

Michael L. Gross
Testimony on HJR2 Convention of States
House Federalism and Interstate Relations Committee
March 14, 2017

Chairwoman Roegner, Vice-chairman Lipps, Ranking Member Leland, and members of the committee, my name is Mike Gross and I am here today to testify in support of HJR2 that would require Ohio to become a member of the Convention of States. The previous testimony by Mark Meckler gave you the background on the Convention of States. My testimony will provide you real-world examples of why power must be taken away from the Federal Government and given back to the States where it originated when our country was founded.

I am a 3rd generation principle of a beverage manufacturing and distribution business based in Ohio. My parents and grandparents were blessed with the wisdom to think long term about our business which my generation strives to continue. Today, my brothers and cousins maintain that strong foundation and vision set-forth by our founders. However, the business and regulatory climate in which my grandparents built their business and realized their dreams is much different today.

As a family business owner, father and uncle, the number one reason for supporting a COS is my fear of the debt that our country continues to accrue. Our national debt is approximately \$220 trillion today and the thought of the children and businesses in future generations having to retire that debt is overwhelming.

I would like to share with you what the outcome of an Article 5 Convention could mean for Ohio businesses. To illustrate this I must first share with you the ways in which federal regulations overburden local business owners like my family.

My first example pertains to the Food Safety Modernization Act (or FSMA) from 2011. It gives the FDA unprecedented authority and power. FSMA creates an inordinate amount of paperwork on our business to the point where we have had to dedicate tremendous resources to prepare to be audited. Pre-FSMA, a typical food safety inspection could take 4-6 hours. Post FSMA, an inspection can take upwards of 2 to 3 days. FSMA also added an additional layer of 3rd party inspections, these new inspections total 129 pages of items that must be reviewed, documented and maintained constantly. As an established business, we continue to struggle with these burdensome and costly federal regulations. However, smaller businesses with less resources, have been crushed by this overreaching federal legislation and most tend to throw up their hands and relent, thus crippling new business start-up efforts. Nothing in FSMA actually makes our product safer for consumers, and this new level of federal bureaucracy adds nothing but costs to our bottom line.

In contrast, The Ohio State Department of Agriculture (“ODA”) inspects our facilities for the exact same thing annually. We have better relationships with our local ODA which leads to

more open communication on paperwork, better dialogue as to licensure, pre-inspections and post inspection feedback. When we opened our facility in Wilmington, Ohio back in 2015, it was a very smooth and efficient process dealing with the state officials. Our Columbus inspector called the Wilmington inspector and helped us get our license to distribute food within about a week. That would never have happened if we were dealing with Washington, D.C!

The bottom line, keeping needed regulations at the state level is more efficient and effective and helps to make sure small and upcoming business have a chance to succeed and grow in Ohio.

My second example pertains to the labor and employment arena. Congress passed the Fair Labor Standards Act (“FLSA”) establishing a federal minimum wage and rules requiring the payment of overtime. Of course, most states, including Ohio, have their own statutory scheme, and a constitutional amendment establishing minimum wage levels. In Ohio, for example, the state minimum wage is \$8.15 effective January 1, 2017 while the federal minimum wage is \$7.25 an hour (and, for example, in Hawaii, it’s \$9.25 per hour and between \$9.70 and \$10.50 per hour in New York depending upon the county.) Additionally, many states (including Ohio) index the minimum wage to inflation. Why is it necessary to have duplicative regulatory schemes? There is no state in the union that is incapable of establishing minimum wages. While varying minimum wages may present challenges for employers who operate nationwide, these separate “laboratories for democracy” would allow for different rates where the cost of living is higher or lower or could create competition and a mechanism for establishing what the real rate should be. Federal government does not need to intrude.

These are two specific examples of the bureaucratic hurdles we face in our Ohio-based, family business through the inefficient duplication of state and federal regulation. I believe that an Article 5 Convention could produce state-led solutions to reduce the strain on businesses in Ohio stemming from federal overreach.

Thank you very much for the opportunity to share my thoughts with you today.