

**NABCA TESTIMONY FOR THE
PENNSYLVANIA SENATE LAW & JUSTICE COMMITTEE**

MONDAY – FEBRUARY 14, 2011

Good afternoon, Mr. Chairman and committee members. My name is Jim Sgueo, NABCA President & CEO. I've been with NABCA for 42 years, rising through the ranks to become President & CEO in 1993. Accompanying me today is Steve Schmidt, NABCA Sr. VP for Public Policy and Communications. Steve has been with NABCA for 4 years and for the 12 previous years was Director of Alcohol Education for the Pennsylvania Liquor Control Board.

The National Alcohol Beverage Control Association (NABCA) was founded in 1938 as the national association for the Control States. NABCA's mission is to support alcohol control systems by providing resources, compiling research, and fostering relationships to address policy for the responsible sale and consumption of alcohol beverages.

With the repeal of national prohibition in 1933, the regulation of alcohol beverages reverted to the individual states. What the failure of prohibition had shown was that the nation was too large and too diverse to accept a single standard of sobriety. Instead it was believed the states should bear the responsibility of determining how best to balance the rights of individuals who choose to consume alcohol responsibly, while at the same time protecting the public health and safety of their communities.

After prohibition, each state spent a great deal of time debating the most appropriate form of alcohol sales and regulation to be implemented in their respective jurisdictions.

Eventually, states enacted one of two classifications of alcohol regulation: the control system or the license system. There are currently 18 states and several counties in Maryland that adopted the control system, a number which has not changed since repeal. The control system is rooted in the belief that the proliferation of saloons and the abusive drinking of pre-prohibition days is clearly unacceptable, and by substituting the state for the private marketplace the economic incentives for maximum sales would be eliminated and policies supporting moderate consumption could be put into place. The license system, adopted by the other jurisdictions, basically attempts to regulate alcohol sales and distribution through the licensing of suppliers, wholesalers, retailers, etc. The single most notable feature that highlights the difference between license and control states is that the control states take ownership of the product at some point in the transaction cycle. This factor alone gives the control systems opportunities to exert more control over the sale and distribution of alcohol than the license states.

However, within the control jurisdictions, there are differences that make each control state unique. We have attached to the testimony, Addendum A, which describes in full detail what differences exist between the control jurisdictions. Some control jurisdictions exercise control only at the wholesale level, while others control retail as well, either through state stores, agency stores or a hybrid of both. Some control jurisdictions exert their control over only distilled spirits, while others also include wine as a controlled product and even some have beer or high proof beer. It's safe to say that no two control jurisdictions are exactly alike. It's also safe to say that no two license states are exactly alike either. All states regulate the sale and distribution of alcohol to some extent through limitations on hours of operations, taxation, number of allowable licenses and many other policies. Each state, and in many cases local communities, have wrestled with the appropriate amount of regulation for this very unique commodity. In Chicago, they have outlawed the sale of alcohol for specific addresses in the city. In

Kentucky, Bourbon County is dry. In Lynchburg Tennessee, the home of Jack Daniels Whiskey, the sale of alcohol is forbidden. We bring this to your attention only to illustrate the very diverse environment of alcohol regulation, often greatly influenced by the local culture and demographics of the particular community or jurisdiction.

The discussion and debate that you are having in Pennsylvania concerning the alcohol beverage control system is not unique or new. The issue has been debated in Pennsylvania before and in many other control jurisdictions as well. Last year, Washington had two citizen initiatives aimed at privatizing all or a part of their control model. Both failed in the general election of 2010, one by over thirty percent the other by 7 percent. What is interesting to note is that there were more votes cast on citizen initiative 1100 than any other election in the state, including the very closely contested federal senatorial race. Additionally, Virginia Governor McDonnell and his staff have worked for nearly a year to develop a privatization strategy that would be accepted by the legislature. Initially, the plan called for total privatization and, as it stands today, it appears to only privatize the retail sector while keeping the control of wholesale. At this time, no house or senate committee will bring the bill to the floor. In North Carolina, after several months of discussion and commissioning a valuation study of the system, Governor Perdue announced recently she is not in favor of privatization.

The National Alcohol Beverage Control Association (NABCA) does not take a position on the privatization discussions taking place in any individual state. We can also tell you that our offices have received inquiries suggesting an interest in switching from a license state to a control model. We've taken no position in that discussion as well. Rather, our mission as defined by the Board of Directors, is to "...provide resources and compile research..." to aid states in their deliberations on alcohol policy. We have collected hundreds of published peer-reviewed scientific studies that go far beyond privatization which include outlet density and alcohol energy drink research and much more. We

have also gathered survey information from all states, open and control, and the Canadian provinces to compare alcohol policies from advertising rules and regulations to warehouse handling fees.

With that in mind, we would like to focus our remarks on the two areas that typically are of most concern when discussing privatization. First, we will speak to the revenue implications of privatization and then to the public health and safety issues surrounding privatization.

According to the Distilled Spirits Council of the United States Public Revenues from Alcohol Beverages document of 2008, control systems generate on average \$67.35 per alcohol gallon of spirits, while the license states average \$33.96 per alcohol gallon of spirits from local and state taxes, fees, profits, etc. That's a 98% difference. Here in Pennsylvania, the amount generated per alcohol gallon in spirits is \$58.86, which places you 10th in the country. Of interest is that while you rank 10th in revenue generation of spirits, you rank 42nd in per capita consumption. Also, what may be of interest to you is that Delaware generates \$9.22 per alcohol gallon in spirits ranking them 51st in the country. Pennsylvania also controls the sale of wine and here the numbers are even more dramatic. Pennsylvania generates \$99.12 per alcohol gallon for wine and ranks first while you rank 36th in per capita consumption.

The control systems have over the years become very important revenue generators for the states and have been able to continue to generate revenue even during these very difficult economic conditions. Our experience over the years of privatization discussion is that it has proven extremely difficult to replace this revenue. Control state liquor agencies are for the very most part efficient, well run businesses and adept at capturing sizable revenues for their respective state budgets. Many privatization proposals promise windfall profits but do not stand up to accounting scrutiny and often involve

significant hidden price increases for consumers. When considering privatization, it's important to also look at the long term implications of revenue generation rather than just at the potential for short term gains. We have attached Addendum B for your review which contains the revenue and consumption tables for all states.

In regards to the Public Health and Safety Impact of Control Systems, the NABCA Board of Directors believes there is ample evidence to suggest that control systems have a positive public health and safety impact. We have attached the Board Resolution on this subject to formal testimony as Addendum C. In addition we have provided published peer-reviewed studies to committee staff that may be of interest as you further study this issue in the areas of outlet density, impact of privatization, compliance rates of government owned stores, and other issues related to this discussion. Also included in that material are the most recent survey data available in underage drinking, binge drinking, drunk driving fatalities, and national vital statistics data on state health measures. Obviously, the different models of control systems will have different impacts on the public health and safety of the communities. It should also be noted that the culture, geography, demographics and economy are also factors in the impact on public health. While there are other studies that suggest control systems exert little and or no impact on public health, it is important for policy makers to consider the full body of research before drawing conclusions on potential changes to alcohol access and other policies. Research solely based on comparisons of legitimate survey or observational data that compare one jurisdiction to another without consideration of the many variables just mentioned does not necessarily reflect a thorough scientific analysis of the data

If we may provide a final perspective...many suggest that control jurisdictions have a schizophrenic or conflicting mission, in that they are responsible for aspects of the sales cycle at the same they are responsible for regulation and control of alcohol. While that

may be true, alcohol is a very unique commodity and, as such, deserves unique treatment.

This is a product that can have positive personal and economic impacts, but if used or marketed or sold inappropriately, can have detrimental consequences for communities and individuals.

In conclusion, Alcohol is a unique commodity. It requires unique approaches in regulating its distribution, sale and consumption. Each state must strike the balance right for its citizens and we are pleased to assist your process for finding the research and information necessary for your deliberations on this important issue.

Thank you!