

Testimony of Mick Owens—Mick's All American Pub
Pennsylvania Restaurant & Lodging Association
Senate Law & Justice Committee Meeting
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Chairman Stefano, Chairman Brewster and members of the Senate Law & Justice Committee, thank you for allowing me to testify today in support of SB 896, sponsored by Senator Regan, and HB 1617, sponsored by Representative Staats. My name is Mick Owens, I am the owner of three Mick's American Pub and Maize Mexican Cantina restaurants, all located in Lancaster, PA. I am also the Chair of the Pennsylvania Restaurant & Lodging Association's (PRLA) Alcohol Service Committee.

The concept behind both these pieces of legislation originated from a task force that was put together by our association to discuss licensing concerns and the future of our industry. At the fall 2018 meeting of our committee, we had an in-depth discussion about how the industry has changed since the passage of Act 39—changes that have offered more consumer convenience but also led to even more types of businesses applying for and using a Restaurant (R) license—such as grocery stores, convenience stores and now big box stores. The committee determined that if action is not taken to start making changes to the liquor code that reflect the changing marketplace, independent restaurants will become obsolete.

The task force was charged with *“researching and assessing options that would address the current pressures on R licenses in some areas, with the goal of developing a plan that looks 5 to 10 years in the future that protects the R licenses in the industry and those who want to enter the industry in the future.”* In the long term, the task force has concepts that would make some broader, more sweeping changes to address the future of the industry. But in the short term, the task force determined tweaks to current licenses would offer the best immediate path forward. From that discussion came what we believe are two small, moderate steps to make changes to some current license structures.

There are two major concepts that I want to articulate here as it pertains to our support of SB 896 and HB 1617 and licenses in the state, in general:

- When you look at the total number of licenses located in Pennsylvania—there ARE enough of them, even when taking into consideration the influx of new “entities” buying them.
- But, if these licenses are not adjusted and shifted to allow for the changing market, there will be a push to create a new license—something we oppose. Right now, everyone with the same type of license has to play by the same rules. We want to ensure that continues to be the case.

SB 896 seeks to address a common problem we are beginning to see from the statewide auction of dead licenses that was included as part of Act 39. Act 39 allows the auctioning off of dead licenses in the county from which they originated a number of times every year, but because some counties are in need of licenses more than others, with each passing auction the value of the licenses in many counties goes down and more and more are not even getting a bid. As we mentioned, there are more than enough R licenses in the Commonwealth, but some counties have more than they need and other counties either don't have any, or the price of the licenses in those counties is so high that an individual restaurateur could not afford one even if they wanted one.

In short, this legislation does the following:

- Compiles the number of licenses each year that do not receive a bid in the auction and allows for a statewide auction of those licenses.
- Ensures that the current value of licenses is protected. Only the top bidder from each county would be able to win a license. Therefore, a *maximum* of one new license would enter a county per year. These licenses could not be transferred from the county again.
- A \$25,000 fee would be assessed if a license is transferred from one county to another and as with any license transfer, a license could not be transferred without approval from the receiving municipality.
- Finally, the current auction language in Act 39 requires full payment of the winning bid within 14 days. While this is feasible for a large corporation, a single operator cannot obtain that amount of cash that quickly. SB 896 allows payment to be within 6 months, which allows time for a bank loan, something that most independent restaurateurs need to obtain. This provision would make it feasible for *anyone* to participate in the auction process.

We believe SB 896 is a small but reasonable first step to begin the redistribution of licenses to counties that need them without disrupting existing markets.

HB 1617 is the other half of our proposal, which takes a second moderate step to help address marketplace issues in Pennsylvania. In the Commonwealth, there are 261 Hotel (H) licenses that are operating as restaurants. These are not Marriotts or Hiltons—they are buildings that were in existence before 1949 and previously rented out 2, 3 or 4 rooms before large hotel chains became prevalent. In 2006, they were allowed to apply for an exemption to not have to provide overnight accommodations, and today, they are literally operating as restaurants. HB 1617 does not allow ANY hotel that has opened since 1949 to apply for the license so the total impact is capped at a maximum of 261 licenses.

Unfortunately, despite them appearing and operating as R licensees, these restaurants each have an H license—which means if they want to go out of business or move to another location, they can't take the license with them. If they sell, they need to sell the building, because the license is tied to the building, as opposed to an R license being independent of the location.

HB 1617 does the following:

- Allows the holder of one of these 261 H licenses to convert the license to an R license for \$30,000 within two years of passage of the legislation.
- If a licensee sells the license within 5 years of converting it to an R license, a \$30,000 fee or 25% of the sale price of the license, whichever is greater, must be paid to the Commonwealth.

HB 1617 gives value to an H license—which has been operating as an R license all along—without creating a new license, which could devalue ALL licenses in a county. The legislation passed the House Liquor Control Committee unanimously.

The marketplace has changed. It is not and will not return to what it was 15 years ago. We believe both of these pieces of legislation are a step forward in making reasonable changes to the current licensing structure that reflect the new reality we are all operating in. They put licenses in counties that need

them without flooding municipalities with new licenses, and they allow long-term licensees to get value out of their current licenses. We urge you to support both of these pieces of legislation.

Thank you for letting me testify today and I am happy to answer any questions.