PFMA
Pennsylvania Food Merchants Association

Advocating the views of convenience stores, supermarkets, independent grocers, wholesalers and consumer product vendors.

Hearing of the House Liquor Control Committee

January 22, 2022

Chairman Metzgar, Minority Chairman Deasy, and committee members, thank you for this opportunity to offer feedback on efforts to improve Pennsylvania's liquor system.

My name is Alex Baloga and I am President and CEO of the Pennsylvania Food Merchants Association. PFMA is a statewide trade association advocating the views of convenience stores, supermarkets, independent grocers, wholesalers and consumer product vendors operating in Pennsylvania. We represent more than 800 corporate members who operate more than 4,000 retail food stores and employ more than 250,000 Pennsylvanians.

Our membership believes strongly in the principle of maximizing consumer choice. Satisfying the needs and wants of our customers is a mutually beneficial relationship that fundamentally underpins the retail business model. From this perspective, we support any policy that would enhance our ability to meet consumer demand.

Shifting out from under a state-run liquor system would benefit all parties involved, including the commonwealth, and represent a huge step forward in our members' ability to serve their customers. According to data from Chicago-based IRI, for the year 2020 alcohol sales grew 21 percent in the grocery channel, reaching a 43.8 percent overall share of U.S. alcohol sales. To put it simply, consumers want to purchase more alcohol products from our members, and the largest obstacle is state law rooted in a Prohibition-era mindset.

To illustrate this point, one thing our member retailers have found during the pandemic is an increase in customer demand for larger package sizes, so they have to make fewer trips to the store. Currently, licensees are limited by law to offering 15-packs of beer and 3-liter containers of wine, and of course no spirits. The artificial constraints of the marketplace in this case are actively preventing our members from better meeting the needs of their customers, and in the context of the pandemic could needlessly lead citizens to additional COVID-19 exposure.

Another flaw in the current system that came to light during the pandemic has elevated what was previously a simple inconvenience to the level of a public safety issue. By law, grocery and convenience stores must set aside specific registers at which customers purchasing wine or beer can check out. Under social distancing guidelines this had the effect of forcing customers into unsafe proximity for potentially unsafe periods of time in order to make their purchases. While legislation by Rep. Ortitay addressing this specific issue is progressing through the legislature, antiquated rules like these should not get between our member businesses and their ability to prioritize customer safety.

This association has previously testified on ready-to-drink beverages, another case where state laws are preventing the market from adapting sufficiently to customer preferences. Across the nation, RTD beverages, or "canned cocktails," as they are also known, are often treated as broadly equivalent to beer and wine when it comes to licensing and sales. In neighboring Ohio, RTD beverages up to 42 proof (21% alcohol) can be sold at retail by retailers authorized to sell beer or wine. Canned cocktails share much in common with another product exploding in popularity and with far broader availability in the commonwealth – hard seltzers. While hard seltzers are made with fermented sugar or malted barley as opposed to the distilled spirits such as tequila and rum of canned cocktails, they are marketed and packaged similarly and can have comparable levels of alcohol by volume (ABV) – often around 5% upwards to 10% or more. Yet in Pennsylvania hard seltzers can be purchased at the same locations as beer and wine, while RTD beverages cannot. This seems like a distinction without any real difference, at least in practical terms, and certainly in the eyes of consumers.

Beyond helping meet the specific product preferences of consumers, as evidenced by the temporary shutdown of the state's Fine Wine and Spirits stores in 2020, which caused alcohol sales to spike and then plummet, privatization would confer additional resiliency and redundancy to the marketplace. More than 1,400 private retailers have the ability to sell limited quantities of both beer and wine in Pennsylvania, including more than 1,000 grocery and convenience stores. In a privatized marketplace, these and other retailers would constitute a far more robust menu of options for consumers than the state stores, which in effect are, paradoxically, little more than a single point of failure duplicated all across the state. We know that in 2020 when state stores closed their doors, private retailers were able to shoulder the load of meeting public demand for wine. They are willing and able to do the same with spirits.

As members of this committee are well aware, Pennsylvania is one of a minority of control states in the union. As of 2020, 47 states and the District of Columbia allow groceries to sell beer, and 40 states plus DC allow the sale of wine. Roughly half the states, including neighboring New Jersey, Ohio and West Virginia, allow spirit sales in grocery stores. The Distilled Spirits Council of the United States (DISCUS) has testified before the Senate Law and Justice Committee that border bleed costs the commonwealth $200 to $250 million in lost revenue.

And while Pennsylvania edges forward with reforms to its uniquely backward alcohol laws, other states aren't standing still either. As of January 1, rigidly prohibitionist Mississippi, which only repealed its Prohibition law in 1966, now allows alcohol in every county. While its distribution is still state-controlled, efforts are underway there to pass a ballot initiative to privatize the system. Closer to home, Maryland is moving ahead in modernizing its own antiquated alcohol law, which allows only a handful of groceries grandfathered in to its 1978 alcohol laws to sell alcohol products. Of course, they are not competing with state-owned stores, but mom-and-pop liquor establishments.

Privatization would be a moneymaker for Pennsylvania. At a time when, absent emergency injections of funding from the federal government, the commonwealth's fiscal balance seems as precarious as it has ever been, fresh sales tax proceeds from expanded private sales would help offset the need for flawed and unpopular revenue proposals such as broad-based tax hikes. Beyond the up-front license fees and recurring renewal charges that would accompany any expanded sales landscape, it is logical to expect that the increased availability of these in-demand products would enhance overall sales at our member locations, in turn further boosting tax receipts for the state. Grocery and convenience stores straddle many taxable product categories, including fuel, tobacco and wellness products, just to name a few.

The truth is, since wine sales were sanctioned at our member stores, they have generated hundreds of millions of dollars in revenue for the state. Some members may recall concerns over the passage of Act 39, particularly with respect to the fear of revenue that would be lost to groceries. At last year's budget hearing with the board, Sen. Devlin Robinson asked if PLCB has seen an increase in wine sales since its enactment. Board chairman Tim Holden's response was "definitely."

In fact, the PLCB has consistently reported that WEPs have increased the percentage growth of wine sales in the state. In 2020, PLCB sales to WEP holders increased by nearly 120 percent. Sales through the board's license delivery program increased from $112.6 million to $256.9 million, with volume more than doubling from 1.4 million nine-liter cases in 2018-19 to more than three million in 2019-20. That same year the PLCB contributed $694.9 million to the General Fund. Of that total, $365.7 million was from liquor tax, and $143.9 million was state sales tax. In 2020-21, the total PLCB contribution to the state was $764.8 million, including $415.8 million in liquor tax and $163.9 million in state sales tax. In its latest annual report, the PLCB states "the sale of wine to mass merchants, grocery and convenience stores [is] an important and continued area of business growth for the PLCB."

Speaking briefly to the issue of labor, the industry as you know is competing hard for skilled, qualified workers. This intense level of competition is being reflected in the compensation and benefits we are seeing on offer across all industries. Opening up the sale of an entirely new product category in our member stores would greatly boost the already high demand for qualified staff.

Finally, and perhaps most important to this discussion, is making clear what wouldn't happen under a privatized economic model: a decline in the safety measures surrounding alcohol sales in Pennsylvania. Our members recognize and take extremely seriously the importance of preventing underage access to alcohol. Thorough staff training and the use of transaction scan devices at point of sale has shown to be an effective means of enforcing the legal age limit for the purchase of alcohol at grocery and convenience stores.

We should all take pride in the fact that, as reported by PLCB and PennDOT, Pennsylvania had 41 fewer alcohol-related fatalities – a 12.1 percent reduction – from 2018 to 2019, a period during which the number of grocery and convenience stores selling alcohol products increased significantly.

As the PLCB itself stated in its latest biennial Report on Underage and High-Risk Drinking, "Increased visibility of alcohol in these places can present teachable moments for parents, providing a natural opportunity for parents to open the conversation about alcohol and make clear that alcohol use by their children and other minors is not allowed by law, nor is it acceptable."

PFMA stands ready to work with the legislature to craft acceptable language that continues to modernize the sale of alcoholic beverages in Pennsylvania, both safely and positively meeting consumer demands.

Regards,

Alex Baloga
President and CEO, Pennsylvania Food Merchants Association