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January 9, 2024

LD 1815 An Act to Protect Maine's Consumers by Establishing an Abuse of Dominance Right of Action and Requiring Notification of Mergers

Sen. Curry, Rep. Roberts and members of the Innovation, Development, Economic Advancement and Business, my name is Cheryl Timberlake, I am a resident of Mount Vernon. I represent the Maine Beer Wine Distributors, family owned and operated businesses.

MBWD members, many of whom have been in operation for more than 80 years, provide distribution of beer, wine and non-alcoholic beverages to EVERY retail account including bars, restaurants and grocery stores located throughout the state. We employ more than 1,250 Maine people. Our Association is committed to the laws and regulations governing the sales and distribution of alcoholic beverages.

The Association is here today to testify in opposition to LD 1815.

The provisions in this bill are very ambiguous and will likely lead to unnecessary litigation. Antitrust laws protecting competition already exist on both a federal and state level. Alcohol is already heavily regulated. State regulation balances competition with control in order to promote temperance, ensure the efficient collection of taxes and promote competition. The explosion of craft beer producers and products is a testament to the competitive nature of the market.

The Bill fails to define the critical term of "market". For instance, in the beverage industry, is the market alcoholic beer, NA beer, seltzers, wine, cider, spirits, or beverages? You can't determine "dominance" without defining the corresponding "market".

Manufacturers/suppliers, especially in the wine industry, often do not produce enough product, limiting the supply availability. How should the industry allocate a scarce supply of wine? According to the presumption provisions in section six (4) the purchase of a limited supply of wine could be defined as committing an abuse.

The Bill purports to presumptively define "dominant" as "the unilateral power of a person to set prices, terms, conditions or standards," but every distributor theoretically has the "unilateral power" to set prices for its products because of Maine's exclusive territory law. Does this mean that every Maine distributor is "dominant"?

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In that mindset, I would remind the committee that Maine is a control state for spirits. How does the bill reconcile that dominant position?

MBWD role is to support consumer choice, provide brewery/winery access, and ensure responsible sales. LD 1815 undermines the tenets of current business and regulatory system. We ask the committee to oppose the bill. Thank you consideration of these comments.