

Anheuser-Busch's plan to get distribution license here sets off shock waves across state

By Joy Campbell Messenger-Inquirer | Posted: Sunday, October 12, 2014 12:00 am

A beer battle is brewing in Owensboro, but the fight actually is taking place behind the scenes and across Kentucky.

It has to do with one of giant global Anheuser-Busch InBev's companies applying for a beer distribution license in Owensboro.

Owensboro's Alcoholic Beverage Control administrator Dana Coomes approved the application in August amid a flurry of protest letters.

That local decision has been appealed, and a prehearing conference is set for Nov. 21 in that matter, according to Dick Brown, communications director for the Kentucky Public Protection Cabinet that includes the state's ABC office.

Anheuser-Bush LLC's application for state licensure is pending and remains under consideration, he said.

So, will Owensboro beer lovers still be able to get their favorite brands? Will those brands cost more? What's the big deal? Hasn't this been done before?

It's too early in the process to answer all the questions.

But a number of people in the alcohol industry have found much to worry about and want the ABC to think long and hard about potential blowback from allowing a brewer to also distribute beer.

Snubbing the three-tier system

Anheuser-Busch states in the application that it intends to buy the inventory, fixtures and assets at 4221 Airpark Drive, which is the current location of Budweiser of Owensboro, a company owned by the Hand Family based in Clarksville, Tennessee.

A letter included with the application from the Hand Family confirms its intentions to sell the Airpark Drive distributorship to Anheuser-Busch. The sale was expected to close Sept. 26 but apparently is stalled until the beer/cider distributor's license issue is settled. Anheuser-Busch is asking for a two-



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Photo illustration by Jenny Sevcik, Messenger-Inquirer/jsevcik@messenger-inquirer.com, 691.7294

year license.

For some, this is a case of a big company trying to break the rules. After all, Anheuser-Busch LLC has 12 breweries across the U.S., and it has a wholesaler branch in Louisville. And that's just this company. Anheuser-Busch In-Bev, its global parent company, is one of two conglomerates that control more than 90 percent of beer production in the U.S., according to Alcohol Justice, a nonprofit advocacy group that keeps an eye on the industry. Alcohol Justice submitted a letter opposed to granting the license.

Most of the letters on file with the local ABC office are opposed to the license and state that it will upset Kentucky's long-held three-tier principle system for the distribution of alcohol. The three tiers are brewers/manufacturers, distributors and retailers. Each has its own role in regulated alcohol sales, the letters state.

Messing with that system can have serious consequences for communities and consumers, the protest letters argue. One of the consequences, they say, is that Anheuser-Busch could distribute only its products, leaving retailers such as liquor stores and restaurants with limited or no access to the brands they want to carry.

Carrying that perceived threat out — local customers may not be able to buy their favorite beers in Owensboro.

Dave Adkisson, president and CEO of the Kentucky Chamber of Commerce, filed a letter of concern about the possible negative effects of Anheuser-Busch buying the Owensboro distribution company including "the implications that such a transaction might have on the ability of Kentucky-produced craft beers to access adequate distribution channels."

"We have concerns about mixing the three tiers," said Karen Thomas Lentz, executive director of the Kentucky Association of Beverage Retailers that is made up of package liquor retailers in Kentucky. "Under the same regulations, a package retailer can't own a distributorship. That separation needs to remain in place."

The KABR members are among those worried that they may not have access to all the products they may want to sell. When a branch or manufacturer also owns a distributorship, the company can decide which products it sells, Lentz said.

If the distributor doesn't sell all the products, then retailers can't get them, Lentz said. A neighboring distributor can't come in and sell to them because beer distributors are bound by geographic sales areas.

Anheuser-Busch responds

Attempts to talk to someone at Anheuser-Busch through the company's media hotline and to talk to the Hand family at the Clarksville office were unsuccessful.

But Bob Kelley, region vice president for Anheuser-Busch, submitted a letter Friday to the Messenger-Inquirer. In that letter — which was requested as an op-ed piece — he makes the company's case for approving the distributor's license and for his company's purchase of the Owensboro distributing company.

Kelley, who oversees sales operations for Anheuser-Busch in Kentucky, framed the issue this way. It's a case of some folks "asking the government to block a private transaction between two businesses." The transaction, he said, is in full compliance with every law and regulation.

Anheuser-Busch is different from many competitors, though. It also is in the distribution business operating its own distributors in limited cases, Kelley said. The company has bought and sold Anheuser-Busch distribution businesses for more than 100 years, he said. He mentioned the Louisville distributing business the company bought in 1978 after the Kentucky courts decided the issue.

Many Kentucky Anheuser-Busch wholesalers support this Owensboro transaction, Kelley said. But "wholesalers who compete with ours, object to our decision," and some are trying to block the sale, he said.

Kelley goes on to say that "this transaction won't affect consumer choice in any way."

He does not say outright, however, that his company will distribute other brands. And he doesn't speak to opponents' concerns that Anheuser-Busch may want to buy other distributing companies.

"Anheuser-Busch remains committed to delivering excellent products, and the existing system ensures our competitors have a robust way to get their products to market, too," Kelly said in the letter.

"This all boils down to one question: Should self-interested parties be allowed to obstruct a private transaction between a willing seller and buyer when all laws are being followed? Of course not," he said.

What's the local impact?

At this point, it's hard to say what impact Anheuser-Busch will have as a distributor for Owensboro. But local retailers and distributors across Kentucky are watching the process closely, with some making their views known to the state ABC.

"I worry about what is being distributed more than who is distributing it," said John Condray, co-owner of Gambrinus Libation Emporium, a popular downtown Owensboro establishment that offers its customers a wide selection of high end craft/specialty beers.

Having said that, he also does his research.

Condray said he would not want to see a monopoly created in an industry in which "craft beers make up less than 7-8 percent of the entire beer market in terms of volume sold and probably sales dollars."

Small breweries that he supports likely don't have lobbyists in Frankfort and Washington, D.C., he said. "What are their chances if A-B InBev wants to buy their brewery?"

If successful here, A-B InBev also could decide to buy other distributors and seek licenses elsewhere, he said. "The little guys have next to no chance of holding off AB In-Bev from buying anything they want," he said.

Condray has a distribution agreement with Clark Distributing Co. in Owensboro.

"They're picking up more craft brands, and they've hired a craft guy who is pursuing new brands," Condray said. "We've been on the forefront of getting those beers out there."

Condray wants to continue to have access to the beer brands he selects.

"InBev could purchase the rights to distribute the products, but then not get them, and distribute only their own," he said. "They're more concerned about getting their core products out there that they can sell in volume. InBev having a say in what gets distributed is a scary thing."

A-B InBev has gone down this path already in Louisville, where the company has a distributorship, application opponents said.

Lentz said Louisville retailers have told her that they don't have access to all the products available in other regions. Some products, including some craft beers, that A-B InBev sells in Lexington, for example, are not available in Louisville, she said.

"Our bottom line is, as an association, we are big proponents of a three-tier system," Lentz said.

Other organizations that represent various stakeholder groups also have lined up to oppose the application. Granting the Owensboro license definitely would blur the lines in the state's three-tier system and will expand A-B InBev's market share, they said.

"Our goal and mission is to ensure that the vast array of products that we sell and promote are delivered to the licensed retailers, both at restaurants and package stores, are both safe to consume and are of the highest quality," according to a statement issued by the Kentucky Beer Wholesalers Association. "Just as important, though, is that our distributors provide a critical buffer between the supplier and the retailer, and, thus we ensure that retailers can operate independently, without pressure or coercion, to stock, price and sell the products they select and choose."

The statement goes on to say that if Anheuser-Busch is allowed to own and operate distributorships, then "your local community will have taken yet another step to destroy local, family-owned businesses."

All the profits from those operations will go to A-B InBev, a foreign-owned company, and local jobs will be put at risk, and local restaurants and package stores will be pressured to carry only certain products that A-B InBev chooses, KBWA says.

The KBWA goes on to express caution about repeating history — meaning prohibition—— and to praise the three-tier system.

"A long time ago, suppliers owned distributors and retail facilities. The pressure to push products out the door was so rampant that the United States enacted prohibition. Upon the repeal of prohibition, locally owned and independent distributors and locally owned and operated retailers have been able to distribute, sell and promote all licensed alcohol beverage products in a safe, economical and responsible way. We should not endanger that system simply because a foreign-owned company wants to take over a local business. That is exactly why we oppose this application, and you should too."

New group opposing application

Kentuckians for Entrepreneurs and Growth, or KEG, is opposing A-B InBev's application for most of the same reasons KBWA lists.

Three KEG members — Ann Bakhaus of Kentucky Eagle Beer, a distributor in Lexington; Mark Meisenheimer, Golden Eagle Distributing in Paducah; and Daniel Harrison, Country Boy Brewing, Lexington — said last week that Owensboro could suffer job losses that may reverberate through the local economy.

When In-Bev bought the distribution company in Louisville "a lot of jobs were lost," Bakhaus said. "I talked to many ex-employees and one that I hired. That could happen again."

Anheuser-Busch's application is about fair play, Harrison said.

"We're beer makers and part of that micro brewing industry that is taking off and has such momentum," Harrison said in a phone interview. "We are prohibited by statute from owning a distributorship, and we're OK with that because we have carefully signed distribution agreements. We think that for a large brewer out of state to be allowed to come in and do this is an unfair practice. It's easy to see from our point of view that this is not fair."

Loss of a local distributor can be an economic factor for communities, Meisenheimer said.

"We distributors are local — we buy local, we live local—— and we support our churches and serve on civic boards," he said. "It can be a big loss for any community to lose a distributor."

Clark Distributing and several local liquor store owners contacted for the story declined to talk about whether having a beer manufacturer also distributing beer in Owensboro would have an impact on whether customers can count on continuing to get their favorite beer brand in Owensboro.

"I've cautioned our members not to talk about it — in case the application does go through," Lentz said. "But we have decided as an association that we are big proponents of a three-tier system. My retailers couldn't own or operate a distillery. We want to make sure everybody has clearly defined

rules for their part in the system."

Two distributors — Smith Brothers Distributing Co. in Bardstown and Edward Utley Jr. Inc. in Henderson — filed letters of support for Anheuser-Busch. Their letters had similar language including that the Hand family has assured us that they entered into this agreement at their own will. As a result, they said, "we believe that any protest is unwarranted and that your consideration for this transaction should not be delayed."

The state's malt beverage administrator cannot comment on the Anheuser-Busch issue since it is "in litigation before the board" and also is a pending application, Brown said.

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