



State of Connecticut

GENERAL ASSEMBLY

STATE CAPITOL

HARTFORD, CONNECTICUT 06106-1591

COMPETITIVE ALCOHOLIC LIQUOR PRICING TASK FORCE

MEETING MINUTES

REVISED (10/09/2012)

Wednesday, September 12, 2012

11:00 AM in Room 1B of the LOB

The meeting was called to order at 11:03 AM by Task Force Co-Chairwoman, Rep. Kathy Tallarita, 58th District.

The following task force members were present:

Rep. Kathy Tallarita, 58th District; Edward Berthiaume, Mark Abrahamson; Chief James Cetran; Ed Crowley; Brian Durand (OPM); David Leon; Dr. Stanley McMillen; Rep. Rosa Rebimbas, 70th District; Commissioner William Rubenstein (DCP); David Rutigliano; Commissioner Kevin B. Sullivan (DRS); Rep. Sandy Nafis, 27th District

Absent were: Dr. Ian Ayres; Rep. Mary Fritz, 90th District

SUBCOMMITTEE PROGRESS REPORTS

The four subcommittees reported through the task force co-chairs that they have met and are awaiting the results of numerous research inquiries submitted to the Office of Legislative Research, the Office of Fiscal Analysis, the Department of Revenue Services, and the Department of Consumer Protection. The subcommittees plan to meet again to review the researchers' findings.

INVITED SPEAKERS

Jay Hibbard, Vice President of the Distilled Spirits Council of the United States (DISCUS) and DISCUS Economist David Ozgo were the first speakers to address the task force. Mr. Ozgo commented that compared with other states, Connecticut has a fairly average alcohol consumption rate. He also stated that quantity discounts and minimum pricing laws limit competition. Mr. Hibbard remarked that liquor taxes are lower in Massachusetts and Rhode Island; and higher in New York State, compared to Connecticut. Mr. Ozgo stated that retail prices vary according to the market and can also vary across states.

Mark Abrahamson commented that discounts will limit a retailer's ability to offer a wide selection of products because they will be forced to purchase large quantities of a singular product in order to obtain the discounted price.

Commissioner Rubenstein asked if "Post and Hold" increases prices? Mr. Ozgo stated that he believes it builds rigidity into the market.

Brian Durand stated that the borders are porous and that people may purchase alcohol in other states and consumes it at their home. This fact can be seen in the consumption data.

Commissioner Sullivan asked about the impact that cost of living factors have on prices? Mr. Ozgo stated that the overall costs of doing business may drive higher prices for suppliers. Commissioner Sullivan asked Mr. Ozgo to clarify his remarks about a state's relative wealth? Mr. Ozgo stated that he was not privy to the pricing decisions made by manufacturers. He stated that there should not be any regulation on pricing and that taxes ought to be based upon alcohol content, referencing a study conducted by the Congressional Research Service. Commissioner Sullivan asked why is there a relationship between alcohol content and taxes? Mr. Ozgo stated that historically, states have taxed alcohol on a per gallon basis. However, the taxing scheme fails to take into account the process involved in producing that alcohol product. For example, the process used to distill bourbon is more extensive and time consuming than the process to make vodka, he said.

Rep. Nafis asked what does a simplified system of alcohol regulation look like? And how does it impact distillers? Mr. Ozgo stated that a retailer's consumers are his client's consumers. His organization would like to see pricing flexibility that benefits everybody.

Ed Crowley asked if Mr. Ozgo believes we should tax beer, wine, and spirits equally? Mr. Ozgo stated that he believes state taxes ought to be based on alcohol content. In addition, in order to be competitive with our neighbors, Connecticut should repeal the 2011 tax increase and/or match Rhode Island's excise tax rates.

Rep. Rehimbas stated that even if we allowed discounts, there is no guarantee that costs would be lower. Mr. Ozgo stated that current pricing protections impede the marketplace.

Commissioner Sullivan stated that New York City Mayor Michael Bloomberg is trying to combat obesity, a purely social policy issue, by taxing a product. Mr. Ozgo stated that he could look at the data historically to determine why certain alcohol products were taxed the way they were. Commissioner Sullivan stated that the taxing regime is irrational.

David Rutigliano asked about discounts. Mr. Ozgo stated that only wholesalers and big box retailers would benefit from discounts per delivery. For example, at the grocery store, consumers will buy a large bag of a product over a small bag because the price per ounce drops.

Rep. Tallarita asked how would the elimination of minimum bottle pricing and other protections impact 'mom and pop' stores? Mr. Ozgo stated that some 'mom and pop' stores would go out of business. However, the big box retailers need employees too.

Curt Cameron, owner of Thomas Hooker Brewery, provided some remarks on behalf of the Connecticut Beer Guild. The market for locally crafted beer has grown tremendously over the past decade. However, current franchise law needs to be updated. Currently, 82% of the market is controlled by just 2 companies. He said it is very hard to replace a wholesaler. A retailer must be able to show "just cause" at an administrative hearing, which may take months to schedule. Also, the costs of litigation make the hearing process unaffordable for some small shops.

Ernie Adamo of the Department of Revenue Services commented that the costs of liquor brand label registration limit a small microbrewery's ability to expand. Mr. Cameron said his group is looking at Vermont, Massachusetts and the recent experience of the Connecticut Wine Trail as potential case studies on how to market locally crafted beer.

Peter Berdon represents the Wine and Spirits Wholesalers of Connecticut. His group support reductions in the alcohol excise tax as a means to lower consumer prices. He showed consumption charts with data compiled by NIAAA, which show that Florida and Rhode Island have larger consumption rates because they have tourist destinations. Commissioner Rubenstein asked how wholesalers arrive at their posted per case and per bottle pricing, irrespective of the minimum pricing law? Mr. Berdon stated that there is no specific methodology used in determining prices, either case or bottle. Prices, he said, are determined by the market. Wholesalers and manufacturers talk about pricing and the manufacturer's marketing plans. Mr. Berdon said different products have different markets. For example, restaurants and bars offer a unique selection of products compared to a package store. With minimum pricing, wholesalers and retailers are prohibited from selling below cost, as defined in state statute. He said that

the WSWC is undertaking a study to review the cost-to-shelf prices across the 50 states using scan data.

Mr. Berdon also stated that discounts would increase the Case 1 price. Currently, there are a myriad of discounts that manufacturers offer wholesalers. These discounts include: the Special Purchase Allowance, Depletion Allowance, and Promotional funding; all of which get passed onto the consumer. The exact amount of these discounts is not publicly available in all states. Mr. Berdon shared with the task force the example in Delaware regarding big box retailers. Two big box retail chain stores currently make up 20% of the market because they can offer discounts.

The WSWC recommends that Connecticut meet or beat the excise tax rates compared to surrounding states. The costs of doing business are reflected in the prices offered to retailers. The tax increase levied in 2011 and the removal of the escheats in 2009 has negatively impacted the prices offered at retail.

Rep. Rebimbas commented that she believes big box chains are bad for business. They put smaller businesses out of business and increases unemployment, which hurt municipalities; both in terms of less tax revenue and economic activity.

Dr. McMillen asked if wholesalers pool together to negotiate lower prices from suppliers? Mr. Berdon stated that they currently do not. Dr. McMillen asked if similar trends can be seen in control states? Mr. Berdon stated that Connecticut has the largest amount of wholesalers per capita in the nation. And the current excise tax make up 25 % of the bottle price.

Tony Gallo of Star Distributors commented on behalf of the Connecticut Beer Wholesalers Association. He stated that the current pricing system works. Pricing is fluid and varies according to the market. Price posting, he said, helps wholesalers because without transparency, there will be price discrimination and favoritism. He stated that the beer manufacturers set beer prices in Connecticut. Wholesalers are required to sell at those prices by state law. He stated that discounts are a very bad idea. There are no more butcher shops, bakeries, or hardware stores because large big box retailers have swallowed the market with discounts and low prices, driving everyone else out of business.

Rep. Nafis asked if territories impact prices? Mr. Gallo stated that there are beer territories in all 50 states and that they are established by the manufacturers. Territories primarily serve as an efficient tax collection system and provides order to the market, he said. In reality, the bottle bill also drives the use of territories as a means to promote recycling.

Mr. Rutigliano commented that the bottle bill was originally intended for recycling purposes in 1979. Mr. Gallo stated that glass plants would purchase crushed bottles from a recycling center and reuse the materials. The escheats were intended to cover the operating costs associated with the legislation's recycling mandate. However,

prices increased when the escheats were taken away. Those costs were now placed on the wholesaler.

Mr. Gallo also commented that a wholesaler also has advertising and promotional responsibilities that are dictated in a manufacturer's contract with a distributor. He commented that wholesalers are responsible for the quality of the products they deliver, not the manufacturers. Wholesalers are also responsible for the bottle bill. Retailers would be negatively impacted if territories were eliminated because only large volume deliveries would be profitable. Smaller stores, with limited shelf space, would be forced to close because they won't be worth driving to. Mr. Gallo stated that suppliers rate regions, not states. There are two types: volume and profit. Connecticut, he said, is a profit state.

Commissioner Rubenstein stated that often times he is asked why alcohol sold in plastic pouches are illegal in Connecticut. He stated that the packaging is not subject to the bottle bill as well as the make up of plastics used in the packaging make it illegal to sell in state according to DEEP regulations.

George Motel of Sunset Meadow Vineyard presented the views of a small farm winery. In his opinion, he believes that in order to grow the current market for locally produced wines, they ought to be sold in grocery stores. He said that during a recent trip to Virginia and North Carolina, grocery stores featured locally grown farm wine, which helps to promote tourism. In addition, he believes that farm wineries should be able to sell locally produced wine off-premise, such as at a farmer's market. David Rutigliano asked if craft beer can be sold at a farmer's market? Mr. Motel stated that craft beer is allowed, with the exception of growlers. Mr. Motel also stated that current law allows tastings at package stores, but prohibits tastings at farmer's markets. This issue, he said, ought to be addressed if we want to promote locally grown farm wine.

Stan Sorkin of the Connecticut Food Association recommended that we eliminate minimum pricing, expand the current SKU law, allow quantity discounts, and expand the hours beer may be sold. He also suggested we increase the number of licenses that a single holder may have, similar to a recent increase in Massachusetts. Mr. Sorkin also suggested that we review the current liquor license application process and streamline it. He also recommended that the recent increase in the grocery beer permit fee was too high and would like to see it returned to the 2011 level.

Kevin Pimental of Xtra Mart and Cathy Barber presented the views of the Convenience Store Association. He stated that 40 states currently allow beer to be sold in convenience stores. Current Connecticut law has an antiquated formula to determine if a convenience store "primarily" sells grocery items in order to qualify for a beer permit. The mix of product offered for sale prevents certain stores from obtaining a beer permit, he said. Cathy Barber stated that her organization's members are single store operators and most are family owned. Connecticut ranks 49 out of 50 states in per capita beer sales. The current statutory definition of "grocery" precludes those convenience stores that sell gasoline and cigarettes to also sell beer.

Michael Cimini, former owner of Yankee Spirits in Sturbridge, Massachusetts spoke on behalf of the Package Store Association. He recommended that we lower excise taxes in order to boost sales. As the owner of package stores in both Connecticut and Massachusetts, Mr. Cimini recalled Massachusetts' experiment with the sales tax on alcohol. He stated that when Massachusetts eliminated the sales tax, his store saw an increase in business. Massachusetts also is more competitive than Connecticut because a single owner of multiple stores is allowed to ship product between his stores, whereas Connecticut law forbids such a practice.

Commissioner Rubenstein noted that in the Delaware example mentioned earlier, Philadelphia residents would buy alcohol in Delaware because of the difference in prices, not necessarily taxes. Commissioner Rubenstein asked Mr. Cimini to describe the different business environments between Massachusetts and Connecticut. He stated that they are different, but have the same net effect. He stated that volume discounts can lower prices for individual labels. In Massachusetts, wholesalers were consolidated resulting in fewer middlemen, creating more exclusive distributors for certain products.

Dominic Alaimo, owner of Freshwater Package Store in Enfield, presented his views as a single store owner. He recommended that the Sunday hours of operation be amended to allow stores to be open from Noon until 8pm. The current Sunday sales law is a great success and he hates having to close his door at 5pm. He also suggested that we address the problem of "blacklisting", a process by which the names of delinquent retailers are published monthly if payment is not received in 30 days. This practice occurs even if the delinquency is in dispute and may be nothing more than a paperwork error, he said.

Mr. Rutigliano commented that, more often than not, disputed invoices are the source of these disagreements that result in a retailer's name being "blacklisted" and published in the Beverage Journal. Once a retailer is blacklisted, then they are automatically placed on C.O.D. for further deliveries until the dispute is resolved.

Mr. Alaimo said that the smoking ban didn't put restaurants out of business and Sunday sales so far haven't put any package store out of business. Finally, Mr. Alaimo suggested we eliminate minimum pricing, thus allowing retailers to sell their products at prices that they determine.

ANNOUNCEMENTS

Rep. Tallarita announced that the next set of subcommittee meetings will be held on Wednesday, September 19th. The Permit subcommittee will meet at 9:00 AM. The Alcohol Tax subcommittee will meet at 11:00 AM. The combined Minimum Pricing and Discount joint subcommittee will meet at 2:00 PM. All meetings will be held in Room 1C.

There being no further discussion, a motion was duly made and seconded to adjourn the meeting.

The meeting was adjourned at 3:56 PM.

Stephen A. Palmer
Clerk