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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
LIQUOR CONTROL COMMITTEE
* * * * *
IN RE: HOUSE BILL 1637
PUBLIC HEARING

BEFORE: ROBERT DONATUCCI, Chairman
Ronald Raymond, Chairman
Tom Blackwell, Member
Ron Waters, Member
Jeffrey Pyle, Member
Paul Costa, Member
Joseph Brennan, Member
Curtis Thomas, Member
Scott Petri, Member
Michael O'Brien, Member
Dante Santoni, Member
HEARING: Wednesday, September 12, 2007
10:12 a.m.
LOCATION: Haddington Senior Community Center
5331-41 Haverford Avenue
Philadelphia, PA 19135
Reporter: Sharon M. Marsh
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02

03 Patrick J. Stapleton, III

04 Dave Shipula

05 Dave DeMascole

06 Felicity DeBacchi

07 Randy St. John, Jr.

08 Feneva Black

09 Tom Berry

10 Ray Swerdlow

11 Bonita Cummings

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01 P R O C E E D I N G S

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03 CHAIR DONATUCCI:

04 Good morning. I'm Representative Robert
05 Donatucci. I represent Philadelphia and Delaware
06 County. I'm the Chair of the Liquor Committee.
07 Basically, Representative Raymond --- Chairman Raymond
08 will be a few minutes late, but he said to start
09 without him. Basically, what I'm going to do is have
10 the members introduce themselves and then call our
11 first witness. So I'll start to my right with
12 Representative O'Brien.

13 MR. O'BRIEN:

14 Representative Michael O'Brien,
15 legislator, District of Philadelphia.

16 MR. SANTONI:

17 I'm State Representative Dante Santoni,
18 126 District, Berks County.

19 MR. BLACKWELL:

20 Tom Blackwell, Philadelphia County 190th
21 District.

22 MR. WATERS:

23 Ron Waters, 191st District, West Philly
24 and Delaware County.

25 MR. PYLE:

01 Jeff Pyle 60th legislative district,
02 Armstrong and Indiana Counties.

03 MR. COSTA:

04 Good morning. Paul Costa, 34th District,
05 eastern suburbs of Allegheny County.

06 CHAIR DONATUCCI:

07 Thank you. The first order of business,
08 I want to thank all the members who came from far
09 distances to be here this morning. If any member
10 wanted to take their jacket off feel free to do it,
11 because it is warm in here. The other thing is house
12 rules. Basically, I want to get started. I'm going
13 to call up the Liquor Control Chairman, Patrick
14 Stapleton, and I would appreciate you introducing us
15 to your members.

16 MR. STAPLETON:

17 Yes, Mr. Chairman. Good morning,
18 Chairman Donatucci, members of the House of
19 Representative Committee and concerned citizens. I'm
20 P.J. Stapleton, Chairman of the Pennsylvania Liquor
21 Control Board. With me today, I brought some other
22 members of our team. We have our CEO Joe Conti, Jay
23 Welker (phonetic), who is the assistant director of
24 Licensing. We've Chris Harrington and Rob Diaz of our
25 legal staff. So if I'm unable to answer questions I'm

01 sure that they will be able to answer those.

02 My intention today is to provide you with
03 a big picture regarding issues of House 1637 is
04 designed to address. I am here to offer the
05 assistance of the board our staff, the General
06 Assembly and the Governor's Office on this or any
07 other issue you may have before you. This Bill is in
08 response to the litigation involving a decision by the
09 Board to transfer an eating place license to Sheetz
10 for use at a location that has an interior connection
11 to a convenient store. That decision was challenged
12 by Malt Beverage Distributor Association, an
13 association of beer distributors, which we'll hear
14 from later today, which asked the Commonwealth Court
15 to reverse the Board.

16 The Commonwealth Court, in fact, reversed
17 the Board on the basis that Sheetz does not sell beer
18 for on-premise consumption. The Board, in turn, has
19 asked the Pennsylvania Supreme Court to reinstate the
20 decision. The Board's overriding concern regarding
21 the Commonwealth Court's decision in the Sheetz case
22 and hence the reason the Board appealed the matter to
23 the Supreme Court is the adverse impact that the
24 Commonwealth Court decision has on thousands of
25 licensees who have relied on the Board's historical

01 interpretation of the Liquor Code.

02 With all due respect to those who say
03 otherwise, the decision to issue a retail license to
04 Sheetz and allow an interior connection between a
05 convenience store and an eating place license is not
06 beginning of an era of allowing such interior
07 connections. Such interior connections have been
08 allowed by law and approved in this Commonwealth for
09 decades. Thus the Board was surprised when the
10 Commonwealth Court took away the license issued to
11 Sheetz, and in doing so took issue with the Board's
12 decision to license a location with an interior
13 connection to a convenience store.

14 The Board was even more surprised when we
15 read the opinion and found out that the Commonwealth
16 Court was imposing a duty on retail licensees to sell
17 beer for on-premise consumption. Therefore the Board
18 felt compelled to ask the Pennsylvania Supreme Court
19 to review the matter, not just because we felt that
20 the Commonwealth Court was wrong, but because there
21 are thousands of licensees across the state who have
22 relied upon the Board's decades long interpretation of
23 the Liquor Code and even have interior connection to
24 businesses or who wish to have some discretion in how,
25 when and to whom they may sell adult beverage.

01 Further, the Commonwealth Court's holding
02 that a licensee's privilege to sell liquor and alcohol
03 is, in fact, a duty to sell alcohol would result in
04 licensees being required to sell beer, wine and liquor
05 whenever the law authorizes them to do so. The
06 operation of those businesses, both existing and
07 proposed would be significantly altered by the
08 Commonwealth Court's decision probably to the
09 detriment and to the detriment of the communities they
10 serve. Similarly, neighborhoods who may feel that
11 there is enough beer in the community would have to
12 deal with licensees who are under a duty to sell beer,
13 wine and liquor and to do so from 7:00 a.m. to 2:00
14 a.m.

15 Put another way, according to the
16 Commonwealth Court, the reason Sheetz was not entitled
17 to sell through its beer license was not because it
18 was selling too much beer, but because it was not
19 selling enough beer. As you note, the Pennsylvania
20 Supreme Court has agreed to hear the case and has for
21 now allowed retail licensees to sell beer for
22 consumption on premise only if they feel exception is
23 appropriate. Thus when considering House Bill 1637
24 the Board respectfully asks that the honorable members
25 of this legislature remember what other types of

01 businesses, beyond convenience store and grocery
02 locations, they've impacted by the prohibition of
03 having an interior connection with a business that
04 occupies more than one county square feet. Since such
05 businesses may include bowling alleys, marinas,
06 campgrounds, department stores and golf courses. The
07 Board looks forward to working with the legislature
08 and the Governor's Office on any legislative changes
09 regarding this and any other issues. Thank you, and
10 I'd be happy to answer any questions at this time.

11 CHAIR DONATUCCI:

12 Are there any questions? Thank you.

13 MR. STAPLETON:

14 Thank you, Mr. Chairman.

15 CHAIR DONATUCCI:

16 Before I call the next witness, I'm going
17 to turn the mic over, or knock the mic over to
18 Representative Blackwell. He wanted him to have an
19 opening statement, and we're listening to it now.

20 MR. BLACKWELL:

21 Thank you, Mr. Chairman. First, let me
22 thank Ms. Geneva Black for allowing us to have this
23 hearing here. This is a very important subject in our
24 community, primarily the black community, both of the
25 lack of enforcement laws on another type of

01 establishment that sells this very same product cause
02 lack of concern in our community, that's why I feel it
03 is very important that we have the hearing here
04 because as a result of what has happened in our
05 community --- devastation that the lack of law
06 enforcement, LCB, Liquor Control Board, enforcement
07 agents or the Philadelphia Police or State Police, we
08 are in a crisis situation and because of that, what we
09 see on a daily basis, there's a fear in our community
10 of allowing any other establishment to continually
11 sell these types of products will bring a detrimental
12 effect to our community.

13 So while I thank the Chairman for being
14 here, I thank the members who came here. We thought
15 it was important for them to be here. Also, we
16 caution that we listen to testimony intelligently,
17 understand what we're talking about, because the issue
18 of Stop 'N Gos, and understand the fear of people in
19 this community, why they may be for or against. Let's
20 not take it personal while we hear the testimony the
21 decision will not be made today, so we'll respect
22 everyone's right to testify, but also we ask that you
23 respect our right to our due diligence while we're
24 here to gather information so that we can come up with
25 a decision that will help to improve this community

01 and other communities across the Commonwealth. Having
02 said that, thank you, Mr. Chairman. And I will wait
03 until questioning.

04 CHAIR DONATUCCI:

05 Thank you, Representative. The next
06 witness is Malt Beverage Distributors Association.

07 MR. SHIPULA:

08 Good morning.

09 CHAIR DONATUCCI:

10 Good morning.

11 MR. SHIPULA:

12 My name is David Shipula, and I'm
13 President of the Malt Beverage Distributors
14 Association of Pennsylvania. I'm the owner of
15 Beer-Super, Inc. in Wilkes-Barre, Pennsylvania, a
16 business that was started by my father in 1949. I'd
17 like to thank Chairman Donatucci and Raymond,
18 Representative Thomas Blackwell and all the Committee
19 members for the opportunity to testify on House Bill
20 1637.

21 For more than 70 years MBDA has
22 represented the interests of Pennsylvania's 1,300
23 licensed distributors, each independently owned, with
24 operations located in 67 counties in the Commonwealth.
25 Our members are the vital link in our Commonwealth's

01 beer distribution system. A consumer-friendly system
02 that ensures a safe marketplace, provides adult
03 consumers with the choice they want at great prices
04 and contributes significantly to Pennsylvania's
05 economic and social environment.

06 Statistics provided by the PLCB for the
07 period 2004/2006 show that beer distributors account
08 for nine percent of all citations issued to licensees
09 for sales to minors, an exceptional record. Recently
10 the State Police, Bureau of Liquor Control Enforcement
11 conducted compliance checks for underage sales in the
12 Altoona area, site of this Sheetz superstore. We're
13 proud to report that all distributors were found to be
14 in compliance.

15 One reason for the low incident rate is
16 distributors have a customer base of adults, not
17 teens. As you know, Wegmans Superstore with corporate
18 offices in Rochester, New York has applied for
19 restaurant liquor licenses for many of their
20 Pennsylvania stores. Compare our customer base to the
21 café in Wegmans' Warrington store. The following is
22 an excerpt from an article by The Intelligencer
23 entitled Wegmans Teen Hot Spot, quote, some bored
24 suburban teens, many of whom work at the store or at
25 other retailers nearby have made a 125,000 square foot

01 food market and its 200 seat upstairs café an unlikely
02 hangout. Teens cruise the aisles and frequent the
03 café after school and early on weekend nights,
04 unquote. Convenience stores are also known as a haven
05 for kids. In the 2005 National Association of
06 Convenience Stores co-authored a study entitled
07 Convenience Teens Building Loyalty with the Next
08 Generation, which asserts that two-thirds of teens,
09 ages 16 to 20, are convenience store shoppers and shop
10 more often than those over 30.

11 Supermarket cafes and convenience stores
12 are not acceptable venues for selling take-out beer
13 and preventing sales to minors. Not only are they
14 patronized by kids, but their clerks and the majority
15 of their employees are typically teens themselves. As
16 reported in Fortune Magazine, Wegmans Operations
17 Chief, Jack DePeters, said only half-jokingly, quote,
18 We're a \$3 billion company run by 16 year old
19 cashiers. Grocery and convenience stores have an
20 extraordinary rate of employee turnover and
21 responsible alcohol management training would be
22 difficult. In one typical chain the average cashier
23 spends only 88 days in that position. Compare that to
24 beer distributors, whose majority of employees are
25 adults and long-term employees.

01 Beer distributors limit their store
02 hours. Hours of operation are 8:00 a.m. to 11:00 p.m.
03 Monday through Saturday and noon to 5:00 p.m. on
04 Sunday. Supermarkets and convenience stores are using
05 restaurant liquor and eating place retail dispenser
06 licenses to sell beer, and by law these licensees can
07 open from 7:00 a.m. to 2:00 a.m., Monday through
08 Saturday, and 11:00 a.m. to 2:00 a.m. on Sunday.
09 Later in the evening grocery and convenience stores
10 are sparsely staffed making it more difficult to
11 enforce and control underage drinking.

12 Grocery and convenience stores say they
13 will not sell to minors. How effectively will they do
14 that when they've failed so miserably to prohibit the
15 sale of tobacco to minors under the age of 18?
16 Between 2000 and 2006, the Attorney Generals in 27
17 states, including Pennsylvania, launched a multi-state
18 enforcement effort to focus on 11 major retail chains
19 with records of selling tobacco to minors. Only under
20 threat of prosecution for violation of state laws did
21 they then agree to take steps to reduce cigarette
22 sales to children, and that came from the Office of
23 the New York State Attorney General, March 15, 2006.

24 Wegmans talks about their policy in New
25 York of requiring proof of age for every customer.

01 Unfortunately, that policy came after a tragic
02 incident. They were sued by a family of a young man
03 who bought beer illegally and later died in a
04 drunken-driving accident. To promote the
05 responsibility to fight underage drinking and alcohol
06 abuse, beer distributors work diligently with industry
07 affiliates, enforcement agencies, churches and
08 schools. MBDA and our distributors who know our
09 products. We work with hundreds of manufacturers from
10 multi-national brewers to the smallest micro-brewers
11 and provide customers with a vast selection of
12 imported domestic beers, including all Pennsylvania
13 brewers.

14 By contrast, the Sheetz convenience store
15 and gas station came out with one Pennsylvania product
16 in their Altoona store. They talk about giving
17 customers more choice to the contrary they limit the
18 customer's choice. Beer distributors are local
19 employers and it is estimated that they employ 10,000
20 workers. MBDA recently embarked on a campaign to
21 signify the huge impact we have on Pennsylvania's
22 economic and social climate. 206 distributors have
23 responded to date indicating they employ 1,500
24 Pennsylvanians an average of 7.5 employees per
25 distributor. For the year ending 2006, their

01 full-time and part-time employees received wages
02 totaling \$31 million.

03 If supermarkets and convenience stores
04 gain control of Pennsylvania's beer industry these
05 jobs will be replaced by minimum or low wage
06 convenience and grocery store clerks. We urge our
07 lawmakers not to allow small businesses and local jobs
08 to be phased out in favor of mega corporations. We
09 generate substantial federal, state and local tax
10 revenue. For the year ending 2006, these 206
11 distributors paid in excess \$31 million in taxes to
12 the Commonwealth. And in testimony I have them all
13 listed and broken down by sales tax and excise tax and
14 so forth. Our tax dollars stay in our communities and
15 in Pennsylvania.

16 Beer distributors are locally
17 family-owned and operated businesses, generation after
18 generation, who give back to their communities. We
19 sponsor youth and school athletics, benefits to help
20 offset medical costs, cheerleading, fishing clubs,
21 bands, theatre groups, concerts, school scholarships,
22 block parties. We make contributions to local
23 churches, youth ministries, police, fire and ambulance
24 departments, booster clubs, women's club, libraries,
25 museums, schools, parks and recreational centers.

01 We've recently asked our distributors to name some of
02 their charities and they responded, and you have the
03 list in front of you. I'm not going to read it, but
04 it's in excess of 40 charities that the distributors
05 have given to.

06 Giant supermarket and convenience store,
07 gas station chains, some with corporate offices out of
08 state have entered the beer-to-go market, masquerading
09 as restaurant liquor and eating place retail dispenser
10 licensees, exploiting the PLCB regulation that permits
11 an interior connection between licensed and unlicensed
12 premises. They know, as well as we do, that our
13 Liquor Code never intended that beer be sold in these
14 non-traditional outlets. They recognize that most
15 legislators do not endorse beer sales in grocery
16 stores or convenience stores so they devised a plan to
17 camouflage those sales.

18 Last week Sheetz slashed prices and they
19 are now selling beer for just pennies over cost. It
20 is clear that the goal of convenience stores and
21 supermarkets is to muscle out Pennsylvania's
22 independently-owned retail distributors and sell beer
23 for off-premise consumption without being bound by the
24 numerous restrictions placed on the distributors.

25 Sheetz is making plans to expand their

01 beer sales to additional Pennsylvania markets. Stan
02 Sheetz, President and Chief Executive Officer said,
03 quote, we would like to see beer be more accessible to
04 customers in Pennsylvania so consumers can have a
05 choice of buying beer at any retail location, unquote.
06 Sheetz claims to be a convenience restaurant, but Mike
07 Cortez, their Executive Vice President and General
08 Counsel, said not serving beer on the premises seemed
09 like the responsible thing to do since Sheetz also
10 sells gasoline to drivers.

11 The Liquor Code clearly prohibits
12 alcoholic beverages from being sold from the same
13 location as liquid fuels or oils. Supermarkets and
14 convenience stores want to take one product we sell
15 and add it to their massive inventory. They say we
16 should compete, but you can't compete when you're not
17 on an even playing field. We sell one item. They
18 sell thousands. We are restricted to owning one
19 license. They can own an unlimited number of
20 licenses. They have extended hours of operation.
21 Ours are limited. They can sell various package
22 sizes. We are restricted to cases. Supermarkets and
23 convenience stores testified at a previous hearing
24 that they purchase beer from distributors. That
25 statement is deceiving. Their beer is supplied by

01 large wholesalers, the same master distributors who
02 provide us small retailers with the product.

03 Supermarkets and convenience stores say
04 polls show that consumers want convenience by
05 purchasing beer in their stores, but they admit that
06 these polls were strictly informal. In fact, Wegmans
07 gave customers an incentive to take their survey by
08 awarding three gift cards valued at \$100 each.

09 What is more inconvenient than having to
10 wait in long checkout lines to make purchases.
11 Distributors provide excellent service. Most of us
12 know our patrons by name. Convenience and grocery
13 stores are already playing by their own rules.
14 Certainly Sheetz has not abided by the PLCB regulation
15 that requires a permanent four foot high partition
16 between their convenience store and licensed premises.
17 Beer sales are allowed at most registers. They're
18 showcasing beer as the equivalent of any other
19 consumer product by placing the coolers right next to
20 the milk and iced tea. When independent retailers
21 suffer at the hands of huge corporations so do the
22 consumers who are impacted through the loss of choice
23 with selection being reduced to a few national labels
24 and small brewers who are impacted by less access to
25 the marketplace. Few jobs will be gained, but

01 thousands lost along with the taxes and the
02 contributions to the community made by many
03 Pennsylvania distributors.

04 Continuing to allow supermarkets and
05 grocery stores and convenience stores and gas stations
06 to sell take-out beer will have a far reaching and
07 negative effect on our Commonwealth. A floodgate of
08 new outlets will appear, far too many to police
09 effectively. Studies and research conducted by the
10 Center on Alcohol Marketing and Youth at Georgetown
11 University, Centers for Disease Control and
12 Prevention, National Institute of Alcohol Abuse and
13 Alcoholism and the Pacific Institute for Research and
14 Evaluation show that when alcohol is more readily
15 available and easier to get, there's an increase in
16 underage drinking, people drink more and there are
17 more problems.

18 Additional days and hours of operation
19 and an increase in alcohol outlet density lead to more
20 problems as well. Pennsylvania consumers certainly
21 would not prefer extending the sale of beer to
22 supermarkets, convenience stores and gas stations over
23 increased problems. As states are increasing their
24 efforts to combat underage drinking and alcohol abuse
25 it is not time for Pennsylvania to loosen their

01 restrictions.

02 MBDA urges our state lawmakers to support
03 House Bill 1637 to stop supermarkets, convenience
04 stores and gas stations from selling take-out beer.
05 It states if you are a restaurant liquor or eating
06 place retail dispenser licensee who wants to sell
07 take-out beer, you cannot have an interior connection
08 or be operated in conjunction with another business of
09 more than 1,000 square feet. It does not affect a
10 supermarket who wants to have on-premise consumption
11 of alcohol in their café for customers to enjoy with
12 their meal. It simply requires them to have an
13 exterior entrance to the licensed premises just like
14 the national chain restaurants that they compare
15 themselves to.

16 The legislation grandfathers in all
17 existing licensees who are already connected to a
18 business of more than 1,000 square feet, but it does
19 not allow those licensees to transfer the privilege to
20 another location. It doesn't affect taverns and
21 delicatessens who sell take-out beer. The American
22 distribution system allows for each state to have laws
23 that fit its own needs because a one size fits all
24 approach to alcohol regulation does not work.

25 We ask our lawmakers to recognize that

01 Pennsylvania's 1,300 beer distributors provide the
02 most value, service and selection to consumers and
03 that our system is crucial to the safe and responsible
04 distribution of malt beverage products. Please vote
05 for House Bill 1637.

06 One other thing I'd just like to point
07 out here, and then I'll take questions. We have
08 distributors confiscated licenses, and these are from
09 two different distributors. These are the ones from
10 Philadelphia, and this is Delaware County. Now, as I
11 said earlier, it's a lot easier when you're in a
12 setting with a beer distributor or you're in a tavern
13 where it's not commonplace where young people are
14 coming in and out to identify someone coming in and
15 doing your due diligence about carding them and making
16 sure that they don't purchase the alcohol.

17 As I said, in a setting such as a
18 supermarket or convenience stores where there are a
19 lot of children in and out of the store all the time
20 that flag goes up. One of the things that helps us as
21 a distributor when you see a young person who looks a
22 little younger walk into the establishment, it makes
23 it a little easier to identify to make sure --- as I
24 said, looking to make sure they're not underage. Once
25 again, I thank the Committee for the opportunity to be

01 here today, and I'll entertain any questions.

02 CHAIR DONATUCCI:

03 Thank you. Before we take any questions,
04 I want to recognize Representative Raymond who has
05 joined us. On that note, are there any questions?
06 Representative Costa?

07 MR. COSTA:

08 Thank you, Mr. Chairman. Dave, can you
09 stand on the license for --- I'm sorry, the driver's
10 license. Are they invalid? Are they expired? What
11 gives you the right ---?

12 MR. SHIPULA:

13 They're fake licenses.

14 MR. COSTA:

15 They're fake, okay.

16 MR. SHIPULA:

17 However they would change the picture or
18 --- you know, over time they get better and better and
19 better. You know, you learn new tricks as you go
20 along. You got a problem in Luzerne County, because
21 one of the things that we look for is the county code
22 that's on the card, which Luzerne County is the
23 license center lost its computers and they changed
24 that code, so now we have to remember to recognize the
25 code.

01 You know, whether you ask them their
02 middle name or things you know, the holograms on the
03 licenses. For a while there they were having people
04 who were 21 send for the card and they would go back
05 and have their photo put on it. Now that's pretty
06 much impossible with the fail-safe that this state has
07 in place. So what we used to look for there was proof
08 of ---- you had to have proof of a good license.
09 There was a good chance we would catch a young person.
10 You know, one of the questions, we would ask and try
11 to ascertain whether or not they were 21. A lot of
12 them will just run out of the store and leave their
13 license.

14 MR. COSTA:

15 What do you do when you find someone? Do
16 you confiscate the license? Do you contact the
17 authorities or ---?

18 MR. SHIPULA:

19 Well, usually I'll tell them I'll call
20 the local police. I'll have them pull the 931 form
21 out. Usually while they're doing that, I will call
22 the police and ---. In most cases the police are
23 there before they're done filling out the form and
24 they take it from there. As I said, sometimes they'll
25 take off. If somebody's doing something else they'll

01 just run out the door so you just keep the license. A
02 lot of licenses now from other states are scanned, the
03 fake ID will go through the system. They'll scan
04 through and provide the information that's on the
05 card. So we look for new ways to try to deter that.

06 CHAIR DONATUCCI:
07 Representative Waters.

08 MR. WATERS:

09 Thank you, Mr. Chairman. I'm glad to be
10 here today. I'm very interested in House Bill 1637.
11 I also want to thank Representative Blackwell and
12 Haddington Senior Center for hosting this event. I
13 figured it was a good location to have. The questions
14 that I want to maybe --- you seem to be very informed,
15 and I thank you for your testimony. You made me think
16 about a couple things when you were speaking, and that
17 is when you go to a supermarket, you don't always have
18 to go to a checkout now. Now, you can go to a
19 self-scan when you want to go out a supermarket. You
20 don't have to have a cashier to check you out, you can
21 check your own self out as long as you have your cash
22 or --- you properly went through the scanning process.
23 Now, how would that apply to a person that's leaving a
24 supermarket with beer?

25 MR. SHIPULA:

01 I would assume it wouldn't be allowed,
02 but I would assume that the registers are supposed to
03 be in separate areas.

04 MR. WATERS:

05 It's the customer's choice if they want
06 to go through --- if they've got 15 items or less,
07 they can go through the self-scan.

08 MR. SHIPULA:

09 I would assume the person --- they always
10 have someone there who's checking the lines if there's
11 a problem or they have to reform the machine. I would
12 assume that person would be responsible for carding
13 that individual.

14 MR. WATERS:

15 Do you know how many set-ups they have to
16 monitor?

17 MR. SHIPULA:

18 Yes.

19 MR. WATERS:

20 Quite a bit.

21 MR. SHIPULA:

22 I think it would be difficult. Plus in
23 most cases, you would have a young person doing it.

24 MR. WATERS:

25 One of the other problems that I see with

01 having beer distributing some of these convenience
02 stores is that, sometimes I got places that I always
03 know where I'm going. I go on faith a lot of times,
04 and I usually can always rely on going to a gas
05 station or convenience store and ask someone there for
06 directions. Over the last three years I've had a hard
07 time doing it because there's a lot of places they
08 have people who don't always speak English. So now
09 what information do you have on the people who work
10 there who might not be that familiar with the English
11 language or maybe don't have great communication or
12 reading skills for their ability to look at ID and see
13 if this is valid?

14 MR. SHIPULA:

15 I don't have any information on it, but
16 it's a very good question and we'll do some research
17 on it. You know try to check with some of our
18 distributors and see if there are any problems or what
19 has come of that?

20 MR. WATERS:

21 I would just imagine that that is a
22 problem.

23 MR. SHIPULA:

24 I'm sure --- you know, obviously, if a
25 person wasn't able to read, it would be very difficult

01 to formulate the ID and make a decision.

02 MR. WATERS:

03 And my last thing is I really believe
04 you're right. You say that you specialize in a
05 certain product, maybe not one particular name brand,
06 but you specialize in one particular type of product,
07 you don't sell liquor. You are more focused on your
08 customers. You know a person comes through there they
09 get milk, bread, TV dinners and toilet paper and now
10 beer comes up. You know, I think that that would be a
11 multiple task for anybody. I believe that someone
12 should be specializing in that, so we can make sure we
13 eliminate people who should not be drinking.

14 One of the other problems that I see that
15 comes up, too, is visibly intoxicated people. And in
16 addition to just being able to, you know, determine
17 who is underage, I think that is important that the
18 person also identify who should not be buying liquor
19 even if they are old enough, because they already
20 enough to drink. So I think we should maintain some
21 controls on it.

22 MR. SHIPULA:

23 And we do work on, obviously, the
24 training for the responsible alcohol management
25 program that the Liquor Board has. I notice it with

01 my employees that --- you know, as much as you tell
02 them, you try to tell them what to do, once they go
03 through the program they seem to be a little more
04 terrorized than when I tell them. And they do a very
05 diligent job in making sure the person's not visibly
06 intoxicated.

07 The number one excuse we get when we tell
08 them that they're visibly intoxicated is they say no,
09 I'm not, I'm drunk. So that's the verification that
10 they're on their way out. And you mentioned about as
11 a grocery store has multiple items. One of the
12 problems also is, that as a beer distributor,
13 basically I have one item, beer, and the Liquor Board
14 for some reason decides I have a violation and my
15 license is suspended or revoked. I lose my entire
16 livelihood. If a grocery store or convenient chain
17 would lose the right to sell beer, their business
18 would continue on uninterrupted as they went along
19 with the Board's suspension. In my case, my whole
20 livelihood would be closed down for three or seven
21 days, whatever penalty I would receive.

22 MR. WATERS:

23 Thank you very much, Mr. Shipula.

24 CHAIR DONATUCCI:

25 Representative Santoni, do you have a

01 question.

02 MR. SANTONI:

03 Thank you, Mr. Chairman. Thank you for
04 your testimony, I appreciate it. I didn't see your
05 --- I didn't get a copy of the testimony. You talked
06 about an unlevelled playing field, what particular ---
07 Sheetz or Wegmans supplied with a liquor license, what
08 are some of the things that you have to do that they
09 don't?

10 MR. SHIPULA:

11 Well, one of the things is we have
12 limited hours. They would not have the limited hours.
13 As I pointed out, if we had a violation, we would shut
14 down. Our entire livelihood would be shut down as
15 opposed to their beer section would be shut down. The
16 disadvantages of selling the alcohol. We're allowed
17 to have one distributor. We're allowed to have one
18 license. Grocery stores can have unlimited licenses.
19 The grocery store can use the alcohol and sell it as
20 cost as a lost leader. Obviously, there'd be a lot
21 more full-page ads in the newspaper advertising
22 alcohol, because they would be able to use that as a
23 lost leader, where I would not be able to do that.

24 We have a mark-up --- we have a fair
25 mark-up on the beverages that we sell, the alcohol we

01 sell. You know that's dictated by brewers, whatever
02 they charge comes down the line, and I'm sure they
03 have marketing people in all the areas that they want
04 to maintain a price in a certain area, but I would
05 assume that they're successful in doing that and
06 successful brewers, but we wouldn't be able to sell it
07 at cost.

08 As I said, that's basically our one item.
09 The grocery store could use that, as I said, could
10 take the alcohol and sell it as a lost leader. You
11 know, use it as an impulse item. You know, put it in
12 front of people and push it out of the grocery store.
13 As I said, using it as a lost leader or retail ---.

14 MR. SANTONI:

15 One of the other things you said is if
16 beer is sold next to milk and eggs ---.

17 MR. SHIPULA:

18 Well, according to the Liquor
19 Regulations, you're supposed to have a four-foot
20 partition between the premise --- the area of the
21 location that is licensed and the area of the store
22 that is not licensed. It says that there should be a
23 four-foot partition, and yet if you go look at the
24 store they have it in --- it's behind the glass doors
25 right next to all the other cold items. There's no

01 four-foot partition between them.

02 MR. SANTONI:

03 Well, I see that one of the markets is
04 testifying next, and I would respond to that also. I
05 think that would be inappropriate. Thank you.

06 MR. SHIPULA:

07 Thank you.

08 CHAIR DONATUCCI:

09 Before we go any further, I want to
10 recognize Chairman Raymond, Representative Thomas and
11 Representative Brennan. The next witness is Dave
12 DeMascole, Regional Beverage Director of Wegmans Food
13 Markets.

14 MR. DEMASCOLE:

15 Good morning.

16 CHAIR DONATUCCI:

17 Good morning, Dave.

18 MR. DEMASCOLE:

19 My name is Dave DeMascole. I am the
20 Regional Beverage Director for Pennsylvania Operations
21 for Wegmans Food Markets. Thank you for the
22 opportunity to speak today. As many of you may
23 already be aware from our testimony earlier in the
24 year in front of this Committee, Wegmans is a
25 family-owned supermarket business located in

01 Rochester, New York. Eleven (11) of our 71 stores are
02 located in the Commonwealth of Pennsylvania, and we're
03 very excited to announce that this Sunday we're
04 opening our 12th Pennsylvania store in Mechanicsburg,
05 Pennsylvania.

06 Currently, Wegmans employs over 6,000
07 people in Pennsylvania and plans on adding 2,000 more
08 jobs in the Commonwealth over the next five years.
09 We're very proud of the fact that Fortune Magazine
10 named Wegmans the number one company to work for in
11 America in 2005, and over the last ten years Fortune
12 has included Wegmans in their list of the top 100
13 employers in America.

14 The Wegman family believes in its
15 employees, and it's reflected in our commitment to
16 training, from our cashiers to our culinary chefs,
17 many who are trained at the Culinary Institute of
18 America. For an example, prior to the opening of our
19 new store which is going to open this Sunday in
20 Mechanicsburg, before the doors open we will have
21 spent and invested \$1.6 million in training new
22 employees so that they are properly trained to service
23 our customers in the right way.

24 The Wegman family believes that our
25 philosophy of putting employees first results in

01 unparalleled service. Our motto, Every Day You Get
02 Our Best, is something each of our employees believes
03 in. As a result, our customers have made it clear
04 that they appreciated the convenience, the quality and
05 the wide variety of choices that we offer. Simply
06 put, we strive to give customers what they want.

07 In February we conducted a survey of our
08 Pennsylvania customers regarding their desire to
09 purchase beer in our restaurants which are located
10 within our food stores. The result was similar to
11 several other polls that have been conducted recently
12 to gauge the consumer preference on this issue.
13 Ninety-three (93) percent of more than 3,000
14 respondents said that they would like the convenience
15 of buying beer when they shop with us. This was not a
16 surprise to us. Wegmans has sold beer safely and
17 responsibly in our stores in New York and New Jersey
18 and Virginia for decades.

19 In reality, many supermarkets run bona
20 fide restaurants. Wegmans Market Café restaurants are
21 larger than most national chain restaurants. We
22 currently provide seating for between 150 and 275
23 customers depending on the size of the store. This
24 capacity is anywhere from five to nine times the
25 number of seats required to meet the LCB's definition

01 of a restaurant.

02 As I stated earlier, we employ trained
03 chefs and other culinary professionals many of whom
04 are graduates of the Culinary Institute of America.
05 Our customers enjoy a wide variety of food from hot
06 Chinese food, Thai dishes, Italian food, pizza, pasta.
07 We have sushi. We have traditional American food as
08 well as premium seafood and prime rib entrees that are
09 made to order. Our Market Cafés are a vital component
10 of our business model and generate, on average, almost
11 ten percent of our stores' gross revenue.

12 Wegmans has been operating restaurants in
13 its stores in Pennsylvania from the day we opened in
14 Pennsylvania in 1993. Given that we more than meet
15 the LCB's requirements for a restaurant, it is not
16 apparent why our restaurants should be placed at a
17 disadvantage from a licensing standpoint from any
18 other restaurant with whom we compete. The licenses
19 we are purchasing are regular R licenses, and we have
20 been and will continue to pay the current market price
21 for these licenses in the counties in which we operate
22 in.

23 Some have expressed a concern that sales
24 to minors would increase if restaurants located within
25 food stores were allowed to sell beer. At Wegmans no

01 one is able to buy beer in any of our stores without
02 proper ID. That is because we have a 100 percent
03 proofing policy. We require every customer regardless
04 of their apparent age to present an ID. At Wegmans I
05 would be carded if I tried to buy beer. Each of you
06 would be carded in this room if you tried to buy beer,
07 and our kids would be carded if they were to buy beer,
08 and our parents would also be carded if they attempted
09 to buy beer at Wegmans.

10 The decision of whether or not to ask for
11 ID is never left to a cashier. It is policy. It has
12 to happen. It is not discretion. Every single
13 customer purchasing beer is asked for ID. We intend
14 to implement this same policy in Pennsylvania. This
15 is one indication of just how important preventing
16 underage sales is to us, and it works. We implemented
17 this new policy in 2004, and since June of 2004
18 Wegmans has conducted 11.9 million transactions where
19 we have sold beer with zero violations.

20 If we were to sell beer in our
21 Pennsylvania restaurants it would be located only in
22 our Market Cafés. Wegmans intends to sell in our
23 Market Cafés, and we have applied for six licenses.
24 They are through the PLCB right now. Furthermore, the
25 practice of licensing restaurants within grocery

01 stores is not new. The Pennsylvania Liquor Control
02 Board has issued licenses to establishments in
03 Pennsylvania such as department stores and grocery
04 stores at least since the 1950s. Just this summer the
05 PLCB issued a license to Vidalia Marketplace a small
06 grocery store in Bucks County that is currently
07 selling beer to its customers. The Pennsylvania
08 Liquor Control Board recognizes the convenience
09 provided to consumers for purchasing alcoholic
10 beverages while shopping for food, and it has been
11 supportive of grocery store locations and leases for
12 PLCB State Stores.

13 If you've been to a Wegmans, you would
14 realize that we have made a significant investment in
15 our kitchen equipment and our restaurants to provide
16 the best prepared food to our customers. To that end,
17 Wegmans has invested, on average, \$5 million in
18 kitchen equipment in an average new store. This is a
19 significant commitment to our employees as well as our
20 customers and one we will protect ensuring the
21 responsible sale of alcoholic beverages.

22 House Bill 1637 which requires a floor to
23 ceiling wall between our store and our restaurant
24 would destroy our business model that our customers
25 have grown to love. The legislation, in its current

01 form, would prevent us from selling malt and brewed
02 beverages within our Market Café restaurants and
03 inhibit our ability to meet the demands of our
04 Pennsylvania customers. This bill would prevent not
05 only grocery stores that run full scale restaurants,
06 but would also affect other business models. Any
07 business that features an interior connection between
08 the licensed and unlicensed premises would be
09 impacted. The end result would be that the customer
10 lose.

11 We would be happy to work with the
12 Committee to develop legislation that would address
13 concerns over the abuse of alcohol, and to that end,
14 we have provided the Chairmen of both this Committee
15 and the Senate Law and Justice Committee with copies
16 of our 100 percent proofing policy and the training
17 materials that we use to execute this policy.

18 In summary, there is no reason to treat
19 restaurants located within food stores any differently
20 from restaurants located in malls, shopping plazas or
21 elsewhere. Grocery stores that maintain bona fide
22 restaurants that match or exceed the LCB's
23 requirements for seating, partitions, et cetera,
24 should simply be granted the benefit and inherent
25 responsibilities of a license, just as any other

01 restaurant license in the Commonwealth.

02 In addition to this, and our testimony
03 will be submitted there is an extensive detail of our
04 community relations activities in all of the
05 communities where we do business throughout the
06 Commonwealth. Thank you ladies and gentleman, and I'd
07 be happy to answer any questions you may have.

08 CHAIR DONATUCCI:

09 Thank you, Dave. The follow-up on
10 Representative Water's question, do you have the
11 automatic checkout booths?

12 MR. DEMASCOLE:

13 Currently, in New York, we do not have
14 that technology. This is the training manual. We do
15 train everyone to look for IDs. The technology
16 they're speaking about to be able to scan and take
17 licenses is something that we're looking at.

18 CHAIR DONATUCCI:

19 No. What I'm asking you is Philadelphia,
20 they have these automatic checkouts ---.

21 MR. DEMASCOLE:

22 We do not have self-checkouts. We do not
23 have self-checkouts.

24 CHAIR DONATUCCI:

25 Okay. Any other questions?

01 Representative Costa?

02 MR. COSTA:

03 Thank you, Mr. Chairman. The first
04 question, those automatic scanners which I think Dave
05 was talking about where you scan the driver's
06 license, ---

07 MR. DEMASCOLE:

08 Yes, yes.

09 MR. COSTA:

10 --- how much are those items?

11 MR. DEMASCOLE:

12 I don't know. And actually, quite
13 honestly, they would certainly be less than many other
14 investments that we've made to do this properly. And
15 we would look at it very carefully, and if it proved
16 to be the right thing and the best thing to do, we
17 will certainly invest in that.

18 MR. COSTA:

19 And in your testimony, you are comparing
20 yourself to restaurants. And the previous testimony,
21 they compared you to a distributor. If you get a
22 license and you set up, do you perceive more take-out
23 or do you perceive more people want to have a beer
24 while they have food at your restaurant?

25 MR. DEMASCOLE:

01 We actually foresee both. We know that
02 there is a definite affinity between food and beer,
03 and that would be enjoyed both in our café and our
04 customers to go. A lot of our restaurant food is also
05 sold to go. In addition to the 200 seats that we
06 have, we take advantage of the kitchen and the
07 investment that we've made to service both to go and
08 dine-in. We think that both of those customers would
09 purchase beer with their food.

10 MR. COSTA:

11 Thank you.

12 CHAIR DONATUCCI:

13 Thank you. Representative Raymond?

14 CHAIRMAN RAYMOND:

15 Thank you, Mr. Chairman. Have you seen
16 Wegmans --- can you see your restaurants that's in
17 there, the restaurants that you have in your stores
18 are probably bigger and larger than that --- than
19 restaurants that have licenses in Pennsylvania, and as
20 you mentioned Applebee's. You're bigger than them.
21 To suggest it would be a stop and go take out is, I
22 think, is far afield. I think what Pennsylvania needs
23 to see is things like you're proposing to move this
24 state forward and not back to the prohibition era, and
25 I think it's a long time doing. You mentioned all

01 these other states all over this country and see all
02 these other states in the country have promoted the
03 proper and legitimate promotion of better
04 establishments in our state and not close it down.
05 It does a great job for this district and a very good
06 person and legislator, but I think this will go too
07 far the wrong way in prohibiting good things like
08 you're proposing.

09 MR. DEMASCOLE:

10 Thank you.

11 CHAIR DONATUCCI:

12 Thank you, Chairman Raymond. Just a
13 quick comment before we hear --- I, too, echo Chairman
14 Raymond's remarks. Yesterday I was impressed by
15 Wegmans, in terms of your operation, and I want to
16 commend you for opening stores in Pennsylvania. I
17 understand you will be opening one, Sunday, in
18 Harrisburg. The only problem I got is I hope Wegmans
19 starts locating in Southeastern United States.
20 Basically the Philadelphia area, Philadelphia suburbs
21 are in need of good supermarkets, and I want that on
22 record and bring back to the corporate heads that I
23 would like to see a Wegmans close enough to my home
24 that I can shop at Wegmans and enjoy your restaurant
25 too.

01 MR. DEMASCOLE:

02 I will do that. Thank you.

03 CHAIR DONATUCCI:

04 My next --- I will recognize
05 Representative Blackwell.

06 MR. BLACKWELL:

07 You just stole my thunder. Yes, I, too,
08 --- it was unfortunate, I was not able to tour your
09 facility. You have to have another hearing in
10 Allentown. I do plan on going to the one in
11 Harrisburg. I know you talked about it last evening.

12 MR. DEMASCOLE:

13 Yes.

14 MR. BLACKWELL:

15 But as a representative of the 198th
16 District, I expressed this to you last night and to
17 Craig when he came into the office, what benefit ---
18 and it goes with what the Chairman just said. I'm in
19 the southeastern part of the state. Understanding
20 that we have a supermarket not too far from here, a
21 fresh grocer ---.

22 UNIDENTIFIED SPEAKER:

23 Greenfield.

24 MR. BLACKWELL:

25 They want the ability to do the same

01 things that --- I noticed that your --- everyone is
02 referring to your place as a restaurant.

03 MR. DEMASCOLE:

04 Yes.

05 MR. BLACKWELL:

06 And as I said, I don't want to confuse
07 the restaurant versus the stop and go, which we are
08 having a very serious problem. Anything that --- you
09 know, I believe that I am in the business of
10 compromise. I'm also in the business --- I usually
11 elect active people to represent their views. Now,
12 I'm in a crisis situation. At Stop 'N Gos, which you
13 are not representing, they have caused devastation to
14 our community.

15 I have a nice gloomy story --- I have no
16 reason not to believe what you're saying. I also have
17 beer distributors in my districts. I am not going to
18 see go out of business. I am pro-business, and that
19 business is operating responsibly. What benefit would
20 I have in supporting what you're saying when it has no
21 benefit, tangible benefits to the people that I
22 represent, because ultimately, same, you have to say
23 you have to answer to your bosses, ---

24 MR. DEMASCOLE:

25 Yes.

01 MR. BLACKWELL:

02 --- I have to answer to my bosses. So in
03 other words, how can I justify to my constituents,
04 one, that you're operating a business responsibly? I
05 have no reason to believe that you're not, especially
06 with what my colleagues to me last night, but still,
07 what benefit is it to my community, because right now
08 there is no investment in my community, commercial
09 investment. This is what I believe will sustain this
10 community. You need commercial investment,
11 responsible commercial investment. I'm like the
12 Chairman, I would like to see an investment in the
13 southeastern part of the state, but I believe --- the
14 190th district.

15 But still I know you will not be given
16 the authority to do this and other supermarkets would
17 not have the ability to do it, but what incentive do I
18 have to one make sure that the distributorships that
19 are basically are conducted without a business. Two,
20 why should I deal with it if I don't see a benefit for
21 my constituents?

22 MR. DEMASCOLE:

23 I understand, Representative, and
24 appreciate the concern that you have. One thing that
25 we do have to offer, and we have shared it, and we

01 would be very proud to share this in the future to
02 help set the model. In our training this is in
03 addition to above and beyond Pennsylvania RAMP
04 training. We think that our policy of 100 percent
05 proofing. Along with our training, the Wegmans family
06 has a deep belief in people, and if we invest in our
07 people with training and teach them the right way to
08 do things and have policies and procedures to support
09 it, that we can responsibly sell alcohol and do other
10 things through training. Thank you.

11 CHAIR DONATUCCI:

12 I want to welcome Representative Beyer,
13 and I want to recognize Representative Beyer.

14 MS. BEYER:

15 Well, thank you, Mr. Chairman. I hope
16 everybody can hear me. I was worried about whether or
17 not if everybody could hear. So Mr. Chairman, if you
18 could just ask everyone to kind of ---.

19 CHAIR DONATUCCI:

20 Well, speak up higher.

21 MS. BEYER:

22 Speak it up a little bit. Well, you were
23 just in Allentown, so you were up in my neck of the
24 woods. And I share Representative Blackwell's
25 concerns. For him and I both to represent urban

01 areas, we have a bit of a different take on it. Now,
02 there are three Wegmans up in the Lehigh Valley, all
03 in pretty close proximity to my district, but I have a
04 concern about not your restaurant side of the
05 operations, but your beer sales side of the operation
06 and the availability of it and how it can blight
07 neighborhoods, because it's not just going to be
08 Wegmans we're talking about. And it would be nice if
09 we could just grant them to you, but as Representative
10 Blackwell said, there will be many, many other
11 applications for the same thing that you're asking
12 for. And Constitutionally, we can't say just Wegmans
13 and not everybody else.

14 So carding and all of that --- this is an
15 issue that goes beyond the age and the availability of
16 beer; isn't it? It is a bigger question than just
17 whether or not you're selling beer to underage
18 drinkers.

19 MR. DEMASCOLE:

20 If I could answer, I mean, although we
21 operate a grocery store and our restaurant is
22 attached, the beer sales would only be in the
23 restaurant, not within the grocery store. And I
24 realize that the statistics that I show from our New
25 York stores they do sell beer in the grocery stores in

01 many other states. And our proposal here is to limit
02 it to Market Café Restaurant. The restaurant is
03 attached to the store so the customers can go back
04 ways, but it is not really in an aisle in the store.
05 It is completely --- it is separated from the rest of
06 the grocery store. It is part of the food section and
07 then it leads into the restaurant section.

08 MS. BEYER:

09 Right. And I know that that's exactly
10 the way you handle it, and having been on the tour
11 yesterday I know what you're going to do. But the
12 recognition that you need to know as we deliberate
13 this whole issue, not everyone's going to do it the
14 way you do it. And that's really the problem.

15 There's a secondary problem that I
16 mentioned yesterday, and I'll just bring up briefly,
17 is as we promote this idea of beer sales in
18 convenience stores and markets, what I'm concerned
19 about is the craft breweries, micro-breweries, those
20 smaller businesses throughout the State of
21 Pennsylvania and whether or not large giant brewers
22 like Miller, Anheiser-Busch and all of them will
23 simply put them out of business, and so I'm concerned
24 about availability. And we know how those breweries
25 work, where they go into large supermarkets and other

01 states and they buy in higher areas and say I want
02 that whole area. So can you maybe elaborate on
03 Wegmans' commitment to the craft brewers?

04 MR. DEMASCOLE:

05 Well, first of all, to do what
06 manufacturers want to do as a retailer it's very
07 dangerous. As I stated, we try to do what our
08 customers want. We listen to our customers and we
09 react, and that's the only way we're going to stay in
10 business. The Wegmans family has been operating
11 stores since 1916. We're in fourth generation of
12 ownership and we've sustained this business by
13 listening to customers. We also have a very
14 appreciation for local products, and although we've
15 not been able to do that with craft beers, we have
16 developed programs throughout the State of
17 Pennsylvania to work with local farmers in each
18 community where we have stores.

19 We empower the produce managers in those
20 stores to be able to purchase directly from local
21 growers. We developed a system to help make sure that
22 they get paid properly and promptly. In the last year
23 during the homegrown season, during a six-month
24 period, our stores did business with 119 different
25 farmers located around our stores for a total of \$1.1

01 million in sales. And that would be our same
02 intention to pursue that with all of the craft
03 breweries throughout Pennsylvania.

04 MS. BEYER:

05 Thank you.

06 CHAIR DONATUCCI:

07 Thank you. Representative O'Brien.

08 MR. O'BRIEN:

09 Thank you, Mr. Chairman. Good morning.

10 I have just a couple questions, Representative
11 Blackwell's and again, Representative Beyer's. In
12 Lehigh Valley there's three Wegmans. My concern isn't
13 necessarily about Wegmans opening the door and seeing
14 what other businesses that may not run things as well
15 as you do. And secondly, isn't the intent at this
16 point just to sell beer and six packs, the license
17 hard liquor on the premises. I know that's not part
18 of your plan right now, but if customers would come in
19 you would probably want to ---.

20 MR. DEMASCOLE:

21 Well, our intent is to have this --- have
22 the beverages compliment our food offerings. So we do
23 believe that there is an affinity and a compliment of
24 beer and wine with food, but we do not see any
25 connection between spirits or hard liquor with food,

01 and we have no intentions of pursuing that. We feel
02 that in a restaurant setting, you have a beer with a
03 meal or a glass wine with a meal would be appropriate,
04 but not hard liquor.

05 MR. O'BRIEN:

06 You're talking about Wegmans specifically
07 not, but that may be the intent of others.

08 MR. DEMASCOLE:

09 Understood.

10 MR. O'BRIEN:

11 Thank you.

12 CHAIR DONATUCCI:

13 Thank you, Representative O'Brien.

14 Representative Thomas.

15 MR. THOMAS:

16 Thank you, Mr. Chairman. I have two
17 concerns. It was moved by how long Wegmans has been
18 in business and the family history. So moved --- I
19 have to ask, why haven't you located in Southern
20 Pennsylvania, or even in Philadelphia County? And I
21 say that because I know that the Chairman of the
22 Appropriations Committee, House Appropriations
23 Committee, in conjunction with the Chairman of the
24 Health and Human Services Committee, held a series of
25 hearings around the Commonwealth of Pennsylvania and

01 the people of Philadelphia County and surrounding
02 counties have stated that they need supermarkets.
03 They need markets in our communities, and I'm just
04 curious, given your long history, why has Philadelphia
05 County and Southeastern Pennsylvania basically been
06 overlooked?

07 MR. DEMASCOLE:

08 Thank you for the question. I'm not in
09 the real estate department to speak specifically about
10 it, but one of the things to note is since 1916, we've
11 been in business for over nine years, we've only had
12 71 stores. The growth of our company is very
13 methodical and very slow and well thought out. This
14 year we're only opening one new store, so although we
15 have 11 and we'll soon have 12 stores in Pennsylvania,
16 that has taken a long time. June 20th, 1993 we opened
17 in Erie, Pennsylvania so it's been a little over 14
18 years that it's taken us to get to 11, and soon 12
19 stores.

20 You know, it's a very slow and methodical
21 process. We are not just putting up stores. We are
22 not just creating jobs. We enter into this as a major
23 investment, and it's a major investment in the
24 training and we're creating careers. I can't say
25 exactly where our future stores will be, but it is a

01 very slow road that we had, and that can be a factor
02 why we're not located closer.

03 MR. THOMAS:

04 My second concern runs through when you
05 look at what has been happening in Philadelphia
06 County, Allentown, Erie, other parts of the state one
07 of the things that becomes increasingly clear is that
08 our investments need to be made in families first and
09 providing families with the kind of support that they
10 need. When I look at current statistics, any efforts
11 to increase the flow of alcohol and drugs becomes ---
12 I'm opposed to it, out of hand. Not because I'm
13 opposed to the business --- your business, ---

14 MR. DEMASCOLE:

15 I understand.

16 MR. THOMAS:

17 --- but I just think that, legislatively,
18 we've got to focus on how we strengthen families in
19 our communities, and one of the ways of doing that is
20 minimizing the accessibility of alcohol, drugs and
21 guns. This proposal and any proposal, the Blackwell
22 proposal, is a step in the right direction, because I
23 think any time you can physically separate those who
24 drink alcohol from those who should not come in
25 contact with alcohol, it becomes a plus, and arguably

01 you minimize the access to alcohol to --- and young
02 people don't look like young people anymore. You
03 know, you have 15 year olds that look like 25 year
04 olds. And this identification thing, I'm glad you
05 check all cards, but that's a multi-million dollar
06 business now. People make up cards at will, so I
07 think unless we do something a little bit more
08 stringent, like maybe a partition, like maybe physical
09 separation of pure business activity from the
10 availability of alcohol and other things that end up
11 destroying lives rather than helping lives. So my
12 last question after all of that is what is Wegmans
13 doing to strengthen families and communities in
14 Allentown and in other places where you have stores?

15 MR. DEMASCOLE:

16 Thank you very much, Representative. I
17 can assure you that the Wegmans family shares your
18 values. Family values are apparent throughout our
19 company, and I can tell you from a personal note that
20 I have worked for the Wegmans family for 28 years.
21 When I started the job, I never thought that it would
22 be my lifelong career, but the Wegmans family has been
23 very good to me, and we believe in investing in people
24 and helping people. Last year in the State of
25 Pennsylvania our payroll and benefits were \$92 million

01 in our 11 stores. Another interesting thing is that
02 the Wegmans family has developed for our employees, a
03 scholarship program. And since 1996 when we started
04 this in Pennsylvania, we've given to our employees in
05 Pennsylvania over 3,000 scholarships to help them pay
06 to continue their education, because we believe in
07 those family values that education plays a part as
08 well. When we bring somebody into our store as an
09 employee, they're joining a family. There's training,
10 there's support and there's a career ahead of them,
11 and that helps contribute to family values.

12 MR. THOMAS:

13 I would probably add to that, you have a
14 meeting with the two Chairpersons and with
15 Representative Blackwell and look at ways in which you
16 could help bring that family business, not the alcohol
17 but the family business, to Philadelphia, Southeastern
18 Pennsylvania.

19 CHAIR DONATUCCI:

20 198th District.

21 MR. DEMASCOLE:

22 Thank you.

23 MR. THOMAS:

24 181.

25 CHAIR DONATUCCI:

01 Dave, you mentioned your employees in
02 terms of longevity. What is your current employee
03 turnover?

04 MR. DEMASCOLE:

05 Actually our turnover in our business is
06 very low for our industry. Again, if you think of
07 Wegmans team recognized as the number one employer by
08 Fortune Magazine, that's not the place that a lot of
09 people are leaving. Our full-time employees, the
10 turnover is very low, in the single digits, and in
11 part-time it is actually not that high either. The
12 turnover is not a major problem for our business.

13 CHAIR DONATUCCI:

14 Thank you. We're running late, so I hope
15 the questions get shorter. Representative O'Brien.

16 MR. O'BRIEN:

17 I promised myself I wouldn't do this, but
18 I'm going to give my wants and desires. It's no
19 secret an unabashed fan in Southeast Pennsylvania for
20 a Wegmans. Have I got a parcel for you, right between
21 Representative Thomas' and my district. Give us a
22 call.

23 MR. DEMASCOLE:

24 Thank you, Representative.

25 CHAIR DONATUCCI:

01 Representative Pyle?

02 MR. PYLE:

03 Thank you, just a couple questions.

04 What's the average square footage of a Wegmans?

05 MR. DEMASCOLE:

06 Our new stores are all 130,000 square
07 feet.

08 MR. PYLE:

09 A 130,000 square feet. There's no way to
10 mistake Wegmans Market from a Stop and Pop, a quick
11 corner store in Allentown?

12 MR. DEMASCOLE:

13 No. Our stores are very large and need
14 very big sites. Fifteen (15) minimum, 15 to 20 acre
15 sites.

16 MR. PYLE:

17 On average, how many employees per
18 average store?

19 MR. DEMASCOLE:

20 500.

21 MR. PYLE:

22 500?

23 MR. DEMASCOLE:

24 500.

25 MR. PYLE:

01 500 jobs.

02 MR. DEMASCOLE:

03 Our 11 stores have 6,000 employees right
04 now.

05 MR. PYLE:

06 Very good. Mr. Chairman, if I can, I'll
07 keep it very short. In my limited time on Liquor
08 Control, what I do know, that it is our obligation to
09 keep the field level. And I like what Representative
10 Blackwell has written in his legislation, but you got
11 to understand we're dealing with different animals
12 here. A Stop and Pop on the corner is nothing like I
13 saw at Wegmans. Okay. And I have another question
14 for Mr. DeMascole. The separation issue, the four-
15 foot wall versus the whole ceiling wall, what's your
16 perspective on that?

17 MR. DEMASCOLE:

18 Well, as I stated earlier, it's important
19 to us to consider customers to go, for dining out, or
20 dining in from the same kitchen facility. So they
21 need to be able to traverse between the two.

22 MR. PYLE:

23 Now, you mentioned in your vision, you
24 won't have --- like I lived in West Virginia for seven
25 years. They just have aisles of beer. That's not the

01 direction you're going.

02 MR. DEMASCOLE:

03 Absolutely not. I mean, that is how we
04 do it in New York. So if you've ever seen one of our
05 stores in New York, that's what you would see. Our
06 intention here is, they would be in the corner of our
07 restaurant.

08 MR. PYLE:

09 Totally separated?

10 MR. DEMASCOLE:

11 Totally separated.

12 MR. PYLE:

13 If a mom and her kid wants to go in and
14 buy a box of cereal and loaf of bread and some cheese,
15 they don't have to deal with the beer sales?

16 MR. DEMASCOLE:

17 No. They'll never see the beer sales.

18 MR. PYLE:

19 Okay. One comment, Mr. Chairman. Again,
20 the field's got to be level, but in a case like this,
21 you're comparing a very small apple against a very,
22 very big orange. And for the record, Representative
23 Thomas, I'm trying real hard for a Wegmans, too.
24 There's probably more people living in this
25 neighborhood than I have in my whole county. So I'm

01 working for ---.

02 MR. THOMAS:

03 I support all this. I'm just trying to
04 minimize the --- not minimize the availability of
05 alcohol to too many folks that abuse it. When you
06 look at the crime, not just here, but throughout
07 Pennsylvania, alcohol and drugs comes up as an
08 aggravating tool. So to that end, that's my big
09 interest, and I support Blackwell, you, and my friend,
10 Michael O'Brien, in bringing a Wegmans to
11 Philadelphia.

12 MR. PYLE:

13 I'll work on Wegmans for 191st if you
14 help me with 60th. That's how it's done.

15 MR. THOMAS:

16 As long as there's no alcohol.

17 CHAIR DONATUCCI:

18 Thank you very much. Next witness Ms.
19 DeBacci from the Executive Director of Pennsylvania
20 Against Underage Drinking.

21 MS. DEBACCI-ERNI:

22 Thank you, Representative. Thank you
23 having me here tonight. Felicity DeBacci-Erni,
24 Pennsylvania Against Underage Drinking and
25 Pennsylvania SADD. We represent over 700 SADD

01 chapters in our schools and communities across the
02 Commonwealth. That's thousands of young people in our
03 Commonwealth. The 2005 Pennsylvania youth survey
04 conducted by the Center for Research in Pennsylvania
05 on crime and delinquency reports that 2005,
06 Pennsylvania students report the highest lifetime
07 prevalence youth rate of alcohol.

08 Fifty-eight (58) percent of participants
09 reporting they've used alcohol in their lifetime.
10 Additionally, data for our twelfth graders is at an
11 all time high, especially the reported rates of binge
12 drinking. Compared to the counterpart, Pennsylvania
13 students report a higher average lifetime use rate of
14 alcohol, comparing the national monitoring the future
15 survey, the substance abuse rate of twelfth graders is
16 75 percent. Our students are at all time high 85
17 percent substance abuse rate in Pennsylvania. Ten
18 percent more than national average.

19 That's with the outlet as they are today,
20 beer distributors. The system that we have in place
21 today is the system that is creating this without
22 opening up the floodgates for any more licenses in
23 Pennsylvania. Underage drinking remains a top
24 priority in Pennsylvania. And the research conducted
25 by the University of Minnesota's alcohol epidemiology

01 program cites that when the general public was asked a
02 question, stores and bars are too lax in preventing
03 teenage drinkers from buying, nearly 79 percent of the
04 general public agreed that they were too lax in
05 preventing alcohol sales to minors.

06 Additional research from the Harvard
07 School of Public Health cited that in college
08 communities lower binge drinking rates exist among
09 students at schools whose administrators indicate that
10 outlet density may impact drinking by making low cost
11 or volume discounts available. Newspapers such as our
12 Center Daily Times reported that on January 4, 2007
13 the Penn State class of 2006/2008 showed a 40 percent
14 increased rate of underage drinking citations among 18
15 year olds, and a 33 percentage increase of underage
16 drinking citations among our 19 year olds.

17 A sidebar on that, our Pennsylvania
18 2006/2007 student of the year, our SADD student of the
19 year, Andrew Karasik, is a Freshman at Penn State
20 University Park. Two weeks ago I had a conversation
21 with him about what's really happening at Penn State,
22 and I asked him this one question, how many minutes
23 was it before your parents dropped you off and left
24 you at the dorm were you able to access alcohol. This
25 is a young man who's never touched alcohol in his

01 life, drugs, cigarettes. He was pure as could be. He
02 told me five minutes, and that was in the residence
03 hall. So it's out there and easily accessible to our
04 young people.

05 As our organization has noted previous
06 testimony this year, the 2003 National Academy of
07 Science Report of responsibly of underage drinking,
08 one of the recommendations clearly stated in this
09 report was to eliminate underage drinking by
10 eliminating licenses at convenience stores. In an
11 effort to continue in the great work of many
12 representatives here today, we will respectfully
13 request that members of this Committee and partners
14 take the handheld approach in preventing alcohol sales
15 at convenience and grocery stores, and support the
16 efforts of Representative Blackwell and others who
17 take action towards abusing acts of alcohol and
18 eliminating alcohol outlets and licenses in the
19 Commonwealth.

20 Additionally, to further look at the
21 subject of underage drinking. If you'd like to refer
22 back to the IOM report, the Institute of Medicine
23 report, and highlight strategies recommended to reduce
24 underage drinking. Three of those would be, develop a
25 statewide strategic plan to include responsible

01 practices, laws and policies driven by data and
02 scientific evidence if there's to be an increase of
03 availability across the Commonwealth, continue the
04 compliance check program currently being conducted by
05 the Liquor Control Enforcement Agency of the State
06 Police and expand that to allow the local law
07 enforcement to partner with the LCE in their
08 compliance check efforts, increase prevention funding
09 for local community coalitions and prevention programs
10 at local and state levels.

11 And on that note, we would like to take
12 the opportunity to congratulate the Pennsylvania
13 Liquor Control Board in their recent announcement last
14 week to continue offering grants to local communities.
15 At this time I'll take any questions.

16 CHAIR DONATUCCI:

17 Thank you. Any questions?

18 MR. PYLE:

19 I have one.

20 CHAIR DONATUCCI:

21 Representative Pyle.

22 MR. PYLE:

23 Having formally sponsored the SADD
24 chapter at the high school I taught at, you've
25 identified instances of underage drinking, but you

01 don't offer what the source of this underage drinking
02 is. It was my impression of this hearing, are we
03 going to license restaurants for beer sales or not.
04 I'm curious, drinking in underagers is up. Where are
05 they getting it?

06 MS. DEBACCI-ERNI:

07 In Pennsylvania, the majority of young
08 people are getting it from adults. They're getting it
09 from parents. They're getting it from siblings.
10 They're also getting it from the establishments that
11 are already out there. A lot of those establishments
12 are doing a fantastic job, but there are some, a known
13 few, that they are selling to minors. And I believe
14 the latest State Police compliance check data shows
15 that there is a 40 percent non-compliance rate when
16 young people, including 18 to 21, taking their own
17 identification to establishments. Forty (40) percent
18 are allowing those sales to go forward. So they are
19 getting it themselves, in addition to the other
20 places. And you can check with the State Police on
21 that.

22 MR. PYLE:

23 Thank you.

24 CHAIR DONATUCCI:

25 Any other questions? Thank you for your

01 testimony.

02 MS. DEBACCI-ERNI:

03 Thank you.

04 CHAIR DONATUCCI:

05 Next witness is Randy St. John, Jr.,
06 Senior Vice President of Pennsylvania Food Merchants.

07 MR. ST. JOHN:

08 Good morning.

09 CHAIR DONATUCCI:

10 Good morning.

11 MR. ST. JOHN:

12 I'm Randy St. John. I'm here today on
13 behalf of the Pennsylvania Food Merchants Association
14 and the Pennsylvania Convenience Store Council.
15 Together we have 1,400 corporate members who operate
16 more than 5,000 stores in Pennsylvania and the
17 surrounding states. We oppose House Bill 1637 for
18 many reasons, but here are a few.

19 It's a fact of nature there's nothing
20 permanent, but change. Everything changes. We don't
21 have very many blacksmiths in Pennsylvania anymore
22 because we mostly get around in cars. We don't have
23 many folks making butter churns or sickles or horse
24 harnesses because most of us don't live on farms
25 anymore. Everything changes.

01 In the retail world things change
02 constantly, as stores actively compete to give
03 customers what they want. Do you want to save some
04 time shopping? You can do your banking at the
05 supermarket or you can buy milk at the drug store or
06 you can skip the drug store and fill your prescription
07 at the supermarket pharmacy. You can drop off your
08 dry cleaning at the supermarket, get your photographs
09 printed there. You can skip the florist if you want.
10 You can buy flowers at the supermarket. You can buy
11 gift cards for every store imaginable at a convenience
12 store. You can skip Starbucks if you want and get
13 double espressos at supermarkets and convenience
14 stores. You can even buy a phone at a convenience
15 store.

16 My point is that everything is constantly
17 changing in the retail world because we are allowed to
18 compete. We're allowed to innovate. We're allowed to
19 provide for customers by being convenient and quick
20 and timely. So everything changes except how we sell
21 beer in Pennsylvania.

22 CHAIR DONATUCCI:

23 Randy, could you speak up a little
24 louder, please.

25 MR. ST. JOHN:

01 And so everything changes except how we
02 sell beer in Pennsylvania. And this bill is
03 specifically designed to ensure that nothing ever
04 changes for beer distributors. The retail world is
05 going to be changing, improving, becoming more
06 customer friendly, more convenience oriented, but beer
07 distributors will be allowed to remain the same
08 because a long, long time ago someone gave them
09 exclusive monopoly on case beer sales.

10 Have you ever tried to explain to someone
11 who didn't grow up in Pennsylvania how we retail adult
12 beverages? You'd have to say something like this.
13 Here's how it works. You go to a store owned and
14 operated by the State of Pennsylvania to buy wines and
15 spirits, and even though we do this to make money for
16 the state, we stated that we do this to somehow
17 control the sale of liquor, but you can't buy beer
18 there. If you want to buy one or two six packs of
19 beer you go to a restaurant or to a tavern, but you
20 can't buy a bottle of wine there. And if you want to
21 buy three six packs of beer, they can't sell them to
22 you all at once. If you want to buy a case of beer
23 you go to a beer distributor, but they can't sell you
24 a single six pack or a bottle of wine because someone
25 a long time ago decided it's safer for them to sell

01 only cases.

02 Now, it isn't your fault that we have
03 this system. It was in place long before any of us
04 were born, but you certainly don't have to pass a new
05 law that actually makes the present system even worse
06 than it is now by preventing innovation and by
07 preventing competition. This bill benefits absolutely
08 no one except the beer distributors. We feel if
09 retail evolves, as it naturally does, in all other
10 parts of the country to make life simpler, to make it
11 more convenient, to make it more customer friendly,
12 but in doing so we have to be respectful of the equity
13 rights of the beer distributors and the taverns and
14 the restaurants. And we must look to solve the
15 problems with nuisance bars, bottle shops, Stop 'N Gos
16 that plague many of our urban areas.

17 So the Food Merchants Association and the
18 Convenience Store Council respectfully ask that you
19 oppose this bill. Pennsylvania voters, your
20 constituents, who said time and time again, through
21 both newspaper and independent polls that they want
22 convenience. Let's work together to find ways to give
23 it to them.

24 CHAIR DONATUCCI:

25 Representative Blackwell?

01 MR. BLACKWELL:

02 Thank you, Mr. Chairman. Thank you for
03 your testimony, sir, but when you said voters say ---
04 our voters are saying to stop this mess. That's why I
05 approved this bill.

06 MR. ST. JOHN:

07 I understand.

08 MR. BLACKWELL:

09 I'm pro business, but I'm also for
10 businesses being responsible. I'm not trying to
11 prevent anyone from making money, but my father always
12 told me that some money is not worth having. Some
13 people who operate these --- not personally, sir, but
14 some people who operate these businesses are acting in
15 a responsible manner.

16 I enjoyed the testimony, or the
17 presentation from the gentleman from Wegmans, but
18 everyone is not going to operate their business like
19 they do. We're trying to prevent irresponsible
20 businesses. We're trying to stop the proliferation of
21 alcohol and drugs and things of that nature in our
22 communities. It's ironic, that until we introduce
23 this bill and until we had this hearing here, those
24 people who are making money off our community would
25 stay, because the money flows. There's nothing wrong

01 with making some money, but we should want to do it in
02 a responsible manner. We're not trying to control
03 everything here. We're trying to control a behavior,
04 a crisis in our neighborhoods, and the problem is
05 because of what's happening with the Stop 'N Gos, as I
06 see you have mentioned in your testimony, you
07 mentioned it because of your opposition to the bill.

08 Had there not been a bill, sir,
09 respectfully, I wonder if that would be coming from
10 you or not, because I hear nothing from people who
11 operate businesses irresponsibly unless they're
12 threatened by not being able to continue those types
13 of business, then they want to clean up their act. I
14 want businesses --- I need to work on investments in
15 my community, but I don't want that investment at all
16 costs. I want to see proliferation of not only
17 alcohol, but I want to see a proliferation of drugs,
18 of dope addicts, of prostitution, everything that
19 irresponsible people encourage through their profits.
20 I don't want to see that continue in my community.
21 That's why I produced this bill.

22 If we can come up with a better way of
23 doing it, a compromise, but it's not enough to say
24 don't do this and don't do that and don't come up with
25 an alternative other than just making money. Thank

01 you, Mr. Chairman.

02 CHAIR DONATUCCI:

03 Thank you. Any other questions? Thank
04 you.

05 MR. ST. JOHN:

06 Our families and our employees live in
07 the same communities that you do, and we deplore all
08 the social wells that you've just enumerated. And we
09 would be happy to work with you to do anything
10 possible to start to attack the problems that are
11 caused by Stop 'N Gos, nuisance bars. We're here,
12 too, and so are our employees part of your community,
13 so all the things that you deplore we deplore as well.

14 MR. BLACKWELL:

15 Thank you, sir.

16 CHAIR DONATUCCI:

17 Thank you. Any other questions? Thank
18 you, Randy. We'll take a five-minute break.

19 SHORT BREAK TAKEN

20 CHAIR DONATUCCI:

21 Any time you're ready.

22 MS. BLACK:

23 Good afternoon. My name is Geneva Black.
24 I am the Executive Director of this facility,
25 Haddington Multi Services for Older Adults,

01 Incorporated. I have heard all of the testimony today
02 of the effects of the House Bill. I've heard all of
03 the technical things that are changed, but my position
04 here and this agency is to enhance the lifestyle of
05 older people regardless of race, religion or special
06 orientation, and that's what we're trying to do here.

07 We represent all older people who are 60
08 and older and the entire west Philadelphia, both north
09 and south of west Philadelphia. And I must say that I
10 am a little upset with the way the whole agenda went
11 today because the community is just given a chance to
12 voice their views on this whole situation. They
13 talked about carding, well, we have a problem with
14 older people that drink as well and they don't need a
15 card, but they don't need for places to be convenient
16 for them to go and get the alcohol. It's detrimental
17 to their health as well as anything else.

18 We live in a high populated area of older
19 people, like I said before. We also live in a very
20 high crime and drug traffic area. We do feel that
21 additional and existing facilities that participate in
22 the sale of any alcohol will add to the existing
23 crime. It's really a bad feeling when you travel, and
24 recently I just came from San Francisco, and I told
25 people --- they said where are you from, I said I'm

01 from Philadelphia. They said no, you're from
02 Killadephia. That's a very bad feeling and for us to
03 continually bring things into our neighborhood that's
04 going to contribute to all the violence that is going
05 on presently, I think it has to stop. I don't think
06 any of us in this room that lives in this area or any
07 other urban area want to see alcohol sold in Stop 'N
08 Gos and in supermarkets. Thank you very much.

09 CHAIR DONATUCCI:

10 Thank you.

11 MS. CUMMINGS:

12 Good afternoon. My name is Bonita
13 Cummings, and I am the Director of Strawberry Mansion
14 Community Concern. I gave you some photographs to
15 show you the present condition of the brewed malt and
16 brewed beverage locations that are in Philadelphia, of
17 Strawberry Mansion community, so that you could see
18 the violators, the violations of which we presently
19 live.

20 There is a major crisis --- and before I
21 even start, I wanted to simply say that my thoughts
22 today and my testimony today is not in judgment,
23 because God has not granted me the authority to judge
24 anyone, but I do have the authority to judge the
25 impact of peoples positions on the quality of my life

01 and the life of the people I represent. So I just
02 wanted to make sure that that's clear.

03 There is a major crisis in the State of
04 Pennsylvania, Philadelphia County, regarding the sale
05 of malt brewed beverages. Any attempt to extend the
06 sale of brewed beverages, beer or malt liquor in
07 supermarkets or any other venue outside of its present
08 usage would be compounded such crisis and even
09 committing murder. Any attempt to extend the sale of
10 brewed beverages as witnessed from the State Act 155
11 hearing that started August the 30th, 2007 in
12 Philadelphia before our Malt and Brewed Beverage
13 Hearing Board will continue to endorse the corruption,
14 contamination and psychopathic behavior of attorneys,
15 witnesses, private investigators, manufacturers and
16 distributors representing malt and brewed beverage
17 businesses as well as the Pennsylvania Liquor Control
18 Board, the Pennsylvania Liquor Control Board
19 Enforcement, the House of Representatives and the
20 Senate.

21 If corruption is so great and out of
22 control that willingly the PLCB and the PLCBE
23 disregard their own law guides and attorneys and the
24 Constitution of the United States, and therefore will
25 contempt stripping away from the law abiding citizens

01 their right to peace, liberty, justice and the pursuit
02 of happiness, unless the intent is for the
03 disfunctionality, self-destructiveness and
04 victimization of African Americans or to further
05 induce criminality in significant proportions,
06 particularly in the African American young boys, ages
07 6 to 18, then there should be no problem in halting,
08 stopping any amendment or further discussion of any
09 extension of the Liquor Code in Philadelphia.

10 It should be noted by African American
11 state representatives and senators that no Jew or
12 Gentile, European, Asian, Dominican, Arab, Mexican or
13 Indian would allow you to acknowledge their children.
14 Every night they shake their head and they have
15 thousands of dollars, give a hearty laugh and say no
16 way. That was too easy. Malt liquor has isobutanol
17 in it.

18 Putting this matter in its proper
19 perspective, state representatives and state senators
20 have given Philadelphia urban neighborhoods an over
21 saturation of corner-store malt brewed beverage
22 license. They have allowed these businesses to exist
23 in their respective district in violation of Title 47
24 of the Pennsylvania State Police Bureau of Liquor
25 Control Enforcement Guide, the Pennsylvania Liquor

01 Laws, such as alcohol sales to minors, sales to minors
02 in the same area as drinking patrons, unsupervised,
03 selling untaxed cigarettes, operating in a noise and
04 disorderly manner, operating not as a bona fide
05 restaurant, insufficient food and seating, not having
06 30 seats per table, giving alcohol as prizes, selling
07 malt liquor on credit, operating within 300 feet of a
08 day care, church, et cetera. Window signage in excess
09 of 600 square inches without PLCB permission.
10 Supplying false documents to the Pennsylvania Liquor
11 Control Board. That's just to name a few.

12 We are asking that the Pennsylvania
13 Liquor Control Board, the Pennsylvania Liquor Control
14 Board Enforcement, state representatives and senators
15 recognize their misstep, regain their humanity and
16 correct the side on Philadelphia residents,
17 particularly African Americans. Further malt or
18 brewed beverage sales extending where you can
19 presently get them is not some cute idea of I'll pick
20 up a beer on my way home from the supermarket. It is
21 more scandalizing and demoralizing than that.

22 The continued failure to adhere to the
23 call for restoration to communities from the
24 devastation of the malt and brewed beverage businesses
25 and decreasing the number of alcohol sale locations

01 and stopping any further discussion or amendment to
02 extend sale, you have unintentionally or intentionally
03 been the primary participant and the killing, murders
04 in Philadelphia.

05 In July of 2007 Channel Six news reports
06 from the University of Pennsylvania that malt liquor
07 sales relate to drug violence and the high crime that
08 we see. Extensions to other venues would place an
09 additional burden on the City of Philadelphia
10 Department of Licenses and Inspections and the Health
11 Department. These agencies, too, are corrupt and
12 contaminated and unwilling to protect the health,
13 safety and welfare of the residents of Philadelphia.

14 The malt and brewed beverage businesses
15 of Philadelphia violate the Philadelphia Code Title
16 6914, such as no public access to bathrooms with hot
17 and cold running water, insufficient seating, no 30
18 seats per table, less than hundred square feet of
19 space for patrons to dine, no ingress and egress,
20 illegal weatherproof Plexiglas, illegal phone booth,
21 excessive signage without permission, dirty floors and
22 windows, mislabeled food, failure to close at 11:00
23 p.m. Again, just to name a few violations.

24 These gross violations have violated have
25 trained and are training residents to be savages.

01 There is no quality component to be visited and they
02 are not a true sense of the definition of commerce,
03 it's enslavement. If these businesses were true
04 commerce, you would not need stay at 155 were a burden
05 to residents, they have to come before a malt brewed
06 beverage hearing to ask for relief from elusive
07 actions of these businesses.

08 Further residents are pitted against one
09 another. The good citizen versus the bad citizen.
10 The residents have to lose dates from work or
11 vacation. Many families are already struggling with
12 finances. Further, it is not the job of the
13 residents. It is the job of the enforcement agencies
14 to fix these violations. Therefore, we are
15 respectfully requesting that the state govern itself
16 and investigate into why the Pennsylvania Liquor
17 Control Board, Pennsylvania Liquor Control Board
18 Enforcement and Inspectors are falsifying documents
19 and allowing these gross violations, lack of
20 enforcement, election of duty and place an injunction
21 on Philadelphia County malt and brewed beverages
22 businesses until they come completely into compliance
23 with state and city law and further no extension to
24 any other venues or locations and no changes to the
25 Liquor Code that the residents are not part of the

01 discussion.

02 In essence, we are asking that no sneak
03 legislation or language be a part of any House Bill
04 without discussion of said language with the community
05 and activists involved in malt and brewed beverage or
06 liquor control issues.

07 MS. BLACK:

08 Amen.

09 MS. CUMMINGS:

10 First they place us in a room full of
11 elders, and I do want to give homage to them, but I
12 also want to say that they are not, in this situation,
13 the true representation in this matter. And a hearing
14 this important and this significant to the quality of
15 the lives of young black men that are dying on the
16 streets every day. Every day. Where we can be
17 accounted where the true voices of Philadelphia
18 residents can be heard about the pain and suffering
19 that is placed on us by allowing these businesses to
20 run rampant in our community and not being compliant
21 to the law.

22 We should have had an opportunity to do a
23 better job and to speak to our state representatives
24 and our state leaders about the pain. This is
25 painful. We're losing our babies every day. They die

01 in the streets. Malt liquor sales. They have no
02 where to go to the bathroom. So they go in these
03 locations, they urinate in our street. We're teaching
04 our children not to have any social skills. You can't
05 have any social skill because you can't in these
06 locations and have a real sandwich and a beer like
07 human beings, like human people have. It's painful.

08 I'm a mother of a male child so it's
09 extremely painful for me, because I understand the
10 significance of the man. So I'm asking these leaders,
11 particularly in our African American community that
12 you not allow this Board, this process that we witness
13 here, this unequal process that witnessed here to pass
14 or outweigh --- it's seems like a situation where it's
15 already a done deal. You've already made up your
16 mind.

17 Our representative here is saying
18 something to you. He's asking that you not burden us
19 mothers any further. Say that 155 that is running
20 right now, they're on 1515 Arch Street of the
21 community to have to say to our hearing board a brew
22 and Malt Liquor Hearing Board about the nuisances of
23 businesses that everybody knows is a nuisance. This
24 is vacation time that I had to use. I don't get this
25 back. Families that don't have money, I'm asking to

01 take off of work and we get down there, and they say
02 it's postponed, and I say, well, take a second day.
03 They don't make but \$50 a day. That's \$100 out of
04 their weekly pay. How can you ask them to do that?
05 You need re-assess that.

06 Why is the burden on the community to
07 show that these businesses are killing our babies? We
08 can't eat. The pictures show. The law says 300
09 square feet of space. Some of those locations are
10 only two feet. Two feet. We bumped each other, I'm
11 going to fight you because you bumped me. So it
12 spills out into the street. Our boys get shot with
13 guns because the proximity to where you order your
14 food and a person is so close that you bumped me. I
15 got an attitude. I was mad when I came into the
16 location, but they're mad because I got mistreated.

17 Our babies know they are being treated
18 wrong. The crimes they commit because adults aren't
19 being responsible. They're screaming for help.
20 They're screaming for love. I'm asking you. I come
21 before you. This is the second time I've come before
22 you. We posted big poster board pictures to see the
23 conditions that we're living under. This is apples to
24 oranges. Wegmans supermarkets is not what we're
25 talking about, but I can guarantee you this, if you

01 turn them loose, they will become the evil that these
02 corner Stop 'N Gos store are.

03 And particularly in urban neighborhoods
04 because the law will not prevail here, because the
05 city won't do its job. The state won't do its job,
06 and I'm asking you to close all the businesses and
07 make them comply with your state guidelines. That's
08 what I'm asking.

09 Representative Blackwell, I'm asking you
10 today. Shut the stores down. They're in violation of
11 the law. Your law says that you have to be a bona
12 fide restaurant, 30 seats to tables, not 30 chairs
13 chained up. They're chained up in some of these
14 locations. Some of these locations are two feet by
15 ten. You can't get 300 square feet of space out of
16 that. They sell liquor to our minor children. We
17 need help, and I'm asking you to help us today with.

18 House Bill 1637, the other thing, when
19 you people amend bills, you amend them for trickery.
20 You amend it to take work out that already protects
21 us. Don't touch this. This says 30 seats per table.
22 That's what we want. It applies to all restaurants if
23 you're a bona fide restaurant. Don't sneak no law in
24 because Wegmans says we want to act like we're going
25 to be a good neighbor and then you change the law for

01 each store now to operate illegally.

02 Representative Blackwell, we're asking
03 you not to contaminate this book, not to damage the
04 laws, not to do like gangs and don't give us a voice.
05 We're asking you that. We're asking you to do an
06 injunction. Shut these stores down. They're dirty.
07 You see the dust on the crate. You can move the
08 pictures around the room. No human man, and
09 specifically a white man or Jew man, you don't damage
10 their children, now our babies don't count. Give our
11 babies a fair chance. Take them off the streets and
12 out of the stores where they shouldn't be anyway.

13 Our six year olds, how many of your six
14 year old babies go into places where drunk men follow
15 them and they rub up their leg while they buy candy.
16 They buy popsicles and soda while a drunk man
17 whispering things in their ear. They lose their
18 virginity from conversation. They lose their
19 virginity from the visual. Help us, please.

20 CHAIR DONATUCCI:

21 We appreciate your accommodations and
22 your hospitality. Thank you. We have Tom Berry
23 President of the Pennsylvania Tavern Association.

24 MR. BERRY:

25 Good afternoon. On behalf of the

01 Pennsylvania Tavern Association, thank you, Chairman
02 Donatucci and members of the House for giving us the
03 opportunity to present testimony today regarding House
04 Bill 1637. My name is Tom Berry. I'm President of
05 the Pennsylvania Tavern Association.

06 The purpose of our association is to
07 protect and preserve the thousands of small
08 family-owned licenses in the Commonwealth. The
09 Pennsylvania Tavern Association respectfully wishes
10 that they throw out the House Bill 1637 specifically
11 citing the section of the bill that states that R, H
12 or E license who is otherwise permitted to sell malt
13 or brewed beverages ---.

14 CHAIR DONATUCCI:

15 I can't hear you.

16 MR. BERRY:

17 The Tavern Association respectfully
18 wishes to state their opposition to House Bill 1637,
19 specifically citing the section of the bill that
20 states that R, H or E license, who is otherwise
21 permitted to sell malt or brewed beverages for
22 consumption off a licensed premise may not do so if
23 the licensed premise has an inside passage or
24 connection to or with another business or is operated
25 in conjunction with another business occupying 1,000

01 square feet. That's the part of the law that makes it
02 tough to understand this.

03 If this measure were to pass, this would
04 affect bowling centers, malls, stadiums and hotels
05 just to name a few. There are many delicatessens,
06 bowling centers, malls, hotels and even department
07 stores that have sought and utilized the benefits of
08 having a licensed establishment with an interior
09 connection to their business in the Commonwealth. A
10 license in these cases have always been allowed to use
11 their license capabilities to their full potential.
12 Basically, we're in opposition to it because it
13 doesn't clarify how those other category of licenses
14 would be affected.

15 For instance, if it were to apply, say it
16 was, from my understanding is, if you were down at the
17 football stadium and you wanted a beer you'd have to
18 go outside the stadium, go to an outside door, go in
19 and get your beer, then you would come back outside,
20 come back out and re-enter back into the stadium for
21 football or baseball. A lot of times bills are
22 created, as they're not going far enough to see how
23 the impact would be on other businesses of the state.
24 Because of that, we are against 1637. Thank you.

25 CHAIR DONATUCCI:

01 Any questions? Representative Blackwell.

02 MR. BLACKWELL:

03 Thank you for your testimony. Because of
04 the sale of alcohol and beer in the stadium, we now
05 have behavior that those beverages cause. So it's not
06 to infringe on the other businesses. I want to stop
07 infringing on my rights sitting there watching a game
08 and not having to worry about a drunk coming back of
09 me and having the prospect or the potential immediate
10 harm. That's why I did that. Because of beer and
11 things like that, we have stadiums there.

12 MR. BERRY:

13 So is your intention then to prevent sale
14 of beer at the stadium?

15 MR. BLACKWELL:

16 No, it's not, because we'd do it
17 separately. We do it separately. Dealing with a
18 culture --- like I said, what the effects have of
19 these types of beverages. Some money, as my father
20 taught me, is not worth having. I'm not willing to
21 have kids grow up in a culture where they can't go to
22 college because your --- not you personally, but
23 you're feeding them a poison that will alter their
24 thinking.

25 MR. BERRY:

01 None of us are.

02 MR. BLACKWELL:

03 I'm not saying you are. I'm talking
04 about the way --- if law enforcement would do it's
05 job ---.

06 MR. BERRY:

07 That's correct.

08 MR. BLACKWELL:

09 Okay. Start doing it this way --- like I
10 said, I'm willing to work for anybody that will make
11 my neighborhood look like the one you live in. That's
12 my point.

13 CHAIR DONATUCCI:

14 Thank you.

15 MR. BERRY:

16 Thank you.

17 CHAIR DONATUCCI:

18 We have one more. Ray Swerdlow, owner of
19 Six Pack Store.

20 MR. SWERDLOW:

21 Mr. Chairman and members of the House
22 Liquor Committee, thank you for the opportunity to
23 provide input regarding proposed changes in the beer
24 laws and how it will affect the industry. My name is
25 Ray Swerdlow. I'm a liquor licensee primarily selling

01 take-out beer. I sit on the Board of the Delaware
02 Valley Chapter of the Restaurant Association and along
03 the current and a number of former presidents also sit
04 on the Liquor Service Committee of that organization.
05 I also represent Philadelphia County as a board member
06 of the Pennsylvania Tavern Association.

07 The businesses represented by these
08 associations include white linen restaurants, sports
09 bars, chain restaurants, delis, family diners,
10 take-out stores and local taverns. This legislative
11 session will prove to be thought provoking and
12 informative for our industry. Each category of liquor
13 licensee is guided by rules and laws created by the
14 legislature of the Liquor Control Board. To be
15 approved for a liquor license to operate in the
16 Commonwealth each of these businesses have designed or
17 adapted their premises to focus on food, their
18 atmosphere, their bar selection or as an entertainment
19 menu.

20 In my store you can choose from the King
21 of Beers to obscure Belgian beers made for 4th century
22 kings. At a five star restaurant you're more apt to
23 be drinking a \$300 bottle of champagne to go with your
24 gourmet meal served in a state of the art
25 presentation.

01 There has been a great deal of interest
02 in money spent in fighting than granting the liquor
03 license. Altoona store to sell take out beer. My
04 first reaction was that any chain supermarket or
05 convenience store should be precluded from purchasing
06 a liquor license because it will negatively impact the
07 local family-owned licensees. After looking at the
08 issue, clearly it became a case of just another
09 applicant of the LCB following all of the existing
10 rules. We use the same criteria in attempting to get
11 the license within the establishment. With
12 surrounding competitors we either sell out or modify
13 or adapt our businesses to the new business
14 environment.

15 If both licensees comply with the laws as
16 they exist today would be successful. Consumers would
17 have a better selection and quality products and a
18 better shopping experience. That's the way new
19 business concepts are supposed to work. Sheetz as
20 well as WaWa have stores in other states that sell
21 beer is part of the product base. WaWa was selling
22 beer in its University and chose to avoid liability
23 issues and sold the license. I don't recall
24 opposition to a license placed in that store.

25 WaWa, like Sheetz made a business

01 decision within the current liquor code. Like any
02 marketplace, an upscale grocery store followed the
03 licensing rules and now has an in-store beer
04 selection. They plan to build two new stores in the
05 state also.

06 Most of the liquor licensees in the state
07 are a family-owned businesses that use their revenue
08 to support and educate their families, pay taxes,
09 support civic functions and make their venues
10 available for community fundraisers, and in many towns
11 they're gathering places for business events. Their
12 children's first work experience where they learn a
13 positive work ethic, socialization skills and other
14 experiences have made them vital and respected members
15 of their communities happen in these businesses.
16 Creating new licenses for chain supermarkets,
17 convenience stores and pharmacies would help to make
18 these businesses disappear from the hard working
19 families and great financial peril while adding little
20 to no substantive jobs in the community.

21 We're in a cusp of a bruising national
22 recession, creating a catastrophic downturn domino
23 effect in our industry that benefits no one. There
24 are no positive changes in the laws regarding
25 licenses. Working within the system purchasing

01 licenses at market value and otherwise playing by the
02 rules should apply to any entity attempting to sell
03 alcohol in the state. Special licenses being issued
04 to supermarkets, there'd probably be no room on the
05 shelves for Victory, Straub's, Sly Fox and other state
06 brewers and even Yuengling. All Pennsylvania brewers
07 who won't be able to pay the sliding fees that these
08 out-of-state mega-brewers are eager to pay.

09 Some interesting numbers to think about,
10 7 percent, 75 percent and 50 percent. If beer is sold
11 by retail chains, they charge 47 percent of all retail
12 theft which is done by employees. Money and health
13 and beauty aids, retail stores with beer and liquor
14 not far behind. Not ringing in items or ringing in
15 items at reduced prices is a great way to help parties
16 get started. Beer disappearing out the back door is
17 also not unheard of. These clerks have employee
18 turnover rate of about 75 percent a year in
19 supermarkets and convenience stores.

20 A son or daughter of a family-owned
21 business would be less likely to put the family's
22 liquor license at risk. In order for a business to be
23 RAMP certified at least 50 percent of employees must
24 complete the training. The yearly turnover rate is 75
25 percent. The RAMP certification status, likely, will

01 be maintained. Many delis and take-out stores are
02 bright and well merchandised business where customers
03 get value and a positive shopping experience. Stores
04 such as Sheetz in the daily marketplace buying
05 existing licenses and taking beer merchandising into
06 the 21st century. Competition will be keen with their
07 own interesting scale working the Liquor Code. Thanks
08 for taking an interest for both the Pennsylvania
09 Tavern and Restaurant Association. Thank you.

10 CHAIR DONATUCCI:

11 Before I call the last witness I just
12 want to make a statement. We know there is a problem
13 in Pennsylvania. Right now there are discussions in
14 the Governor's Office with the state employees on how
15 to address this problem. I'm hoping in the next six
16 months we'll be able to plan change on the state
17 level, but I just want that on the record to let the
18 witnesses here today know that we are going forward to
19 change how we enforcement is done in Pennsylvania.

20 It's more complicated than it seems, and
21 that's why it's taking time. The last hearing we had
22 last year when we had testimony, we went back to the
23 drawing board with enforcement. And we are looking at
24 it. I hope by the end of this legislative session
25 something will change and enforcement will be a lot

01 better. Representative Blackwell knows it and the
02 Philadelphia Delegation knows it.

03 We do know there is an enforcement
04 problem in Philadelphia and we are addressing it. We
05 want to fix the problem, but we want to fix it right,
06 and that's why it's taking time.

07 MS. CUMMINGS:

08 If you do an injunction it'll get fixed
09 real fast, overnight. If stores have to come into
10 compliance, people can live better overnight.

11 CHAIR DONATUCCI:

12 I'm not going to argue with anybody about
13 it.

14 MS. CUMMINGS:

15 Well, I'm just saying the injunction
16 will ---.

17 CHAIR DONATUCCI:

18 I'm not going to argue with anybody about
19 it. What I want the community to know, that the
20 Philadelphia Delegation we are addressing the problem,
21 and I'm hoping the next time we do have a meeting in
22 your community we'll have an answer, and at that time
23 enforcement being better. On that note, I'm going to
24 call the last witness and her name is Angela Davis.

25 MS. DAVIS:

01 was personally impacted, I told you about my sister
02 who was killed by a drunk driver in 2005 on City
03 Avenue, but I did not tell you 20 years ago myself and
04 my mother was hit by a drunk driver. My mother died.
05 I did not. So I feel I have the responsibility to
06 speak up about drinking and driving. You don't hear
07 too much talk in our community. You hear about the
08 gun crime, but drinking and driving, that's a crime as
09 well.

10 So I just want to let everybody know it's
11 definitely a problem already. We should not be ---
12 open more access because that's how you get more
13 people on the road drinking and driving all across the
14 state. And just to let you know, three out of every
15 ten Americans will be involved in some way by a drunk
16 driver, whether they're the drinker and driver or
17 whether they're the victim. So there's a huge
18 problem, so please keep that in mind as you talk about
19 opening up more facilities to more access, people
20 dying right here on the street.

21 And one thing that people in Philadelphia
22 need to understand is, my sister was killed two years
23 ago the District Attorney said to us, we're sorry for
24 fatality but the person probably won't go to jail, so
25 --- victimize from a drunk driver crash. If you want

01 to be victimized go back to Philadelphia twice. It
02 took us two years to get a petition. So I just want
03 to say please keep that in mind, that we really have
04 to think long and hard about opening access,
05 especially in Philadelphia, because these are where
06 the bodies are being compounded in Philadelphia.
07 Thank you.

08 CHAIR DONATUCCI:

09 Are there any questions before you leave?

10 I see none. Thank you.

11 MS. DAVIS:

12 Thank you.

13 CHAIR DONATUCCI:

14 And I appreciate your time and being
15 patient and waiting until the end. On that note with
16 without any objection, I adjourn this liquor hearing.
17 Thank you.

18

19 * * * * *

20 HEARING CONCLUDED AT 12:10 P.M.

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