

House Bill 1265
Industry, Business and Labor Committee
January 20, 2021

Good morning Chairman Lefor and members of the House IBL Committee, my name is Dan Ruby and I am a Representative from District 38 and am here to introduce House Bill 1265.

House Bill 1265 seeks to give Brew Pubs more options to bottle, market and distribute limited quantities of their beers in ways that are not available to them. The changes in this bill are similar to those that a tap room can now do so this is not new ground we're breaking. The idea for this bill came when I was at a local brew pub in Minot and one of the owners was venting about the limitations and inconsistencies of the current laws related to breweries. He sells his beer by the glass and off-sale by the growler. He also offers bottled beers from other companies, which he gladly does so his customers have multiple options. He pointed to the cooler and said he can sell anyone's beer by the 12 ounce can or bottle but not his own. Tap Room companies can but the main reason the brew pubs can't is because they have a licensed kitchen which disqualifies them as a tap room.

Tap rooms are licensed as a manufacturer with certain benefits and brew pubs are retail operations with the ability to manufacture their products. So either way they are both manufacturers. Having these differing distinctions causes inconsistencies in how similar businesses operate. We have had bills in the past that dealt with the problems with the three-tier system. In the three-tier system a manufacturer can't distribute or retail, a distributor can't retail or manufacture and a retailer can't manufacture or distribute. Domestic wineries, distilleries, brew pubs and tap rooms are provided limited participation in each of the tiers. Past bills have tried to allow limited ownership in more than one tier but those bills failed. One way companies are getting around the system is to set up different structures. Some license kitchens separately with different areas within a building and run a tap room so they get around the current laws. Others set up a tap room and have a food truck outside the premises. It can be done, and it accomplishes exactly what the opponents say they don't want to happen. But

they can't stop it so they fight these types of changes by claiming that we need to prevent the graying of the three-tier system. It is gray all across the country in several types of alcohol producers. Some states don't even use the three-tier system. The US Supreme Court says that the three-tier system is constitutional but is not a requirement for the businesses that manufacture, distribute or retail alcohol.

For a little history, the three-tier system was created after prohibition was ended to control monopolistic practices by large manufacturers. However, a massive Belgium-based conglomerate named InBev owns Budweiser beer as well as many others. They may or may not be a monopoly yet, but they are a massive company that has no interest in starting small brew pubs or tap rooms where they would be limited to the provisions in our law or the changes in this bill. The three-tier system did not prevent them from getting so massive nor have the relaxing or eliminating of the three-tier system led to one of the massive companies from operating and dominating with their own brew pubs, tap rooms, wineries or distilleries. You will hear from distributors that this will create massive problems and will give unfair advantages to brew pubs. I would like you to consider how improving the business opportunities for these locally owned, North Dakota small businesses is going to harm a company like InBev or any of the distributors in this state. If the brew pubs are successful and build the demand for their product, they will be valuable customers to these very distributors. Mr. Chairman and members of the committee, this bill is pro-business by removing antiquated burdensome regulations that will only help North Dakota's business climate. I urge a Do Pass recommendation and will stand for questions.