

Chair Wiggam, Vice Chair John, Ranking member Kelly, and the members of the House State and Local Government Committee. It is a pleasure to see you all again. Thank you for the opportunity to come before you today as a proponent of HB127.

Small businesses have been hit the hardest in the last 12 months, especially those in the restaurant and bar industry. While many larger corporations have thrived during the pandemic, small business, that do not have vast resources, have struggled to simply survive and keep their workers employed. These businesses have been forced to adapt to an ever changing environment, with new rules and regulations constantly being thrown at them. Because they are responsible members of the community, they have done their best to comply with these regulations, but for many these expectations were unrealistic and simply put them out of business. The Ohio Restaurant Association estimates that around 4,000 bars and restaurants have already gone out of business in the last year, many permanently.

When the Governor enacted many of the health orders through the Ohio Department of Health to control the actions of individuals in our establishments, he put the onus of responsibility for compliance on the businesses not the individuals that patronize them. This requirement is forcing businesses to act as policing agents of the state under the threat of fines and penalties for non compliance. We are not agents of the state, we are not paid by the state, we have not been deputized by the state to enforce these orders, yet we are expected to enforce them. How can the state possibly punish a business owner for the actions of individuals. If these mandates were so important to follow, there should have been punitive action taken against the individuals that violated them, not the businesses.

Last Spring, Governor DeWine unleashed the Ohio Investigative Unit to seek out bars and restaurants that didn't enforce his orders in establishments that have a liquor permit, and to cite them. This unit of the Ohio State Highway Patrol is charged with enforcing liquor laws, tobacco laws, and food stamp laws – not health orders from the Department of Health.

In January, I made a public records request to the Ohio Liquor Control Commission to see the violations that businesses were being cited for and being adjudicated before the commission. This information revealed a disturbing discovery – the majority of these businesses were not being cited for violations related directly to the service of alcohol, but were actually being cited for “Improper Conduct – Disorderly Activities.” These charges have nothing to do with the service of alcohol, yet these businesses are having to report before the Ohio Liquor Control Commission for an administrative hearing to answer to these charges and for adjudication.

The result of all of this, is that the executive branch is writing orders, enforcing them, and adjudicating them – doing a complete end run around the legislature and judiciary. This is not due process, and it is certainly not how our state government is supposed to operate. The executive branch of our state is out of control and must be reigned in. The checks and balances of the legislature and judiciary must be utilized for the benefit of the citizens and businesses of this state.

During the first hearing of this bill in committee, after Representative Merrin delivered his sponsor testimony, one member of this committee addressed concerns over this use of the word “require” in this bill, specifically how many times it appeared and how it would put an excessive burden on state agencies to comply with this if it becomes law. It was quite telling and revealing that an elected representative in the Ohio House was more concerned for the welfare of bureaucrats and government agencies than for their own constituents – many of whom have lost everything they have worked their entire lives for. As elected representatives, never forget that your duty is to serve the people of your districts, not the interests of the state.

I urge you vote yes on HB127. I am also recommending to this committee that an amendment be added to this bill that will prohibit regulatory agencies under the executive branch from adjudicating cases for violations of orders that normally would not be in their scope of authority. We cannot allow the continued abuse of power by the executive branch, and must restore power to the 3 co-equal branches of our state government in the interest of justice. Thank you for your time today, I am happy to answer any questions that you may have.