

Testimony in Support of SB 2136

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Good morning, Chairman Warrey and committee members,

My name is Dennis Pathroff, and I am a lobbyist with the GA Group, representing the **North Dakota Beer Distributors Association**.

Our association is composed of North Dakota's 16 family-owned beer distributors. Collectively, our members employ over 500 North Dakotans, pay approximately \$32 million in annual wages, and contribute around \$1 million annually to support charities and local events. Several of our Fargo, Grand Forks, Bismarck, and western North Dakota based distributors are here today in the audience.

The beer distributors strongly support SB 2136, which addresses two key areas:

First, SB 2136 strengthens the law on wholesaler independence. State and federal law requires manufacturers and wholesalers to be separate and independent. However, manufacturers have increasingly pressured wholesalers to adopt or avoid specific e-commerce platforms. These platforms are essential for facilitating transactions between retailers and wholesalers, allowing retailers to browse catalogs, submit orders, and manage invoices.

Mandating or prohibiting the use of a specific platform undermines wholesaler independence. Without independence, wholesalers could be stuck between warring manufacturers with, for example, one manufacturer requiring use of a certain platform and another threatening to terminate if the wholesaler uses that same platform. Independence is paramount because it makes it possible to provide tremendous choice for consumers – from the big brewers to the new brewers just accessing the market.

Looking at version 25.0781.1001, the amendment that has been passed out, this e-commerce platform language is on page 2, lines 6-7, providing a brewer may not “[r]equire a wholesaler to use or prohibit a wholesaler from using a business-to-business electronic commerce platform.”

I'd note that upon surveying our members, 1/3 are using a brewer sponsored e-commerce platform, 1/3 are using a third-party platform, and 1/3 are not using an e-commerce platform. Wholesalers should be able to use or not use the e-commerce platform that works best for them and their customers.

Also, in section 1 of the bill, as introduced, the bill included language regarding a wholesaler's confidential financial information. The wholesalers have come to an agreement with a large brewer to remove that specific language, which you'll see on page 2, lines 1-2 of version 25.0781.1001.

Second, SB 2136 clarifies the law on successor brewers. Traditionally, brewers have purchased other brewers. Now, however, private equity firms are entering the market. Some of these private equity firms have claimed that because they are not already in the business of brewing, states' successor brewer statutes and franchise laws don't apply to them.

In effect, this would allow a private equity firm to steal the good will the distributor has built in the brewer's brands.

To address this concern, SB 2136 removes language that could be construed to apply only to a brewer and makes clear that the law applies to ANY purchaser of a brewer. You'll see this language in section 2 of the bill on page 2, lines 12-13. With this change, our statute will more closely align with the language in South Dakota, Minnesota, Nebraska, and other states.

Mr. Chairman, I would now like to introduce Hunter Jerome, General Manager of Jerome Distributing and President of the North Dakota Beer Distributors Association. Hunter will provide further insights into the importance of this legislation for our state's family-owned beer distributors.

Thank you, Chairman Warrey and committee members.