if they get involved in a direct corporate relationship with Scanticon International, which is a large corporation which has come from Denmark, as is proposed it has, they will stay here if this bill goes through. They have their corporate headquarters in New Jersey, from which they will expand throughout the country with these conference centers.

I think it is very important to the State economy that we have something like this. This would be a technical amendment, patterned much on what California has already done to their tied-house statute, excepting corporate relationships, where there is a relationship between a supplier, who happens to have subsidiaries, and who then comes into a subsidiary with a hotel, which would have at least a hundred and fifty rooms.

I pretty much worked with the people drawing up this bill, and the language in the bill is substantially from the Division. We also chose the vehicle to take care of a couple other technicalities, such as at the top of Page 3, Paragraph 1, "To specifically accept the retail privileges that are given to Class "A" and Class "B" licensees," particularly the wineries and the SBD's we have just heard from, so there is no question as to whether or not that is a tied-house violation. It clearly isn't, because the Legislature intended it, but this will just clear up any difficulty.

Also, occasionally a special permit is issued, and somebody is tied in with an organization or something, or somehow a special permit is issued that allows some retailing, and this would -- offhand I don't remember which one it is, but there is one that is involved. Oh, in the sampling permit, giving a sample of alcoholic beverages is

in effect retailing. When we give that to a wholesaler, it is a wholesale privilege, or it is a privilege on the wholesale license that they can get this permit, but, in effect, it is retailing of alcoholic beverages. There is no question, we threw that in.

The other thing that came up yesterday which is going to be proposed to the Judiciary Committee basically with my recommendations -- on Page 3, Lines 90 through 94, right now it would provide that the retail licensee, the hotel licensee, would not be able to sell the product which its corporate produces at all. I was talking the other day -- specifically this is what brought it up -- to the President of Scanticon. I asked him about this, and he said they really don't care about that limitation, but they get a lot of customers, and right now it is set up that there is an indirect relationship so the tied-house statute isn't violated, but they cannot go ahead with the direct relationships unless this statute is amended.

They have a lot of customers asking for Grand Marnier, and they have to tell them, "We don't carry it." The customers say, "What, a place like this doesn't carry it? That is what I want." It is more an inconvenience to the public than anything. So, the amendment is going to be put forth with the Assembly Judiciary Committee to allow them to carry their own brands, provided they do not exceed 10% of the alcoholic beverages they handle.

Senator Costello has asked that, since the Senate has agreed that the Commission would review all legislation, the Subcommittee today and the Commission take a look at this, so hopefully it can go forward in this session, and keep Scanticon in New Jersey, as well as alleviate the situation for the other hotels where the problems occurred.

MR. BROMLEY: Director, on A-3667, what action do you seek from the Subcommittee, that it be referred to the meeting on Wednesday of the full Commission?

DIRECTOR VASSALLO: If necessary, or that the Subcommittee just, you know--

MR. BROMLEY: (interrupting) I think the previous discussion which Mr. Napodano had with us implied that he felt our procedure should be either to approve or disapprove to the Subcommittee, and let the full Commission--

DIRECTOR VASSALLO: I think Senator Costello asked that the Subcommittee take a look at it, didn't he?

MR. BROMLEY: It is for discussion.

DIRECTOR VASSALLO: Yes.

MR. BROMLEY: But, I'm saying, is that the end result of our--

DIRECTOR VASSALLO: Yes. I don't see any real problem in it, because if only the Assembly Judiciary Committee is considering it today, it certainly can't reach the floor of both houses prior to next Wednesday.

MISS SZILAGYI: They have already made their decision.

DIRECTOR VASSALLO: I'm sure the Assembly Judiciary Committee has, but I think Senator Costello wanted the Commission to sign off on it, so to speak.

MR. BROMLEY: We have before us, bill 3667, an Assembly bill. I believe I interpret the Director's comments to mean, to move that this be referred in an approved fashion to the full Commission for its action, which would be at next Wednesday's meeting. Would that be the essence?

DIRECTOR VASSALLO: I see no problem with that.

MR. BROMLEY: Is there a second for that?

MR. NAPODANO: Is there any discussion on this bill, or do you want to--

MR. BROMLEY: Well, there will be if I get a second. I think we require a second to have a discussion. Mr. Feldman, are you going to second it?

MR. FELDMAN: Well, I am not a member of this Subcommittee.

MR. BROMLEY: Who else will second it?

MR. GARRITY: I'll second it.

MR. BROMLEY: That now leaves it open for discussion.

MR. JERLAT: The thing I want to say about this particular bill is, there is a pro and con on this bill, and it goes back a little ways. We have had a problem with this in the past; this is not something new. Scanticon as a corporation has been around for a long time in the State of New Jersey, they're not new, they go back away. I know what the intent of this is; I don't think there could be too

much of an objection to the intent in the bill, except that, from what I understand, Scanticon in Princeton has been there for some time.

DIRECTOR VASSALLO: Yes, but Scanticon International came in from Denmark only in the past two years.

MR. JERLAT: Okay. Scanticon in Princeton wanted to get a license two or three times, anyway. The reason for this was the main corporate structure down there. They entertain people; they want the right to be able to serve alcoholic beverages and to be able to cater things for employees. Now, whether that would go outside, or just stick to the employees-- That is what happened in the past. What the situation is right now I can't really tell you.

DIRECTOR VASSALLO: As far as I know, Mr. Jerlat, the whole structure is, you know, whether they bought the Scanticon name and license, but it is Danish money that has come into the United States and moved the Scanticon headquarters to the United States, and to New Jersey specifically.

MR. BROMLEY: Director, I have a question. Would passage of this statute and the signature of the Governor free these people from tied-house implications Federally?

DIRECTOR VASSALLO: Yes, provided they meet the criteria here, but, obviously, the basis for the tied-house statute is so that they can't use their retail license as an outlet for their own product. And, with that restriction in there, as it is in there now, they couldn't sell them at all. But, in weighing it, we feel that the convenience of the public has to be considered in certain respects. When you limit it to 10%, or that could even be further limited-- Ten percent sounds like a reasonable amount though, so there is no question as to whether they are technically violating it or not.

MR. BROMLEY: As a matter of fact, if they did use this privilege to exclude the products of others, they probably would be guilty of a Federal violation.

DIRECTOR VASSALLO: Oh, they would still violate the tied-house statute, as well as the Federal statutes. They couldn't sell more than 10% of the alcoholic beverages of their own manufacture.

MR. FELDMAN: Director, how does this bill differ from your recent bulletin, where you developed a procedure that could be followed in cases like this?

DIRECTOR VASSALLO: That was an indirect relationship in there. Here, because of their financing structure, it necessitates a direct relationship, which they have not been able to implement because of the tied-house statute.

MR. FELDMAN: So, in effect, it is just that one restriction that is being removed here? Otherwise, it is something you, by bulletin, have permitted.

DIRECTOR VASSALLO: In the indirect relationship, although they cannot come in and have the direct relationship in it.

MR. BROMLEY: Yes, Mr. Garrity.

MR. GARRITY: On a different matter, I think we need to set up some little ground rules for ourselves here as a Commission, and also as Subcommittees. We have heard from Barry Lefkowitz at least three or four times now, and from Mr. Milza twice. I don't know, is this going to continue, or should we decide that maybe--

MR. BROMLEY: Let me call the order of procedure, because we do have a motion duly made and seconded on the floor. However, I will answer you, that today I followed only the agenda that had been left for me by the Chairman. As the Vice Chairman, I did not feel I wanted to disturb that. Personally, I do not wish to hear from those gentlemen again.

MR. GARRITY: I withdraw my question for now, and we can proceed with the motion.

MR. BROMLEY: If we can. The Director has made a motion, which has been seconded by Mr. Garrity, that we refer Assembly Bill 3667 favorably to the full Commission for its action on next Wednesday. I would like to ask for a vote on this. If there is anyone not ready, I will not do it, but if everyone is ready--

MR. NAPODANO: Mr. Chairman, I am not ready to vote on it, simply because I have not reviewed the bill and, therefore, I have no position I wish to articulate with respect to the bill at this moment. If you wish to call the motion, I will abstain. And, if I have any further comments that go contrary to the decision of the motion, I will address those comments in writing to the secretary.

MR. BROMLEY: In time for the full Commission?

MR. NAPODANO: Yes.

MR. BROMLEY: So, I do not think it would be depriving anyone of a right, for us to vote, in that our action is simply one of referral for a week, at which time, if there were other objections, we would hear those. In view of that, if there is no further unreadiness, I will submit this for a vote, and ask all who are present who are in favor to signify by saying "yea," all who are opposed by saying "nay," and note one abstention, please.

MR. JERLAT: I am going to abstain from this too.

MR. BROMLEY: Let the record show that all those present answered "yea," with the exception of the two abstentions by Messrs. Napodano and Jerlat. I don't know whether that is sufficient to refer, but I don't know what else to do.

MR. FELDMAN: Mr. Chairman, may I suggest that prior to the next meeting, the other members of the Commission get copies of these bills, because they will be taken up next Wednesday and, rather than refer this to them without their having an opportunity to examine the bills, I think we should try to get copies to them as quickly as possible.

DIRECTOR VASSALLO: Aggie, on that, maybe you can get the amendatory language from the Assembly Judiciary Committee.

MR. BROMLEY: I have in my hand Assembly Bill 3874, which has come to us for consideration. Director, would you care to comment on that bill?

DIRECTOR VASSALLO: This would amend 33:1-1 by adding two new definitions for charter bus companies and limousine companies, but the primary change in the bill is in the Class "C" licenses for plenary retail transit licenses, which, of course, are issued by the Division. Presently, only airplanes, trains and charter boats are licensed. First of all, it would double the fees that are now in existence for those three categories. But, the primary purpose of the bill is to give us a means to regulate and control an existing and widespread practice in this State, which we really do not have the means to properly police or eliminate, and for which there is a lot of economic pressure, especially in Atlantic City, to continue, namely, that limousine and charter buses be allowed to serve alcoholic beverages, which they are presently doing illegally.

This came about -- I'll give you a little capsule history of it. Last spring it came to my attention that high school students were hiring limousines for proms and were serving alcoholic beverages, which were sales, since this was included as part of the package price of the limousine. The limousine companies were warned about it. The backlash came from limousine companies in Atlantic City, who claimed that the casinos were requiring them to provide alcoholic beverages. When we made it known that it was illegal, some of them said, "Fine, we won't do it," and then they came back to us and said, "Now we're losing business because the casinos are going to others who don't care and are going to continue to do it anyway, or to others from out of state." Catching a limousine doing it is another question. You would have to be in the right place at the right time, and it is virtually impossible.

Further pressure came from some casinos who said, "Fine, we will comply with the law too, but the problem now is, the high-rollers are not coming to us, they are going to other casinos where they are utilizing limousines which are serving alcoholic beverages." A "Catch-22" situation, and a "Damned if you do, damned if you don't" situation for them.

There was a meeting of limousine owners; apparently an association was either formed or existed. I was away, but one of my Deputy Directors attended, and Assemblyman Marsella also attended. Assemblyman Marsella agreed to sponsor legislation that would correct this situation and license these limousines and charter buses. It is the charter buses primarily serving Atlantic City it is intended for, although it would also cover the situation where somebody charters a bus and has alcoholic beverages in it, also. It probably should be amended to allow rules and regulations to be promulgated to cover this, although I think we would do it anyway under the general regulatory power, but Assemblyman Marsella did introduce this. He sent it to me first for comment. We made some changes in language, especially as to the fees, and here stands the bill. There is one other technical amendment we suggested to the Judiciary Committee. It is the very last line, just a technical change, changing Commissioner to Director, in the one spot in the statute where it hasn't been changed.

MR. BROMLEY: Would you care to make a motion on this?

MR. GARRITY: I would like to comment on it.

MR. JERLAT: I would like to comment on this too.

MR. BROMLEY: Director, would you rather comment first?

DIRECTOR VASSALLO: I would suggest, Mr. Bromley, it would save time repeating everything-- I know there is some opposition by part of the industry to this bill. It might be more appropriate to fully discuss this at the Commission meeting.

MR. BROMLEY: Then, may I suggest that we refer it without comment, to be discussed on Wednesday, or else it will lay in our agenda to come back into Licensing. A decision will undoubtedly be reached at the full Commission meeting. It would be nice if someone would make a motion that we refer this with no comment.

MR. GARRITY: So moved.

MR. BROMLEY: Will someone second that?

DIRECTOR VASSALLO: Second.

MR. BROMLEY: The motion has been made and seconded. All those in favor signify by saying "yea." (Unanimous affirmative response.) No problems?

MR. JERLAT: Mr. Chairman, as a point of information, that bill was not in committee today down in Gloucester County. It had been voted down in committee.

MR. GARRITY: They voted it down?

MR. JERLAT: Yes, they voted it down. They are going to put the other one out, one up and one down.

MR. BROMLEY: Is there any further business to be brought before the Subcommittee? If there is not, the Chair will entertain a motion to adjourn.

MR. NAPODANO: Before we entertain the motion, Mr. Chairman, just as a point of personal privilege, if you will, we discussed, or have considered in one fashion or another three bills today, none of which were on the agenda and, I must admit, none of which I was prepared to discuss. In the future -- I know it is not anyone's fault sitting in this room -- but, just for the record, if these proposals are going to come up before the Subcommittee, we certainly should have them beforehand to be given an opportunity to review the bills, so that we can have an intelligent discussion of them.

MR. BROMLEY: I think the record should include that.

MR. GARRITY: I think one of the problems is the scheduling of meetings. We are scheduling a lot of meetings, and we are scheduling them pretty close to one another, and sometimes I think the staff just can't handle getting all this stuff out that quickly, and still have the time to have people look it over and study it. I think probably one of the things is, maybe we have to slow the process down a little bit. We have two meetings scheduled in one week, and a lot of us have other things to do rather than be at these Commission meetings. It is very enlightening to be here, and enjoyable, but there are an awful lot of other things we have to do.

DIRECTOR VASSALLO: I think one of the problems, Mr. Garrity, is that the Commission has to render a report sometime before January 1, which is twelve weeks away.

MR. JERLAT: I think what we should do is appropriate another million dollars for the staff.

DIRECTOR VASSALLO: I think it is imperative that they have another million, that's all.

MR. NAPODANO: And then we can have a convention to discuss how to spend it.

DIRECTOR VASSALLO: We should all go to the Nappa Valley, after what we heard today.

MR. FELDMAN: May I just make a point of personal privilege? Mr. Leo Bromley, upon whom was thrust the chairmanship today, did an admirable job, and I would like to express the appreciation of the Subcommittee members for the way he conducted this very difficult meeting with many, many witnesses. He did it in an excellent manner.

MR. BROMLEY: Thank you very much. Will someone make the motion that we adjourn?

DIRECTOR VASSALLO: I vote that we adjourn.

**(MEETING CONCLUDED)**



MR. CHAIRMAN, MEMBERS OF THE STUDY COMMISSION, MY NAME IS JOSEPH MILZA, AND I AM PRESIDENT OF L. N. RENAULT WINERY IN EGG HARBOR. OUR WINERY HAS BEEN IN EXISTENCE SINCE 1864. I APPRECIATE THE OPPORTUNITY TO ADDRESS THIS SUBCOMMITTEE ON LICENSING. PREVIOUSLY, WE APPEARED BEFORE THE SUBCOMMITTEE ON TRADE ACTS IN HACKENSACK TO PLEAD OUR CASE.

LET ME BEGIN BY POINTING OUT SOME PERTINENT FACTS RELATED TO OUR INDUSTRY. THE NEW JERSEY WINE INDUSTRY, OF WHICH MY WINERY IS THE LEADING PRODUCER IN THE STATE, HAS FOUND ITSELF IN A PRECARIOUS POSITION. IN SPITE OF THE NUMEROUS AWARDS OUR VINTNERS HAVE RECEIVED OVER THE YEARS FOR EXCELLENCE OF PRODUCT, OUR MARKET SHARE HAS CONTINUED TO DIMINISH. AS LATE AS 1978 WHEN I WAS RELATIVELY NEW TO THE INDUSTRY AS A VINTNER, THE NEW JERSEY WINE INDUSTRY RANKED FOURTH (4TH) IN DOMESTIC PRODUCTION. TODAY, WE ARE NINTH. THE MARKET SHARE IN NEW JERSEY BY OUR INDUSTRY IS THREATENED BY FOREIGN IMPORTS, WHICH NOW CONTROL APPROXIMATELY 30% OF WINE CONSUMPTION, AND, OBVIOUSLY, THE CALIFORNIA WINES.

THE SEVEN PLENARY RETAIL WINERIES IN THE STATE ARE INTERESTED IN GAINING GREATER PUBLIC RECOGNITION AND AWARENESS AND CONTRIBUTING TO STATE TOURISM. MOST PEOPLE ARE NOT AWARE THAT NEW JERSEY HAS ITS OWN WINE INDUSTRY WITH FACILITIES TO VISIT. THE PROBLEM IS COMPOUNDED BY OUR LACK OF OUTLET AND FACILITIES, ESPECIALLY IN CENTRAL AND NORTH NEW JERSEY. THE ECONOMIC BASE OF OUR WINERIES MUST BE INCREASED IF WE ARE TO COMPETE FINANCIALLY OR TO EMPLOY MARKETING STRATEGIES AGAINST FOREIGN IMPORTS OR THE LARGER OUT-OF-STATE DOMESTIC WINERIES.

IF WE, AS A NEW JERSEY INDUSTRY, ARE TO REGAIN OUR POSITION WITH THE WINE CONSUMING PUBLIC AND BE A LARGER BUSINESS PARTNER

WITH THE STATE, THEN NEW STRATEGIES AND APPROACHES ARE NECESSARY TO PROVIDE EXPOSURE AND PRODUCT RECOGNITION NECESSARY TO COMPETE WITH LARGER WINERIES.

ON DECEMBER 17, 1982, GOVERNOR THOMAS KEAN PROCLAIMED THAT IT WAS IMPORTANT FOR THE STATE TO RECOGNIZE THE NEW JERSEY WINE INDUSTRY AND CONTRIBUTE TO GREATER PUBLIC AWARENESS AND PROVIDE ASSISTANCE TO THE INDUSTRY'S GROWTH.

AS NEW JERSEY IS A TOURIST STATE, THE NEW JERSEY WINERIES CAN PLAY AN IMPORTANT ROLE IN PROVIDING AN ATTRACTION TO OUT-OF-STATE TOURISTS WHO ARE LOOKING FOR ACTIVITIES TO SUPPLEMENT THEIR INTEREST IN OUR BEAUTIFUL BEACHES AND CASINOS.

AN EXTENSION OF TITLE 33:1-10 2A PLENARY WINERY LICENSE WOULD FACILITATE THE GROWTH OF NEW JERSEY WINERIES INTO VIABLE BUSINESS ENTERPRISES AND ADD AN IMPORTANT TOURIST ATTRACTION TO ENCOURAGE FURTHER TOURISM.

BEFORE YOU IS A COPY OF ASSEMBLYWOMAN COSTA'S PROPOSED LEGISLATION WHICH WOULD EXTEND OUR LICENSES TO HAVE AN ON-SITE RESTAURANT AT MY FACILITY.

THE MAJOR PROVISIONS OF THE PROPOSED LEGISLATION ARE AS FOLLOWS:

1. A NEW JERSEY WINERY, THAT HAS AT LEAST 10,000 GALLON STORAGE CAPACITY, WITH MUNICIPAL CONCURRENCE, MAY HAVE THE RIGHT TO SELL ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION IN CONNECTION WITH A RESTAURANT.
2. A FEE OF FIVE THOUSAND DOLLARS (\$5,000.00) WILL BE PAID FOR THE EXTENSION OF THE PRIVILEGE.
3. AN ANNUAL FEE WILL BE PAID TO THE MUNICIPALITY FOR THE ISSUANCE AND RENEWAL OF SUCH PRIVILEGE (FEE IS THE SAME AS A PLENARY RETAIL CONSUMPTION LICENSE).

MY COLLEAGUES AND MYSELF HAVE INVESTED HUNDREDS OF THOUSANDS OF DOLLARS IN OUR BUSINESSES. WITH AN EXTENSION OF OUR LICENSE PRIVILEGE, THERE WOULD BE SIGNIFICANT BENEFITS TO THE STATE, THE MUNICIPALITIES, OTHER INDUSTRIES AND OURSELVES.

LET'S HIGHLIGHT SOME OF THE BENEFITS:

- A. FURTHER GROWTH AND DEVELOPMENT OF THE NEW JERSEY WINE INDUSTRY WOULD INCREASE NEW JERSEY GRAPE PRODUCTION WHICH HELPS OUR AGRICULTURE INDUSTRY.
- B. INCREASED EXPOSURE TO NEW JERSEY PRODUCT WILL BRING ADDITIONAL REVENUES TO THE STATE.
- C. INCREASED EXPOSURE ASSISTS TOURISM WHICH BRINGS ADDITIONAL BUSINESS TO LOCAL MERCHANTS AND ADDITIONAL REVENUES TO THE STATE AND MUNICIPALITIES.
- D. INCREASED BUSINESS AT THE WINERY MEANS MORE JOBS AND THAT TRANSLATES INTO TAXES AND BUYING POWER.

AS A BUSINESS PARTNER IN THE ECONOMIC WELL-BEING OF THE STATE, SUCH LEGISLATION WOULD ALLOW ME TO PROMOTE THE RESTAURANT AS A FULL SERVICE FACILITY WHICH WOULD AFFORD US THE OPPORTUNITY TO EXPOSE NEW JERSEY PRODUCTS TO PATRONS WHO, UNDER NORMAL CONDITIONS, MIGHT NOT CONSIDER VISITING OUR ESTABLISHMENT, ESPECIALLY TOURISTS.

A RESTAURANT WOULD GIVE THE WINERY AN OPPORTUNITY TO HAVE PEOPLE TASTE OUR PRODUCT FOR THE FIRST TIME IN AN APPROPRIATE SETTING.....WINE WITH A MEAL. WINE IS A NATURAL BEVERAGE WITH A MEAL. IT ENHANCES THE TASTE OF FOOD. THIS EXPOSURE COULD BE INSTRUMENTAL IN INCREASING PATRON INTEREST IN THE VARIOUS PRODUCTS PRODUCED AT THE WINERY.

LET ME TELL YOU A LITTLE ABOUT THE RESTAURANT THAT I HAVE STARTED AT MY WINERY AND HOW EXCITED WE ARE ABOUT ITS POSSIBILITIES.  
(HIGHLIGHT RESTAURANT)

IN CONCLUSION, THE BILL BEFORE YOU WOULD AUTHORIZE WINERIES TO SERVE ON THEIR PREMISES, FOR APPROPRIATE FEES, WINE AND OTHER ALCOHOLIC BEVERAGES IN CONNECTION WITH THE OPERATION OF A RESTAURANT. THIS BILL WILL FACILITATE THE GROWTH OF NEW JERSEY WINERIES TO REGAIN OUR POSITIONS AS VIABLE BUSINESS ENTERPRISES AND PARTNERS IN THE STATE'S ECONOMY.

AS MENTIONED BEFORE, THIS LEGISLATION WILL ASSIST THE WINERIES IN BECOMING GREATER TOURIST ATTRACTIONS AND PROVIDE OUT-OF-STATE TOURISTS WITH OTHER ACTIVITIES TO COMPLEMENT EXISTING STATE ATTRACTIONS.

THANK YOU FOR ALLOWING ME THIS TIME TO APPEAR BEFORE YOU. WE RESPECTFULLY ASK YOU TO GIVE STRONG CONSIDERATION TO THIS PRESSING ISSUE FACING OUR INDUSTRY.

An Act concerning the serving of wines and other alcoholic beverages on the premises of wineries in connection with the operation of a restaurant and amending R.S. 33:1-10.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S. 33:1-10 is amended to read as follows:

33:1-10. Plenary brewery license. 1a. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$8,500.00.

Limited brewery license. 1b. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 300,000 barrels of 31 fluid gallons capacity per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: To so brew not more than 50,000 barrels of 31 fluid gallons capacity per annum, \$1,000.00; to so brew not more than 100,000 barrels of 31 fluid gallons capacity per annum, \$2,000.00; to so brew not more than 200,000 barrels of 31 fluid gallons capacity per annum, \$4,000.00; to so brew not more than 300,000 barrels of 31 fluid gallons capacity per annum, \$6,000.00.

Plenary winery license. 2a. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines, and to blend, fortify and treat wines, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$750.00. Upon payment of an additional fee of \$200.00 for each but not in excess of two premises, in addition to the licensed premises of the winery, the holder of this license shall have the right to sell such wine at retail for consumption on or off the premises as is manufactured, blended, fortified or treated by the licensee in his licensed premises and sold as the licensee's products under the label or labels of the licensee and (2) with Municipal Concurrence, to sell wines and other alcoholic beverages at retail for consumption on the premises by the glass or other open receptacle in connection with the operation of a restaurant; not withstanding municipal license limitations, by the licensee.

ENTIRE BILL  
ROMAN  
EXCEPT  
WHERE  
UNDERLINED

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(If such licensee maintains a storage capacity of at least 10,000 gallons) or in lieu of such additional fee of \$200.00 but upon payment of a one time licensing fee of \$5,000.00, and an annual fee to the municipality in the same amount as the fee imposed by the municipality for the issuance and renewal of a plenary retail consumption license. The holder of this license shall have the right to sell wines and other alcoholic beverages at retail on the licensed premises; provided, however, that such sales shall be made only for consumption off the licensed premises; and provided further, that such, or for consumption on the premises by the glass or other open receptacle in connection with the operation of a restaurant by the licensee. Furthermore, the wines and other alcoholic beverages sold for consumption off the licensed premises shall be manufactured or

blended, fortified, distilled or treated by the licensee in his licensed premises or by the licensee's subsidiary corporation and sold only under the label or labels of the licensee. The combined total number of plenary winery licenses having retail privileges, shall not exceed one per each million of population in the State as shown by the last preceding Federal census. In the granting of such plenary winery licenses, the Director of the Division of Alcoholic Beverage Control may, in the exercise of his discretion and pursuant to such rules and regulations as he may adopt, give prior consideration to applicants engaged in growing and cultivating grapes upon land owned by the applicant, having an area not less than 3 acres. The containers of all wine sold at retail by such licensee shall have attached thereto a label setting forth such information as shall be required by the rules and regulations of the Director of Alcoholic Beverage Control.

*Farm winery license. 2b.* The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell

(1) With Municipal Concurrence, wines and other alcoholic beverages at retail for consumption on the premises by the glass or other open receptacle in connection with the operation of a restaurant, not withstanding municipal license limitations, by the licensee. (If such licensee maintains a storage capacity of at least 10,000 gallons). Upon payment a one time licensing fee of \$5,000.00 and an annual fee to the municipality in the same amount as the fee imposed by the municipality for the issuance and renewal of a plenary retail consumption license.

and to sell (2) his products at retail to consumers; provided, however, that such sale to consumers shall be made only for consumption off the licensed premises and then only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land owned exclusively by the holder of such farm winery license, which said tract of land shall have an area of not less than 3 acres and have growing and under cultivation upon said land at least 1,200 grape vines; and provided, further, that such fermented wines and fruit juices shall be manufactured only from grapes or fruit grown in this State. The containers of all wine sold to consumers by such licensee at retail for consumption off the premises shall have attached thereto a label stating in substance that the wine has been produced from 100% New Jersey grown fruit and setting; the containers of all wine sold at retail by the licensee shall set forth such information as shall be required by the rules and regulations of the Director of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: To so manufacture between 2,500 and 50,000 gallons per annum, \$200.00; to so manufacture between 1,000 and 2,500 gallons per annum, \$100.00; to so manufacture less than 1,000 gallons per annum, \$50.00.

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*The license granted hereunder shall authorize, subject to such rules and regulations as may be deemed necessary or appropriate by the Director of the Division of Alcoholic Beverage Control, the offering and tasting on the licensed premises of free samples of wine, to visitors and prospective retail customers.*

*For the purposes of this subsection, with respect to farm winery licenses, "manufacture" means the vinification, aging, storage, blending, clarification, stabilization and bottling of wine or juice from 100% New Jersey grown fruit.*

Plenary distillery license. 3a. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any distilled alcoholic beverages and rectify, blend, treat and mix, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$10,000.00.

Limited distillery license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture and bottle any alcoholic beverages distilled from fruit juices and rectify, blend, treat, mix, compound with wine and add necessary sweetening and flavor to make cordial or liqueur, and to sell and distribute to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State, to any persons pursuant to the laws of the places of such sale and distribution and to warehouse these products. The fee for this license shall be \$3,000.00.

Supplementary limited distillery license. 3c. The holder of this license shall be entitled, subject to rules and regulations, to bottle and rebottle, in a quantity to be expressed in said license, dependent upon the following fees, alcoholic beverages distilled from fruit juices by such holder pursuant to a prior plenary or limited distillery license, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: To so bottle and rebottle not more than 5,000 wine gallons per annum, \$250.00; to so bottle and rebottle not more than 10,000 wine gallons per annum, \$500.00; to so bottle and rebottle without limit as to amount, \$1,000.00.

**Rectifier and blender license. 4. The holder of this license shall be entitled, subject to rules and regulations, to rectify, blend, treat and mix distilled alcoholic beverages, and to fortify, blend, and treat fermented alcoholic beverages, and prepare mixtures of alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$6,000.00.**

**Bonded warehouse bottling license. 5. The holder of this license shall be entitled, subject to rules and regulations, to bottle alcoholic beverages in bond on behalf of all persons authorized by Federal and State law and regulations to withdraw alcoholic beverages from bond. The fee for this license shall be \$500.00. This license shall be issued only to persons holding permits to operate internal revenue bonded warehouses pursuant to the laws of the United States.**

2. This act shall take effect immediately.

#### STATEMENT

This bill authorizes wineries to serve on their premises wines and other alcoholic beverages in connection with the operation of a restaurant. It will facilitate the growth of New Jersey wineries into viable business enterprises.

In addition this legislation will assist the wineries in becoming greater tourist attractions and provide out-of-state tourists with other activities to compliment existing State attractions.

