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LD 2160

Good morning, Chair Hickman, Chair Supica, and members of the Joint Standing Committee on Veterans and Legal Affairs. My name is Nate Luce, cofounder and president of Luce Spirits, a craft distillery established in Rockland in 2021. Thank you for the opportunity to express my support for HP 1449, An Act to Modify Provisions of Law Affecting Small Distilleries.

I began learning the trade at a tiny distillery in New York City in 2011, which had just opened at the time, shortly after laws were passed in that state that made it economically advantageous to operate on a small scale. Five years later, that business, Kings County Distillery, had expanded production, was distributing bottles throughout the country, had hired countless new workers, won the American Distilling Institute prize for Distillery of the Year, and was drawing whiskey tourists from around the country to tour the distillery. An important part of that story is that New York is not a control state, so at that vital, early stage of the business, they were able to keep the vast majority of the proceeds of every bottle they were selling and re-invest it in the business. In contrast, in the state of Maine, when I sell a bottle out of my distillery, I have to give the state a substantial portion of the retail price: the amount shifts from product to product depending on a complex formula, but if I sell a 50 dollar bottle of absinthe out of my tasting room, I might have to give the state \$9, even though they haven't been involved in the sale at all.

Out of curiosity, I checked the rest of the Distillery of the Year Awards, which are given to the most innovative and successful operations across the country, and it turns out that since its inception in 2008, almost none have been given to a distillery in a control state— and the first was in Pennsylvania, which had recently recognized the benefits of boosting this sector of its economy and updated its laws to economically support small distilleries. In addition to selling mail order bottles to out-of-state customers, Pennsylvania small distilleries are allowed to sell bottles directly to on-premises licenses, and when they do, they don't give any margin to the state. This might sound like a radical proposition, but Pennsylvania recognizes that the relatively tiny amount of proceeds it forgoes with this allowance helps the long-term sustainability of each business dramatically, and will even increase the state's income in the long term, as the business grows. One final note about the support that Pennsylvania gives its distilling industry::: when distilleries do pay control state fees, they are actually getting something in exchange; the state-run distribution company actively represents them to stores of their choice, all but guaranteeing their placement, whereas Pine State Spirits provides no such service in exchange for the service fees we are paying them (nor any marketing on our behalf for the marketing fees that come out of our bottle sales).

In what other industry do small business owners have to contend with monopolistic entities taking one fifth of their income to, in part, actively promote other products, as Pine State Spirits does? That is on top of federal excise taxes, state sales tax, actual material costs, increasing labor costs, and of course the skyrocketing costs associated with inflation and the recent trade wars. As a matter of fact, in 2024, the amount of money that I paid to the state for my "monthly bottle transfer fees" would have taken me from being in the red to being a profitable business. If that were the case, I would have hired more employees and expanded my operations. As it is, I've been more or less treading water for five years, trying to understand why the current regulations put this sector of state industry at a competitive disadvantage against other states' small distilleries. I'm not alone in this struggle: I can think of four small distilleries off the top of my head that have either closed or listed their businesses for sale over the past two years. I'm sure that not only did the financial up-hill battle of operating in a control state play a role, but the regulatory over-reach of constant report submissions, license renewals, and inspections as well.

Maine alcohol producers that don't have to deal with the constraints of the control system have gone on to achieve national prominence: Allagash, Oxbow, Maine Beer

Co. and countless other breweries contribute mightily to the state's reputation as a foodie paradise, and are distributed around the country. Oyster River Winery is one of the top Pet Nat producers in the USA and is seen in natural wine shops from coast to coast. Even though there are myriad talented distillers across the state, we have yet to produce a spirit of national renown, and my supposition is that we never will, as long as we are hamstrung by the current regulatory burden and fiscal handcuffs. Maine distillers are losing too much of our money for the privilege of selling our own products out of our own spaces to be able to invest in new equipment and marketing campaigns, and spending too much time on state regulatory bureaucracy to invest time penetrating out-of-state distribution networks.

When I have tried to ask about the rationale behind the current system, the response has basically been: "because we are a control state"--- and that it used to be even worse! While I am certainly glad that things are less bad than they were before the category of "Maine small distillery" existed, I don't believe that we should settle for "less bad", when with a little creativity and flexibility, "good" is possible. I don't think anyone in their right mind would design the current system from scratch; I'm not sure if you've ever examined the nitty gritty of our monthly payment process/reports, but I defy you to make heads or tails of it even with a step-by-step explainer. It is a holdover from a post-prohibition moralistic mindset based on temperance values, when the vision of distillers that needed to be tightly regulated was that of bootleggers and gangsters, not small, community-minded producers using good ingredients. An example of sensible, profitable, from-scratch administrative and financial legislation is that which concerns the sale of adult-use cannabis in the state, which isn't as financially onerous as the ones regulating small distilleries, even with the modest benefits that Maine Small Distilleries are given compared to out-of-state producers.

To summarize, this is the situation: within the state, Maine distilleries are at a regulatory and financial disadvantage against Maine breweries, wineries, and even Cannabis purveyors; nationally, we are at a disadvantage against small distilleries with supportive state legislatures. Other control states are beginning to recognize that it is possible to intelligently and responsibly shift laws to support this small industry: beyond the aforementioned Pennsylvania, New Hampshire craft spirits are stored in state warehouses without paying any fees, and bottles sold out of distillery tasting rooms don't pay any profit to the state. The changes that are being proposed today are relatively modest, all told, and are all common-sense. When I mention the current situation to the average person, across the board, the response is "you've got to be kidding me, how is that legal?" I've seen the inside of the Pine State Spirits warehouse, and there are city blocks of Tito's vodka piled high; the amount that their bottom line will change as a result of this legislation will be like a rounding error of the profits that come from the multinational brands that are being brought into the state. It will, however, make a tremendous difference not just to my own business, but to other small distillers across the state.

I am a thirty-something person who opened a small manufacturing business during the Covid 19 pandemic, in a part of Rockland that is still filled with empty storefronts, and we've created a strong community down there. I'm proud of what we've built over the last five years, but I'm doing this full time, and the business can barely afford to pay me enough to live on, because so much of the tasting room's income goes to the state. In order to make a real living given the current system, one would have to be producing at a much more substantial scale than we are, leaning into the wholesale side of the operation, but the expenses necessary for expansion are hard to consider without being profitable, so we're caught in the same feedback loop that is leading other distilleries in the state to close their doors, rather than expanding in the way that Maine breweries, wineries, and out-of-state distilleries are capable of. With this common-sense legislation, you can help give Maine distilleries their rightful place at the table. Thank you very much.

Nate Luce

President

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