

Beer Franchise Law: A New Bill Emerges From Committee

BY ANDREW C. BARTHOLOMEW • AUGUST 13, 2018

Earlier this year, I wrote a post on three bills aimed at reforming the Massachusetts beer franchise law. A revised version of one of those bills, backed by beer wholesalers and with a concession to brewers, recently moved out of committee on July 31st, the last day of the legislative session. The bill is evidence of continued negotiations between distributors and brewers to change a law that many see as outdated.

Under the present regime, brewers are typically stuck with the wholesalers that distribute their beer, even if they are unsatisfied with the wholesalers' performance. House Bill 2823 would have altered this rule by allowing "emerging breweries" that produced fewer than 30,000 barrels a year to end relationships with distributors with 90 days' notice, as long as the breweries were privately owned and managed only by the owners. However, the brewing industry was dissatisfied with this proposal, as it feared that it would discourage breweries from getting too large and successful.

In a nod to that concern, House Bill 4860, a revised draft of H.B. 2823, raises the limit to 100,000 barrels per year. Only two breweries surpassed the 100,000-barrel mark in 2017 — Boston Beer Company, best known for making Sam Adams, and Harpoon. This means that the majority of craft brewers in the Commonwealth would be free to change wholesalers, as long as the breweries are managed by their owners and, upon termination, the breweries must compensate the distributors for their inventory and marketing materials.

It is unclear at the moment how much support this bill will have going forward. Boston Beer has been a major player in the brewers' efforts to change the franchise law, so its exclusion from the proposed changes might mean that the bill is a nonstarter. The fact that owners have to manage the breweries in order to benefit from this new rule might also prove to be significant, as many reportedly hire some form of outside management. Either way, it is evident that both sides are determined to reach some kind of compromise. Some solution will be needed soon so that the flourishing craft beer industry will be allowed to continue its upward trajectory.

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