

Members of the Judiciary Committee,

I am Richard Skains, owner/operator of Working Class Brewery. We are a small 10 barrel craft brewery in Cleveland, Ohio. We have had a distributor "relationship" since 2018. When we signed with our distributor, we were one of about a dozen brands that they represented. Now they represent more than 80 brands. I don't feel that I receive the level of service that warrants the 30% margin we have to pay them and we have no recourse to compel them to provide better service for our brand. The Ohio Alcoholic Beverages Franchise Act of 1974 that was created to protect small businesses is now actively harming my small business.

Working Class Brewery entered into a distribution "relationship" in 2018. "Relationship" isn't even the right word, because that implies both sides are getting some benefit from it, both sides have some accountability to make it better if things get rocky, and that there's a way to end it if our differences are irreconcilable. The truth is, it's considerably easier to get a divorce in the state of Ohio than it is for a small brewery like mine to terminate a relationship with a wholesale distributor.

In our "relationship," our distributor's sales representative in our area will not even meet with us to discuss our products, how sales are going and how we can improve sales of our products. In fact, not one employee of our distributor has stepped foot in our establishment to try our products since the beginning of the relationship. The "honeymoon" period in the relationship where they actively promoted and sold our brand was short lived. I honestly thought it would be a relationship where we worked together, but that has not been our experience. Over the six years we have been with our distributor, they have been very, very busy growing their catalog of brands and products, but during that time I have watched my brand gradually lose more and more of its visibility in their vast portfolio.

The same outdated franchise law that has locked my brewery into a virtually permanent relationship also allows the wholesaler to claim lifetime distribution rights without a written contract. The owners of our distributor are veterans in the industry and early in our relationship they adamantly denied our request to form a written contract. Their response after the 90-day trial period lapsed: "Those discussions are best had at the beginning of the relationship." I believe they knew how to play "the game" and I unfortunately did not. As a result of Ohio law, the last day of the third month we were in a "distribution relationship" with them is the day I lost control of my brand.

Since that time, they have had total control over the fate of the Working Class brand in all the major markets in Ohio. **They cherry pick the products they want to make available to retailers.** They make all the decisions and do not respond or take any responsibility for any issues that arise. Distributors simply have TOO MUCH POWER granted to them through the antiquated 1974 laws that protected distributors when they were the small companies, but that is no longer the case. Distributors represent TOO MANY COMPANIES to adequately represent ALL the brands in their portfolios. In the current environment, wholesalers are chasing the next up-and-coming beer brand to add to their portfolio and control its destiny in the market. When they move on to the next new thing, they can sell the rights to their

neglected brands to another wholesaler and make a profit, even if their actions have damaged the brand in the market.

My distributor did not pay to acquire the right to deliver my beer to the retail accounts we had cultivated in self-distribution, manipulated us into a “relationship” without a contract, provides us consistently inadequate service in the market, and STILL can profit off the sale of distribution rights of my brand whenever they so choose. The antiquated franchise law makes those rights a commodity that my distributor values more than our so-called “relationship” or my Working Class Brewery products themselves. Distributors try to represent as many products as possible because those brand rights are a bankable asset that they can use as collateral or ultimately sell to another distributor.

This hoarding of brands affects competition in the marketplace with distributors collecting and controlling as many brands as possible and determining the fate of each product in its portfolio. Recently, my distributor has refused to order two of our most popular products and make them available in their current catalog. There is only one conclusion, they carry TOO MANY PRODUCTS from TOO MANY COMPANIES, including some that directly compete with mine. So they have chosen not to provide/represent two of our most popular products, thus picking the winners and losers in the market. Consumers should have that power, not a small group of legally protected distributors.

My distributor is the sole representative for my brand in their assigned territory. If they aren’t giving good customer service to my accounts, if they aren’t picking up all of my beer designated for distribution, if they have another product in the portfolio that they give preference over mine, I have no recourse to remedy the damage they do to my small business. Even as the manufacturer of the product they deliver, I cannot sell or deliver my beer in their assigned territory without paying them their margin. I would literally have to pay them for the right to do the job they refuse to do.

For as much as distributors claim to build the value of the brands they represent, most small brewery owners recognize that distributors are simply order takers and delivery makers. They control more brands than they can effectively represent, so what limited sales force they deploy in the market is given marching orders to push the distributor’s preferred brand of the moment and to sell as much as possible to a retail account to make it worth sending the delivery truck there. A very small brewery like mine can’t afford to employ independent salespeople **and** pay the distributor’s margin that is supposed to cover them representing us in the market, which they are not doing satisfactorily.

The 1974 Alcoholic Beverages Franchise Act was written in a completely different era and beer industry landscape. While it was enacted to protect small family businesses, wholesale distributors have become massive corporations through mergers and acquisitions over the past five decades. They now use their power and influence to dominate their relationships with small and independent breweries like mine. The protections distributors enjoy under this law make the distribution rights as or more valuable than the products they represent. The control this affords them is detrimental to the success of small brands, free market competition and consumer choice. We need your help as legislators to bring balance back to these relationships by passing House Bill 194.