

March 5th, 2024
SB 511
Proponent
Sean Willcott
Owner
Willcott Brewing

Chairman Thompson and Members of the Committee,

My name is Sean Willcott. My wife and I own and operate Willcott Brewing Company in Holton and Leavenworth Kansas. Our dream started when we purchased a historic building in downtown Holton in 2015. We spent literally every night, weekend, and holiday over the next 6 years renovating the property and installing our brewing equipment to open our own brewery. When we first opened, we understood the Kansas law that required us to work with a 3rd party to sell and deliver our products to retail customers. Though it made literally no logical sense relative to our small business why this system was in place, we accepted it. We vetted our options, and entered into contracts to partner with two distributors. Through the preliminary meetings and discussions, we built models and identified plans that would see our products reach many accounts locally, and expand into markets around the state. We made large financial investments based on the "gentlemen" agreements as to the potential we would have. We opened our doors and started to bring value to our rural Kansas community. Having received the "Unity in Community" award from our local Chamber of Commerce, and the "Small Business of the Year" award from the Kansas SBDC, we took pride in what we had accomplished. Shortly after making investments into expanding our business with a second location we started experiencing a pretty steady decline of distributed products. Trying to work with our primary distributor partner, we participated in ride alongs where we would visit retailers with our distributor. We invested in a 3D printer to produce custom tap handles to give a unique edge by providing personalized tap handles to retailers. We brought our team to locations during "tap take overs" where we would support the retailers who, for a day or two, would put multiple kegs on draft at the same time. With all our efforts, we continued to see a decline in our distributed products. We called a meeting with our primary distributor to be a little more aggressive with our discussions to try and identify why our volume continues to decline when product quality has been reported good, and interest from calls we do holds strong. During that meeting we were told that the beer market is down, and with a recent large decline in a "major brewery" product impacting the distributor, all their attention was being placed on the "big label brands" to

help offset the shift. Unfortunately, they would not be able to put resources behind pushing our product, and would not commit to any increase in sales.

Having heard this, it was clear that there was no intention of our partner promoting our products to help increase our presence or exposure in the market. I left that meeting and contacted the two retailers in Holton that offer draft beer. Both had in the past carried my product. I asked if they were interested in carrying us again, and both had the same answer; "We try ordering your beer, but every time we try your distributor tells us you are out of stock and we cannot get it." I was told this while having over 300 gallons of the product literally 1 block away from these establishments at the time we were talking. I honestly felt betrayed by my partner who was supposed to be representing my product and selling it in the market. Upon learning of this, I researched and explored what the process is to separate from a distributor. I was shocked to learn that I could not simply fire a distributor for not representing my product. Under Kansas law, I have to request a separation, and the distributor has to grant me that before I can shop for another partner. Fortunately for us, our distributors granted separation and freed us to seek another.

Once we were able to explore other options, I started to reach out to other area breweries to start researching if other distributors represent local better. What I quickly found was the other distributors treated their local accounts in a very similar fashion we experienced. Local was being shunned or sidelined to promote and push "big label brands". I obtained a contact list of the breweries around the state and started emailing and calling everyone. What I found was the issues I was experiencing was not limited to Holton and Leavenworth, it was a statewide issue that the majority of breweries were experiencing in one form or another. I made phone calls to members in the industry and I found that these big label brands offer bonuses to the distributor sales teams for volume and number of tap handles they obtain. I also learned that in no way were local craft brands allowed to replace the big label brands at retail accounts, even if the retailer requested it. Instead, what was allowed to happen was a local handle would be allowed to replace a different local handle. The market was being manipulated, and the existing laws written in the late 1940's allowed for the massive out of state breweries to exploit it with no consequences.

I reached out to my local Legislator, Francis Averkamp, and shared my frustration with him. He coordinated a meeting on 11/27/23 with the director of the ABC and the assistant attorney general to discuss the matter. In that meeting we talked about the laws and asked if the behavior of not promoting or offering local product under contract while giving special

treatment to the larger out of state breweries was a violation of free market and promoted monopolistic practices. The response from the assistant attorney general was; even though you can only legally work with 1 distributor per defined territory at a time, there are more than 1 distributor for a given area so it is not a monopoly. Because distributors are private businesses, even though we are under contract for them to sell our products, distributors have the legal right to choose what products they carry and promote, so they are working within the realm of the law by limiting our product exposure and promoting the big label brands.

My experiences over the last two months with this industry have allowed me to meet so many wonderful entrepreneurs who are currently limited and harmed by the current laws that prevent them from accessing and offering their products to the market. The hardships that Willcott Brewing Company has felt are unfortunately not unique to us. The requested modernization we seek with SB511 is the lifeline we need to remove the protected market manipulation that is taking place by existing anti-small business laws. SB511 is not changing the framework of existing Kansas law. Rather, SB511 is literally taking the existing Kansas liquor law that allows Kansas wineries the option to use a distributor, or sell direct to retail, and expanding those rights to include Kansas microbreweries.

I ask for your support in granting me the right to represent my own product to a free market by voting yes for SB511.

Sincerely,

Sean Willcott