

Proponent Testimony
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HB 306

December 5, 2023

House Commerce and Labor Committee

Chairman Johnson, Vice Chair Manchester and Ranking Member McNally and members of the committee,

During my 10 years as director of our organization, hundreds of small and independent breweries have opened in all corners of Ohio. These small business owners poured their hearts – and often their life savings – into their American dream: being their own bosses, building sustainable businesses and serving their communities. Ohio breweries are renowned not just for making great beer, but also for their positive impact on the economic growth and revitalization of their towns and neighborhoods.

As independent breweries have carved out their small space in the beer market over the past decade, they've been constrained by a 49-year-old law that was never meant to apply to them. The Ohio Alcoholic Beverages Franchise Law was enacted in 1974 to curb the undue influence of massive breweries over small wholesale distributors: the companies that deliver beer to retailers. Locking big breweries into lifetime distribution contracts gave wholesalers the legal protection they needed to not only survive, but grow into large, powerful and influential actors in the beer market themselves.

As small and independent breweries have grown in popularity, it has become apparent that franchise law now protects big businesses to the detriment of small businesses. The law shackles small breweries into evergreen contracts with their delivery service provider, even if the distributor doesn't hold up their end of the agreement. The law gives small breweries limited options to get out of the contract: the distributor may agree to release them or sell their rights to another distributor, the brewery can sue at exorbitant cost against a deep-pocketed opponent that still controls their products in the market during the suit, or the contract is dissolved when the brewery business fails. In every case, the big business enjoys the protection of law while the small business suffers.

Think about that. As large as their businesses are, distributors are still delivery service providers for breweries. How would this look if other services had the same state interference protecting them? Should a brewery have to sue its way out of a plumbing contract when a toilet continues to leak? Should a brewery have to sue its way out of a contract with an HVAC contractor if its air conditioning continually fails? If a brewery uses the US Postal Service for 90 days but would benefit by switching to FedEx, should the brewery have to wait on a judge to say there's "good

cause” before the brewery can ship packages? No. No one should expect that because it’s wrong. However, under the antiquated franchise law, the brewery’s delivery service is protected from accountability regardless of their performance. It’s time to take the state out of these private business contracts.

Today is the 90th anniversary of Repeal Day, when the 21st Amendment was ratified ending 13 years of Prohibition. Our nation and state have historically shown the wisdom to modernize laws when they have become antiquated or conflicted with the original purpose. The Ohio General Assembly regularly updates old laws to reflect current times and needs. In the last GA the House approved by a vote of 85-5 HB 404 which allows state university trustees to attend meetings electronically. Obviously, a reaction to current events and times. Or House Bill 215, The Business Fairness Act which protected small, locally owned stores from government regulations during the pandemic allowing them to keep their doors open.

The franchise law is an excellent example of a law that made sense when it was enacted, but now has very negative consequences for the small breweries who are bound by it that were unforeseen when it was enacted.

We’ve heard a few arguments effectively saying “You all know the rules, play by them.” That argument requires you to believe that the brewing industry of 2023 is the same as the industry of 1974, but the truth is that applying franchise law to small breweries flies in the face of its original purpose. HB 306 does not change existing contracts in place between any brewery and its delivery service provider. Nor does it change how it applies to large multinational brewers. All this bill does is help small businesses in practically every county of the state.

It is time for state government to remove itself from interfering in the contract between two businesses, especially when this outdated law gives a delivery service more control over the destiny and success of the product than the people who manufactured it in the first place. The Ohio craft brewing industry was responsible for a \$1.27 billion economic impact and 12,000 jobs in 2022, but Ohio’s franchise law puts an artificial barrier on our industry’s growth potential and sustainability.

It's time to modernize this law as it relates to our small breweries. The proposed Ohio Craft Brewer Freedom Act is not just a piece of legislation that cures a problem in our industry: it's an opportunity to support small businesses, promote innovation and empower consumers. It's a chance to let Ohio's craft brewers continue on this incredible journey toward the American dream.