

Testimony of Duncan E. Macfarlane

Re: House Bill 194

Before the Ohio House Judiciary Committee

Apr 9, 2025

Good Afternoon Chairman Thomas, Vice Chairman Mathews, Ranking Member Isaacsohn, and members of the House Judiciary Committee, I thank you for the opportunity to testify before you today in support of House Bill 194 on behalf of Ohio's craft breweries.

My name is Duncan Macfarlane and I am the head brewer and an owner of the Phoenix Brewing Company in Mansfield.

Tomorrow is our Eleventh Anniversary. We've brewed a lot of beer since opening in 2014. And our taproom has become a community hub. We host large events like Oktoberfest, monthly events including Trivia, Bingo, Euchre, and weekly live music. We partner often with local businesses, we work closely with our local visitor's bureau and ale trails, and give back monthly to local and industry charities.

Our small 5-barrel brewery quickly expanded to add a 20-barrel production system, a canning line, 25,000 sq ft. warehouse, and a fleet of delivery vans. We went from 5 owners working part-time alongside our full-time jobs, to a team of 7 full-time employees and 16 part-time employees.

We started as just a taproom and over time we transitioned from selling a few kegs locally to self-distributing kegs and cans to a radius of 75 miles, building up a recognizable brand with regional reach.

We proudly promote and serve other Ohio craft breweries in our taproom, but we have experienced wholesalers purposefully hurting local craft beer sales over national brand promotions.

One wholesaler refused to sell us craft products unless we added a dedicated Anheuser-Busch tap to our taproom. Another harassed us and punished a local brewery for legally selling us a product from their facility after the wholesaler refused to complete the sale.

Those wholesalers, their behaviors and mob tactics, are currently protected by the language in Ohio's Alcohol Franchise Act. And the breweries had no recourse.

We have chosen to continue to self-distribute due to concerns of unfair and one-sided contracts resulting from the language in Ohio's Alcohol Franchise Act, enacted by the Ohio General Assembly in 1974, preventing us from negotiating a reasonable contract.

If our current vendors and suppliers aren't upholding their contracts, expectations, or obligations, we can end that relationship. If our grain delivery is always late, we can find a new supplier. But if I overbuy grain, I can't force my maltster to purchase it back after it has expired. Wholesalers who order too much product force breweries to purchase the remaining expired product.

The current language of Ohio's Franchise law, traps small breweries in lifetime unbreakable contracts. As a brewery there is no way to recoup our losses and expenses if a wholesaler doesn't perform well. We are penalized if they underperform while they are protected. We can only leave with penalty payments or court battles. It is a one-sided contract with no protection of our investment.

Wholesalers say there is a significant financial investment on their part to add a brewery to their portfolio, but there is significant upfront financial investment and changes to infrastructure at a brewery as well with added equipment, kegs, cold storage space, increased raw goods, and marketing. These are expected costs for both.

Small breweries like ours can't risk financial hardship just to ensure a fair exit from unfair business practices and contracts.

As a small business owner, I am pleading with you to support Ohio House Bill 194. Allow us to negotiate fair contracts and take the next step forward in all of our businesses.

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

Duncan Macfarlane

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