

**PUBLIC HEARING
ON
BILL 17-893
“ALCOHOLIC BEVERAGE ENFORCEMENT ACT OF 2008”**

NOVEMBER 14, 2008

**TESTIMONY OF
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My Name is Gregory Casten and I am a partner in four separate Washington, DC restaurants as well as a wholesale seafood company located in Ivy City. Combined together, these District based businesses employ over three hundred and fifty people. I have been personally involved in restaurant operations starting in 1986 and continue so through today. I am in my restaurants every day. In the twenty two years I have been in the industry, my establishments have been cited three times in a minor sting operation – once at Tony and Joe’s in 2006 and twice at Dancing Crab, once in 2005 and once in 1999. We have experienced many compliance checks in addition to those cited.

With regards to the effectiveness of minor compliance checks, I would admit that they certainly keep an establishment on their toes. However, I am not speaking in support because without question these stings reflect negatively on the ABC Board and the ABRA. The method of these compliance checks and, more substantially the penalties assessed, has made the ABC board more of an adversary than a partner in protecting the public interest.

The impact of the sale to minor stings on licensees is devastating. It is the restaurant that shoulders the responsibility for the employee that commits the violation and, in the rare instances where a minor is actually caught in violation of the law; the restaurant pays a penalty, but not the perpetrator of the crime. We hear about equal protection under the law in this country, but we seem to have a huge exception to that concept in this city.

Today's economy is shaky at best, and we need not remind the Board that the restaurant industry is already a particularly vulnerable segment of the business community. These fines hurt, yes, but the skyrocketing number of fines being written is particularly onerous and paint ABRA and the ABC board as more a ticket writing body than a true oversight or educational partner. Another illustration of this is that we have been visited by more ABC inspectors in the past year than during the entire prior decade.

While fines are certainly a preventative step, there is some question as to the judgment of the inspectors in handing out those fines. There is absolutely no consideration for reasonable and common occurrences in the day-to-day, hour-by-hour operation of a business. One citation was issued when one of my managers was off-premise – *by fifteen feet!* We paid the fine and try to laugh this off as business as usual in the District, but really, this is absurd.

In addition to the fines, suspensions are a devastating punishment. Not only do these inflict immediate financial harm on the establishment, but they also damage the restaurant's reputation. Add to that the impact on employees' income and even the lost sales tax to the District and you have to come to the conclusion that the impact of a suspension for a first time or once in a blue moon offense is grossly out of proportion.

We need to inject a whole lot more common sense into the inspection and enforcement process. ABRA needs to re-examine its sting operations and target those establishments that truly are more likely scofflaws. First offenses should be looked at as a teaching tool

rather than the beginning of a revenue stream. Consideration should be given to the economic health of the restaurant, its employees and the lost tax revenue to the District when scheduling suspension days. In addition, when scheduling suspensions, contracted private parties should be exempted from suspension – it makes no sense to punish Grandma and Grandpa celebrating their 50th wedding anniversary for the mistake of a distracted server. The Board should also be allowed to add other evidence gathered to give the board leeway to decide whether to impose a suspension or not – look for intent of the establishment, the history of the establishment’s marketing, promotions and so forth – see if the real intent of the licensee serving the minor is to attract such clientele. If so, the Board should have the tools necessary to make the punishment severe enough to get the message across, but if the Board sees evidence to the contrary, that is if the establishment is not one with a history of violations, does not promote to a younger crowd, has sales well in excess of the mandatory liquor/food sales ratio, and is active in their community, then the Board should use its judgment to avoid making the punishment too severe for the infraction.

Thank you for this opportunity to be heard – it’s a rare privilege for a small business person like me to be able to address the decision makers at a time and in a manner when my ideas might affect their thought process. I am grateful for the opportunity.