

February 7, 2018

Daniel Fulham, President

Long Trail Brewing Co.

Otter Creek Brewing Co.

Remarks: Vermont House Bill H.710 – Committee on General, Housing & Military Affairs

Good Morning Madam Chair and members of the Committee. Thank you for the opportunity to speak this morning on House Bill 710. My name is Daniel Fulham, and I am the president of the Otter Creek Brewing Co and the Long Trail Brewing Co.

The craft brewing movement in Vermont has undergone exciting growth in recent years and the discussion underway about potential franchise reform is also happening (as you know) in many other states or in some cases has already taken place based on dynamics in the craft industry. Our company is in perhaps a unique situation here in Vermont, since our brands are distributed by two Vermont distributors; Otter Creek and Shed have been with the Baker family since 1991 and Long Trail has been with the Farrell organization since 1989. It has been a long standing partnership where each distributor has invested significant resources to help build our brands, just as we have invested extensive capital in brewing capacity, in our associates and with our brands here in our home state and beyond.

If there is an argument to be made about unfair conditions based on the legacy franchise laws, one might argue that we are particularly disadvantaged by not being freely able to consolidate our brands into one distributor in Vermont. But as a company, we have chosen to be more “apolitical” and instead focused our efforts on making and selling beer. And while we continuously challenge our distributors about how to grow our brands, the basis of our relationship at Baker and Farrell has always been that working together is fundamental- and not relied on legal contracts as a solution. Perhaps an outdated way to do business, but the Farrell and Baker families have never behaved in way that has made us feel like hostages.

In the case of House Bill 710, we recognize that change is in the wind across the country with respect to franchise reform and rightly so. Our company welcomes and support efforts here in Vermont at reform that is sensible, fair, and considerate of all stakeholders.

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But if the small brewer carve out as planned will permit brewers to exit an existing distributor relationship without cause, it only seems reasonable that financial consideration be given to the distributor who has helped build a brand in the form of fair market value. There should also be a mechanism to agree on fair market value without the risk of protracted litigation that prevents an exit or discourages a brewer from being able to consider a move.

Another idea for your consideration is a transition period that permits the distributor losing the rights to a brand sufficient time to find another brand prior to the release of a brewer.

On a final note, I would offer our company's position on the issues of reform is guided by nearly a 30 year history with the 3 tier system in Vermont in general, and more specifically with the Bakers and the Farrells. They have been with us through many business cycles- when things were good as well as when we have struggled. Whatever path you take, it should be fair in the eyes of all parties.

Thank you for your consideration.

Respectfully submitted,

Daniel Fulham, President
Long Trail Brewing Co.
Otter Creek Brewing Co.