

Opposition ready to fight Franchot proposals to ease regulation of brewers



Peter Franchot, Comptroller of Maryland, and Eric Best, general manager of Bob Hall LLC, express opposing views about the recommendations by the Reform on Tap task force which will make sweeping changes to Maryland's laws regulating breweries. (Michael Dresser/Baltimore Sun)



By **Michael Dresser**
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Thinking he could be part of the solution, beer distributor Eric L. Best served on Comptroller Peter Franchot's "Reform on Tap" task force that recently recommended sweeping changes to Maryland's laws regulating breweries.

Now Best, vice president of the Maryland Beer Wholesalers Association, is part of a diverse coalition of wholesalers, retailers and public health advocates mobilizing to fight those recommendations in the General Assembly.

The developing opposition threatens to derail Franchot's goal of freeing the state's craft brewing industry from many restrictions on sales when lawmakers gather for the 90-day session that begins Jan. 10.

Best, general manager of Bob Hall LLC in Upper Marlboro, called Franchot's task force "dysfunctional" and said that the comptroller's office was "steering toward a predetermined goal" to favor one segment of the beer industry over others.

The task force recommended undoing a wide range of regulations affecting brewers, including all limits on production, taproom sales and over-the-counter sales, according to the comptroller's office's website. Smaller brewers would be allowed to sell an unlimited amount of their products without distributors.

"I think the task force was a platform to say they included all industry stakeholders," Best said, calling the recommendations, which were not voted upon by the task force, "absolutely a fait accompli."

Some leading legislators already are suspicious of the comptroller's efforts, believing his advocacy for one industry sector conflicts with his role as regulator. And Franchot's strained relationships with Senate President Thomas V. Mike Miller and House Speaker Michael E. Busch, both fellow Democrats, won't make it any easier to win passage of his proposals.

Franchot, however, said public opinion will force lawmakers to respond.

"This is the most potent, broad-based support for an issue that I've ever seen," he said.

The issue is the structure of Maryland's alcoholic beverage industry. Most beer, wine and liquor in Maryland is sold through a three-tiered system — producer, wholesaler and retailer (including bars and restaurants) — that has been in effect since Prohibition.

Brewers, like Maryland wineries before them, want the freedom to sell as much as they can directly to the public because it means greater profits. The wholesalers and retailers want to preserve a system that protects their business and, they contend, public safety and health.

The brewers won a qualified victory with passage of legislation last year that paved the way for Guinness to open its North American headquarters in Baltimore County and increased the amount other beer makers can sell through their taprooms.

But Franchot contends that that law, which left both craft brewers and distributors unhappy, remains more restrictive than those in surrounding states and has hurt Maryland's business image.

"It has everything to do with doing away with the anti-competitive and anti-consumer statutes and regulations that have been put in place over the years — not for public safety or the public interest but to protect the incumbents," Franchot said.

The recommendations for what Franchot calls the Reform on Tap Act of 2018 have yet to be drafted as a bill, but opponents are certain they won't like what they'll see when it's released.

Some believe the comptroller's advocacy of the brewers' interests has become overzealous.

During an interview in his office, Best brandished a copy of a City Paper article in which Franchot said “impediments” to brewers’ activities have “nothing to do with health and safety” and that those who contend otherwise are “lying.”

Best said he takes that comment personally. What the comptroller calls impediments, Best calls regulations.

“Anyone who says regulation isn’t important to alcohol denies the concern of excessive drinking,” he said. “Distributors have been called liars. That’s pretty harsh.”

Best emphatically opposes the comptroller’s recommendation that lawmakers remove all limits on direct, no-middle-man beer sales out of brewery taprooms — capped at 2,000 barrels a year under a law passed during the last legislative session.

“The words ‘unlimited’ and ‘alcohol regulation’ are incongruous,” he said.

Best said that even with the 2,000-barrel cap, a brewer could sell 1,800 glasses of beer a day, 365 days a year, out of its taproom.

The struggle over Maryland’s beer laws is often portrayed as a David-and-Goliath battle in which the powerful wholesale and retail liquor lobbies are portrayed as Goliath. But Best said his company is on the large end of the small-business spectrum.

Bob Hall, founded in 1933 upon the repeal of Prohibition, distributes beer — not wine or hard liquor — in Prince George’s, Charles and Calvert counties, generating sales of about \$77 million a year, Best said. Bob Hall has 110 full-time and 15 seasonal employees, all paid more than the minimum wage.

Since he joined the family-owned firm in 1984, Best said, the business has grown from distributing about five brands to between 300 and 400. It represents giants such as Anheuser-Busch InBev, maker of Budweiser, and well-known international brands such as Guinness and Corona, as well as dozens of craft breweries, including Maryland’s Diamondback and Full Tilt.

Best said he has great respect for the “first-class” enforcement division in the comptroller’s office, but he questioned Franchot’s advocacy for the brewery industry.

“I believe regulators should be regulators, and policymakers should make policy,” Best said.

As the beer wholesalers take their fight to Annapolis, they will have a staunch ally in the state’s retailers and tavern owners, represented by the Maryland State Licensed Beverage Association.

Jack Milani, the association’s legislative chairman and a member of Franchot’s task force, said he would have liked more input.

“The vast majority of the members of the task force were brewers,” he said. “In retrospect, I’m not real surprised.”

Brewers and craft beer advocates made up about half the 40-member task force, while the retail and wholesale segments had seven seats.

Citing the recent trend for large international beer companies to acquire successful craft brewing operations, Milani, who owns Monaghan's Pub in Woodlawn, said removing limits on what taprooms can sell "could open the doors for the big guys to come in here and become retailers."

Others raising concerns about the expected legislation include public health advocates.

David Jernigan, a Johns Hopkins University sociology professor who has been studying alcohol policies for 30 years, said experts with a background in health policy should have been at the table.

"Alcohol is not laundry soap. Alcohol is a product that causes 1,321 deaths a year in Maryland," Jernigan said. "When you increase the availability of alcohol, you're likely to increase alcohol problems."

Jernigan said the increasing popularity of craft beer has brought new problems. He pointed out that many craft products have alcohol levels in the range of 8 percent to 9 percent, almost twice that of nationally distributed brands. Drinking three beers at 8 percent alcohol is equivalent to five at 4 1/2 percent, Jernigan said.

"If we're going to reform the laws, we need to do it with caution and with a public health voice at the table," he said.

Franchot, however, said the task force meetings were open to the public and that public health advocates were free to attend. All segments of Maryland's beer industry were represented, he said.

Kevin Atticks, executive director of the Maryland Brewers Association but not a task force member, defended its activities.

"From the brewers' standpoint, it was a very fair and open process," said Atticks, whose group is mobilizing to counter the arguments of opponents of Franchot's agenda.

The comptroller has become a frequent guest at gatherings of craft brewers. Last week, he appeared at a celebration for the release of Seawolf Brewery's first Baltimore-made beer at the City Dock Bar & Grill in Annapolis. Franchot raised a glass of Seawolf's Special Hops IPA, toasted with Annapolis Mayor Gavin Buckley, and delivered a speech praising craft breweries and sharply criticizing segments of the industry that oppose his proposals.

Franchot's message thrilled Alan Beal, Seawolf's chief operating officer.

"The comptroller is a huge advocate of the craft beer industry," Beal said. "We support the comptroller 200 percent and are going to keep spreading his message where we can."

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