

Thanks to the Task Force for soliciting input from the CT Brewers.

To be clear, I speak not only on behalf of my own company, The Thomas Hooker Brewing Company, but as president of the CT brewers Guild, I speak on behalf of all our members.

My comments here today will focus in the area of Franchise Law in CT and how it pertains to “Small” brewers in the state.

Additionally, we would like to propose some minor modifications that can bring CT Franchise law up to date with changes that have taken place in the market over the last 10 Years.

Its safe to say that in the past decade small domestic breweries have breathed new life into a somewhat stagnated brewing industry.

Although the domestic beer market continues to shrink as a whole:

The market for locally brewed craft beer continued to enjoy double digit growth.

But, even with this growth in the segment, there still remains certain obstacles to small brand prosperity here in CT.

Our states franchise laws have by and large remained unchanged since their introduction in 1971, and have failed to accommodate for the substantial changes in the market over the last 10 years.

That said, let me be clear, we wholeheartedly acknowledge the need for, and wish to protect a healthy 3 tiered distribution system.

We want to see franchise law in the state preserved, but updated to take into account the changes in our industry,

while maintaining the protections for distributors that the law was originally intended to create.

We advocate a Mend – Don’t End Strategy

Let me start by providing some brief history:

As I said, Franchise law in this state was created in 1971 and has remained largely unchanged since then.

At or around that time, there were only 44 breweries in the entire United States.

Of these 44 breweries, most if not all were of significant size, and possessed enough economic power that they could control the wholesalers who distributed their products.

These laws were designed to protect locally owned distributors from large national and international suppliers.

A interesting Stat for you....

Currently approx. 82% of the US beer market is controlled by 2 companies... SAB Miller-Coors and AB-InBev.

Wholesalers in the state need protection from these massive conglomerates.

Unique Territories are one of the main protections they enjoy, and frankly need in order to prevent what could be an upheaval of the 3 tiered system.

But lets go ahead and Fast forward to today.

The number of breweries has swelled from 44 large breweries in the early 70's to close to 2000 small independent breweries across this country today.

Suffice to say, the small local small craft brewery was surely not contemplated by those who drafted legislation over forty years ago.

So, that is the history lesson... Lets get to the issues in CT, and then the solution

First Let me Say:

Nationally, The three-tier system has been pretty good for small suppliers and it is hard to imagine an American craft beer renaissance without it.

But lets talk about the shortcomings of the current system in CT.

The problem is that this premise of the franchise laws breaks down when applied to small suppliers.

Key to this point is the component of franchise law that restricts a supplier's ability to change from one state wholesaler to another in order to find the best fit for both parties.

Currently both massive and small suppliers are treated the same in that they both are required to prove "Just Cause" or in other words, the burden of proof falls on the supplier to prove that a wholesaler has "damaged the brand".

The problem is it's just not at all practical for a small brewer. The litigation costs and the time required, make it a near impossible option for a small supplier.

Additionally, the process can take upwards of 6 months to be heard and acted upon, all the while the small brewers brand is languishing.

So, Practically speaking, chances are a small brand will be out of business before any decision is ever made.

So, Whats the Solution

Through conversations with numerous wholesalers in the state, we believe we have come up with some minor modification to the franchise law that:

- takes into account the significant changes in the beer market,
- provides a solution that helps nurture and protect small suppliers in the state
- It does all this while leaving the protections in place for the wholesalers from larger suppliers, which is what the law was originally intended to accomplish.

Modification / Modernization to existing Franchise Law:

A small craft brewer would be allowed to end its relationship with a distributor if the following parameters are met:

1. **The craft brewer has an annual production volume of less than two hundred thousand barrels of beer.** The “annual production volume” shall mean: (1) the aggregate number of barrels of beer, under trademarks owned by that brewer and brewed, directly or indirectly, by or on behalf of the brewer during the year, on a worldwide basis, plus (2) the aggregate number of barrels of beer brewed, during the year, directly or indirectly, by or on behalf of any person or entity which, at any time during the year, controlled, was controlled by or was under common control with the brewer, on a worldwide basis.
2. **The affected distributor’s annual purchase of the craft brewer’s beer is less than 2.5% of the affected distributor’s total annual brand purchases of all beers,** measured in case equivalent sales of twenty-four – twelve ounce units; and
3. **The craft brewer and/or the craft brewer’s newly appointed distributor is willing to compensate the affected distributor** for the affected distributor’s prior and current investment in the craft brewer’s products. **The amount of compensation should be calculated as: a multiplier of 6X (six times) the amount of the affected distributor’s gross profit earned selling the craft brewer’s products during the previous 12 month period.**

So, what these 3 minor modifications do is

1. It streamlines a process and allows small brands to find that “best fit” with a distributor so that small brands can flourish in this state.
2. It doesn’t disturb a wholesalers overall business because it only applies to brands that are a very small portion of a wholesalers overall business.
3. It appropriately compensates a wholesaler for their efforts with a brand.

Its also worth noting that a similar modification to this law just passed in NY, and one is on the agenda in Mass.

In CLOSING

I want to thank the committee for its time and consideration of what we believe is a fair, and simple modernization to a very important state regulation.

You know, Ct is Currently 33rd in nation in breweries per capita.

Compelling statistic give we are in close proximity to some of the states highest on the list. Vermont #1, Maine #5, New Hampshire #11

We are late to the game, but we are catching up quick.

There is a huge excitement around craft beer in this state, and with some minor modifications to our rules, we can keep this momentum going.