

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Thursday, February 27, 2014

TIME: 8:30 A.M.

PLACE: Room EW40

MEMBERS: Chairman Loertscher, Vice Chairman Batt, Representative(s) Anderson(1), Andrus, Luker, Crane, Palmer, Sims, Barbieri, Holtzclaw, McMillan, Monks, Packer, Smith, Gannon, Woodings

**ABSENT/
EXCUSED:** None

GUESTS: Parrish Miller, Idaho Freedom Foundation; Raeleen Welton, ILBD; Mack Bickle, Idaho Brewers United; Jeremy Chou, Givens Pursley; Dan Levine, self; Tony Walkins, Watkins Distributing; John Grazzaffi, Stein Distributing; Ken McClure, Givens Pursley, Anheuser-Busch; Dan Scovel, Hayden Beverage Company; Skip Smyser, Miller-Coors; Craig Stein, Craig Stein Beverage; Jack Lyman, Idaho Mining Association; Russell Westerberg, Hagadone Corporation.

Chairman Loertscher called the meeting to order at 8:31 a.m.

RS 22947: **Rep. Wills** presented **RS 22947**, legislation to update House Rule 74, which deals with the selection, removal, and compensation of attaches. He stated this will eliminate the necessity of adopting a resolution at the beginning of each session.

MOTION: **Rep. Woodings** made a motion to introduce **RS 22947**. **Motion carried by voice vote.**

Chairman Loertscher turned over the gavel to **Vice Chairman Batt**.

H 540: **Rep. Loertscher** presented **H 540**, a bill that deletes the terms "amend" and "modify" and adds provisions related to those terms from the Administrative Procedure Act. The inclusion of these terms violates the principle of separation of powers between the executive and the legislative branches.

MOTION: **Rep. Packer** made a motion to send **H 540** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Loertscher** will sponsor the bill on the floor.

Vice Chairman Batt turned the gavel over to **Chairman Loertscher**.

H 524: **Jeremy Pisca**, Idaho Beer and Wine Distributors Association, presented **H 524**, legislation that seeks to codify the independence between the manufacturing tier and the distribution tier by declaring that a brewery/manufacturer with limited exceptions, cannot have a financial interest in a brewery. Currently, Idaho does not have any brewery-owned branches nor distributor-owned breweries. He explained that Idaho uses the three-tier system of regulation which helps ensure that none of the tiers are unduly influenced by the others in the marketing of beer products. Brewers or suppliers are financially independent from distributors and retailers. He stated the majority of the United States prohibits branch ownership. He stated the bill closes a loophole in Idaho Code and stated that a brewery cannot own a distributorship, and a distributorship cannot own a brewery. There is also an emergency clause to allow a brewery to appoint a temporary wholesaler for a period not to exceed five-years.

Ken McClure, Givens Pursley, Anheuser-Busch, stated he **is opposed** to **H 524** because he believes it is a contracts issue. He stated there is currently no issue that demands this legislation. He stated the three-tier system does not allow breweries to distribute their product to the public, they have to go through distributors. Anheuser-Busch wants to maintain a free-market competition in beer distribution. Restricting competition in the middle-tier by removing a qualified potential bidder from the market would unnecessarily hurt wholesalers who want to sell. It denies any opportunity for distributors to step in and rehabilitate a market or take other reasonable measures to protect their business and that are available to the manufacturer of the product. He asked the committee to reject any efforts to intervene in private sector transactions, so a free market system can be maintained. Also, so the business environment that encourages continued investment in Idaho can flourish. He stated the five-year rule does not work for them because he feels it is not long enough to rehabilitate a market. He also said Anheuser-Busch was not part of negotiations when this bill was drafted. Anheuser-Busch owns over 500 distributors and 17 distributorships.

Parrish Miller, Idaho Freedom Foundation, stated he **is opposed** to **H 524** because it is problematic and limits private parties from negotiating and contracting between each other. He stated this legislation will cause problems, such as job loss. He said there should be a trust of the free marketplace to function without new legislation.

Dan Levine, self, former Budweiser distributor and craft distributor, stated he **is opposed** to **H 524** because he believes the only people who are able to help breweries are large companies such as Anheuser-Busch.

Tony Watkins, Watkins Distributing, stated he **is opposed** to **H 524** because they have owned a number of distributorships throughout the state for Anheuser-Busch and the current system works well.

John Grazzaffi, Stein Distributing, stated he **is opposed** to **H 524** because he has worked with Anheuser-Busch for 50 years and has never been pressured by them to sell or stop distributing.

Mack Bickle, Idaho Brewers United, on behalf of Sheila Francis, President, stated they are **in support** of **H 524** because it maintains the three-tier system. He stated breweries need separate distributors but want to be able to self-distribute as well.

Dan Scovel, Hayden Beverage Company, stated he is **in support** of **H 524** because he supports the three-tier system. He said the market share does change and the business is constantly evolving. He said this bill is focused on a loophole.

Skip Smyser, Millers-Coors, stated he is **in support** of **H 524** because he is in support of the three-tier system and they approve of the five-year period in which a brewery can appoint a temporary wholesaler to have financial interest. He said the terms were negotiated from a one year period that was presented last year.

Craig Stein, Craig Stein Beverages, stated he is **in support** of **H 524** because the three-tier system is needed so there is no undue influence on any tier. The three-tier system was set up to avoid the "pay to play" system. He stated that in the past five years, Anheuser-Busch has purchased three large distributors in Oregon and Washington. Anheuser-Busch has announced they want 50% of the distributorships in Idaho. He said they want control of the second tier. He stated that Miller-Coors is the biggest distributor in Idaho at 40%. He said small craft breweries are concerned with not getting distributed and a brewery-owned branch is threatened when a global giant is trying to buy. He said it should be up to the consumer. He also stated everyone except Anheuser-Busch is on board with the legislation.

Mr. Pisca was recognized to close testimony on **H 524**. He stated there is a real concern and threat to the three-tier system. He said nothing in the legislation changes a contract, it only sets a time frame. He stated six other states acted to close this same loophole. He also stated he has made good-faith attempts to negotiate with the other companies who might be affected by the legislation.

MOTION:

Rep. Sims made a motion to send **H 524** to the floor with a **DO PASS** recommendation. She spoke to the motion and stated she has worked in the three-tier system and supports it fully.

Rep. Luker spoke in support of the motion and stated the three-tier system is a good working system and that we need to protect it.

Rep. Gannon spoke in support of the motion and stated he was glad the parties negotiated from one year to five years.

SUBSTITUTE MOTION:

Rep. Andrus made a substitute motion to **HOLD H 524** in the committee at the discretion of the chair. He spoke to the motion stating he didn't feel it was proper for the legislature to become involved in the issues between the brewers, distributors, and retailers.

VOTE ON SUBSTITUTE MOTION:

Roll call vote was requested on the substitute motion to **HOLD H 524** in the committee at the discretion of the chair. **Substitute motion failed, 5 AYE, 11 NAY.** Voting in favor of the substitute motion: **Reps. Anderson, Andrus, McMillan, Woodings, and Chairman Loertscher.** Voting in opposition to the substitute motion: **Reps. Batt, Luker, Crane, Palmer, Sims, Barbieri, Holtzclaw, Monks, Packer, Smith, and Gannon.**

VOTE ON ORIGINAL MOTION:

Chairman Loertscher called for a vote on the original motion to send **H 524** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Andrus and Chairman Loertscher** requested to be recorded as voting **NAY.** **Rep. Sims** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 10:33 a.m.

Representative Loertscher
Chair

Kasey Perkins
Secretary