
A bitter brew in Massachusetts

By Paul McMorrow

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THE ALCOHOLIC Beverages Control Commission provided an unusually public view into regulatory sausage-making this week, when it was forced to call off a crackdown on the state's small beer makers. The short-lived crackdown was steeped in all kinds of ridiculousness, not the least of which was the threat that the state would yank brewers' licenses if they failed to secure vast quantities of brewing ingredients that are essentially unavailable to commercial buyers in Massachusetts.

The ABCC push to force small brewers to buy half their barley and hops from Massachusetts farmers flamed out as soon as it became public. State Treasurer Steve Grossman yanked hard on the agency's leash when he learned that the ABCC's ingredient-sourcing regulation would force some small brewers out of business and prevent others from opening their doors.

But the strangest part of the saga wasn't even the ABCC's strident defense of a farming industry that doesn't actually exist. This was the really bizarre part: The whole flare-up had nothing to do with political games. Which means that, in addition to being steeped in regressive Prohibition-era legacies and stacked heavily in the favor of monied interests, the Massachusetts beer industry is also overseen by regulators who don't actually know the basic workings of the industry they're supposed to govern.

The state's small brewers initially feared that the ABCC policy on local ingredients was a way of exerting leverage in another State House fight. Small brewers are currently enmeshed in a legislative battle with the state's deep-pocketed beer distributors. The brewers are asking legislators to open up distribution channels to more choice; distributors are funneling money into a push to exert even greater power over the beer accounts they control. The powerful distribution lobby is used to getting its way on Beacon Hill. And the ABCC had recently admitted that it had employed lawmakers' relatives in exchange for generous treatment in the state budget. So it was widely speculated that, in putting small brewers' licenses at risk by conjuring up a new, impossible to meet 50-percent local sourcing threshold, the ABCC was playing dirty politics.

Distribution rights are only on the table because Massachusetts subscribes to an antiquated system that prohibits alcohol manufacturers from selling directly to retailers and consumers. Most small Massachusetts brewers rely on farmer-brewer licenses to provide checks on the state's tiered distribution system. The farmer-brewer licenses allow brewers to run their own distribution networks, and make in-brewery retail sales to consumers. Those are critical rights in a business where margins are thin and startup costs are enormous.

The ABCC wasn't pulling a sinister favor for beer distributors when it made a run at small brewers' farmer-brewer licenses. But the commission appeared coldly indifferent to market realities. Until Grossman stepped in, the ABCC was content to push brewers into a licensing system in which brewers would pay up to 100 times more for licenses that are more restrictive than the ones they currently hold. It was prepared to shut down brewery tours and tasting rooms and brewery-direct sales. It didn't seem to know, or care, that local brewers' demand for grain far outstrips local supply. Even if the state's climate favored barley farming (it doesn't), the nearest industrial-scale malting plant is in Quebec, meaning that the ABCC would have been asking brewers to export local grains for processing, and then re-import them for brewing. Maybe that's why nobody in the state's agricultural community sought the change the ABCC was pushing.

The farmer-brewer license at the center of the ABCC storm predates the industry it now serves. In 1982, there were no small breweries in Massachusetts. There are dozens now, thanks to the liberal spin that the farmer-brewer license puts on what is otherwise a costly and regressive distribution regime. For two decades, state alcohol regulators treated the farmer-brewer license for what it is - a de-facto small brewery license. Then the ABCC decided to reinterpret the statute, and broom a couple dozen current licensees out the door.

Now, under Grossman's direction, ABCC officials will be touring the state, soliciting input on how to construct new farmer-brewer regulations. They should look to a law that's already on the books. A parallel farmer-winery statute, passed five years before the farmer-brewer law, is identical to the farmer-brewer statute, except for one respect - it doesn't make any mention of farmer-winemakers using local crops.

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