

**Testimony of Andrew W. Herf, Executive Director  
Ohio Licensed Beverage Association &  
Ohio Spirits Association before the  
Senate Agriculture & Natural Resources Committee  
in support of HB 674  
September 1, 2020**

Chair Hoagland, Vice Chair Schaffer, Ranking Member O'Brien and members of the Senate Agriculture & Natural Resources Committee, thank you for the opportunity to testify today on behalf of the Ohio Licensed Beverage Association and the Ohio Spirits Association as a proponent of House Bill 674.

I am here today to represent the bar owners and spirituous liquor brokers in Ohio, businesses that have been hurt by the recent stay at home orders. HB 674 will help with their recovery.

In particular, I would like to draw your attention to the OLBA members. In the face of the pandemic, bars were asked to close before other businesses in the state. They were told on a Friday that the following Sunday they were required to shut down. Our association acted quickly, and bar owners across Ohio complied immediately. As the state opened up, they were some of the last companies to reopen. For the industry, that has caused severe hardship, but our members understood the reasons. Upon reopening, we have offered guidance to businesses, and have made appeals to consumers to follow the Governor's executive order so as not to put any retailer in a position to lose their ability to operate in Ohio.

Before I continue, I would like to offer some perspective on what is being asked of bar owners in Ohio. They were closed from March 14 to May 21—with some places opening patios on May 14. Looking at a typical establishment, they lost over 1200 hours of operation. If they had Sunday sales they lost 1,322 hours of operation. Starting on July 31<sup>st</sup>, bars were ordered to take last call at 10:00 PM. Since that order, bars have lost another 144 hours and that number continues to grow with no ending in sight. I want to be clear—there are thousands of businesses across Ohio who have done everything they have been asked to do, but they need HB 674 and HB 669 to pass to have any chance of surviving. During the hours that they are open, they are operating at a percentage of their old capacity due to social distancing. We know this to be true because enforcement has tripled by doubling the number of liquor agents and employing the local health boards—no other industry has faced as much intense scrutiny. And even still the Governor acknowledged that the vast majority were doing a good

job. So far only a handful of businesses have been adjudicated for failing to meet the Dine safe Ohio guidelines, and yet the entire industry continues to be essentially closed at 10:00 PM. I am here to make an appeal to you on behalf of an industry that is dying.

As the industry was looking forward to reopening, guidelines were issued to offer a path for patios to open first, and then the inside of establishments to reopen. Patios were permitted to reopen at 12:01 AM on May 15. Earlier that day, the executive order was issued to allow for the patios to reopen, and there were two features that were clear in the order including the responsibility to police social distancing in the lines outside and the prohibition against patron standing with drinks. These two features of the order resulted in some health violations the first few days the order was in effect. Health Departments around the state were also given broad authority to enforce the laws which were applied differently across the state. However, over the last two weekends, I believe that bars and restaurants have come to fully understand the order and are doing a great job of managing their businesses and customers. HB 674 would offer a one-time amnesty for retailers that made a mistake in the first few days of reopening. This will allow those businesses to follow the social distancing required while not jeopardizing their ability to stay open long term.

Another feature of the bill that we support is the Sunday Sales expansion. In the past we have supported Sunday Sales across the state. We believe, and have demonstrated in past testimony, that allowing retailers to sell on Sunday would offer another opportunity to earn income. This will be even more important after the shutdown during a time that social distancing prohibits all retailers from operating at full capacity.

Another provision that is important in the bill is the DORA change. A DORA is a "Designated Outdoor Refreshment Area." They are created when a municipal government works with bars and restaurants to allow patrons to leave an establishment with a beverage into a defined common area that is regulated by the municipality. Since their inception, DORAs have been successful and well regulated. This change would allow DORAs to be established in more jurisdictions across the state. The change would also give local governments more control as to how they are established. We believe this is the appropriate approach because it is ultimately the municipality's responsibility to police the DORA. This change would also move patrons out of the establishment to an outdoor area where social distancing is more easily accomplished.

Another provision in the bill would allow manufacturers to give a retailer more free glassware. Currently, a manufacturer may give a retailer 2 cases of glassware per year. The change would allow for 4 cases per year. While we support the change, we would offer an amendment to it. Under the proposal, there is a prohibition against the manufacturer from giving a retailer more than four cases, but the retailer is required to do the record keeping on glassware received. We believe the record keeping should be on the manufacturer because it is their activity that is being regulated.

The last provision in the bill that I would like to highlight would allow a distributor, manufacturer or broker to use social media to market promotions or to help consumers find product in the retail trade. The change would modernize marketing by clarifying that social media may be used as well as traditional media.

In addition to the provisions that I have addressed, there are other issues that the bill addresses for other types of businesses in the industry. We support those provisions as well, but in the interest of time I will let others describe them.

Thank you for your time today. I am happy to answer questions.