

Rep. Rush Testimony- Subcommittee on Courts and Competition Policy Hearing

"Legal Issues Concerning State Alcohol Regulation" March 18, 2010

Thank you, Mr. Chairman, Ranking Member Coble, my colleagues on the Subcommittee on the Courts and Competition Policy. Thank you for granting me the opportunity to testify today on state alcohol regulation. I want to also acknowledge my colleagues who are participating on this first panel with me.

Mr. Chairman, as I considered coming before this Subcommittee to testify, I certainly came to recognize that this is not a matter that has been at the forefront of issues that I am normally associated with in the Congress.

However, as I began to examine this matter with greater scrutiny, I quickly discovered that there existed many underlying causes that are or could be greatly impacted by the undertaking of this subcommittee as it seeks to examine state-based regulation of alcoholic beverages.

This Subcommittee's decision to review this matter in light of the 2005 Granholm Supreme Court case is both wise and necessary.

Mr. Chairman, in Illinois, we have a three-tier system of distribution, in which, as you are aware, manufacturers or producers sell to licensed wholesalers or distributors, who in turn sell to licensed retailers such as bars, packaged-good stores, and restaurants.

This system in Illinois is currently under attack in federal court as a result of a decision last week by the Illinois Liquor Control Commission to deny a wholesaler license to an alcohol

manufacturer, who was seeking to acquire 100% ownership of a Chicago alcohol beverage distributorship.

While alcohol laws vary by state, Illinois' law is viewed as one of the strongest in the nation as it relates to the three-tier system of alcohol distribution. Many observers believe this case and others like it will have a profound impact on the regulation of the industry in Illinois and beyond.

While regulation and/or deregulation may be viewed by many through the lenses of what is in the best "competitive interests" of industry, I submit that there are broader aspects of this issue to consider as well.

Prior to my election to Congress in 1992, I served for ten years as a member of the Chicago City Council. As a local alderman, I came to appreciate the value of local control of the sale and consumption of alcoholic beverage. Indeed, an effective tool of local neighborhoods in Chicago has been the ability to vote, through ballot referendum, an area "dry".

Communities plagued by "bad actors" in the alcohol industry at the retail level, have the ability absent local liquor control action, to seek legal remedies as a result of the ability of states to regulate the industry.

My objective is not to protect wholesalers or hurt producers, but rather to protect the people of my community who are, in many cases, disproportionately overwhelmed with marketing and promotional advertising designed to get them to drink.

Additionally, I would express a concern about the direction the industry is going relative to deregulation and its impact on minority ownership at the wholesaler/distributor level. Certainly, there is strong belief in Illinois and I suspect this would be the case elsewhere in our nation, that deregulation or the removal of state regulatory authority of the alcohol industry would have an adverse, negative impact on minority ownership. I would clearly be in opposition to such a move.

I believe while there may be some imperfections with the levels of regulation state by state, there is significant value to having an aggressive not passive state role in the regulation of the alcohol industry.

The 21st Amendment, which provides states the authority to regulate alcohol within their own borders, has been operating since the 1930's and I believe should Congress decide to act, it should be to more fully clarify its intent that states be allowed to regulate alcohol sales within their borders.

With that, I thank you for allowing me to share my thoughts on this issue and yield my time.