

Testimony by Wendell Young IV, President, UFCW Local 1776 Keystone State

House Liquor Control Committee Hearing on House Bill 1512

Tuesday, September 10th, 2019

Chairman Pyle, Chairman Deasy and Members of the House Liquor Control Committee:

I appreciate the opportunity to testify in front of you today. On behalf of the 35,000 members of our union at UFCW Local 1776 Keystone State, and the 3,500 members at our Pennsylvania Wine and Spirits stores, we are testifying today to OPPOSE House Bill 1512. HB 1512 would repeal the flexible pricing policy that was signed into law as part of Act 39 of 2016.

Act 39 was a broad, comprehensive overhaul of Pennsylvania's alcohol market that substantially changed the liquor code. While we opposed this legislation when it was moving through the General Assembly – mostly due to concerns of some of the provisions we viewed as revenue losers including private sector wine sales and the reduction of the SLO markup from 30% to 10% – there were also key modernization initiatives in Act 39 to help offset any potential revenue loss.

Some of these modernization initiatives – which UFCW 1776 Keystone State worked on for years with both Democrats and Republicans – included expanding the number of stores open on Sunday, increasing the hours of operations on Sunday, lottery sales, implementing a consumer relations marketing program and flexible pricing which is front of this committee today.

And despite what you will hear in testimony from some in the spirits industry about how bad this policy is for consumers, I am here to tell you that this was actually the most important provision that was included in Act 39 because of the benefits it creates for your constituents. Instead of repealing the flexible pricing policy, we should be looking for ways to strengthen it to help Pennsylvania acquire the very best pricing from suppliers while delivering significant amounts of additional revenue for our Commonwealth.

Here is how flexible pricing works: Prior to the 2016 law change, Pennsylvania by law was confined to a rigid markup structure that meant the PLCB had to markup every wine and spirits product at the same percentage. What this meant is that every single product that was sold in a PA Wine and Spirits Store had to be marked up at the same exact percentage. This rigid markup structure meant the high volume, fast moving products were confined to the same exact percentage markup as your specialty products that are low-volume and can sit on the shelves for months. Your bourbons, your chardonnays, your wines and spirits from different countries and regions all with different sales trends and market dynamics were all confined to one uniform markup.

Now, I do not think I have to explain to the committee that no retailer marks up every single one of their products at the same exact percentage. We know this because we represent more than

20,000 retail employees throughout the Commonwealth. Retailers provide discounts on certain products, raise prices on others and experiment with all types of mark-up formulas to meet market demand. What the flexible pricing provision allows the PLCB to do is to enact this same practice – a practice that operates exactly “like the private sector”, which we have heard from numerous lawmakers who have complained in the past about the PLCB.

Prior to 2016, if the suppliers increased prices for Pennsylvania, that meant the suppliers were raising prices on your constituents, not the PLCB. This is a critical distinction that some in the industry seem to have forgotten throughout this debate. The flexible pricing provision changed all of this for a more modern and fair system that benefits all Pennsylvanians.

After the 2016 law change, the PLCB was no longer confined to this rigid markup structure and could ask suppliers for even lower prices than they currently received to benefit the consumer and taxpayer. For example, if a spirits’ producer was offering a product at \$14 at acquisition before the law change, the PLCB can now ask for a fairer price of \$13 from the producer. After getting the lower acquisition price, the PLCB can slightly increase the markup on that product, however, maintain the same retail shelf price or in some cases, lower the price. The result is increased revenue on every bottle of alcohol the state sells all while protecting consumers in the process. After the first full year of implementation of flexible pricing, the PLCB’s net profit jumped \$58 million. This allowed state lawmakers to pull more resources from this profitable asset for our state budgetary needs.

Now clearly, this is upsetting to some of the spirits industry. They are upset the PLCB is asking for fairer prices to better benefit consumers and taxpayers. Some spirits producers cry poor despite the fact that the industry just recorded its ninth straight year of record sales in the US and have the largest market share of alcohol sales over wine and beer. In fact, Diageo, the largest supplier within the Distilled Spirits Council of the United States, stated their profits went up by a third after the recent federal tax breaks.

I state this so we can all be clear about where we stand.

Supporting and strengthening the PLCB’s flexible pricing policy means helping deliver more revenue for the budgetary needs of Pennsylvania. It means we are securing fairer pricing from suppliers and protecting consumers. This is incredibly pro-Pennsylvanian and is absolutely in the best interests of Pennsylvania residents. Repealing this policy is just another handout to out-of-state, wealthy spirits producers who are just looking to add to their already massive bottom line, all at the expense of Pennsylvania taxpayers and consumers.

We should stand with Pennsylvanians and oppose House Bill 1512.

Thank you.