

Antes, Christopher

From: elitebeverages1@aol.com
Sent: Thursday, March 19, 2026 2:56 PM
To: ATC-Rules
Subject: Comments in favor of reenacting Rule 32.1
Attachments: Written follow-up Testimony Rule 32.1 3-13-2026.docx

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To whom it may concern,

Please see the attached comments regarding Rule 32.1. Thank you, Ray Cox

WRITTEN PUBLIC COMMENT TO THE ATC REGARDING RULE 32.1

3-21-2026

TO:

Indiana Alcohol and Tobacco Commission

Attn: Melissa Beaucaire, General Council

Indiana Government Center South Building

302 West Washington Street, Room E114

Indianapolis, IN 46204

Again, I would like to thank members of the Commission for hearing the concerns of hundreds of Hoosier small businesspeople regarding possible changes to Rule 32.1. The Commission seemed particularly interested in the potential costs associated with independent co-ops potentially being required to build a warehouse to hold and distribute co-op purchased goods. Before I present thoughts on Rule 32.1 in general, please allow me to expand upon a few hurdles.

- 1) As the Commission is aware, “warehouses” (an undefined term) must be connected to and part of licensed premises. Locating a 10,000-15,000 square foot warehouse upon existing permit premises would require fairly unique circumstances. Many existing package stores are in strip centers; some are located in stand-alone building that already utilize all available ground for sales and parking. One would be hard pressed to find that unique setting that allows a 10,000-15,000 square foot expansion.
- 2) If one were to seek to acquire new land to locate both the package store and the warehouse, other obstacles would be faced. Zoning, commercial viability and local ordinances would all be limiting factors. As you know, there is a unique set of local ordinances in Marion County that would be further challenges.

The vast majority of co-ops around the state would simply not be able to overcome these challenges.

I would certainly challenge the idea that BRL is at a disadvantage because they operate a warehouse or warehouses. At the hearing on March 12, 2026 several independent co-op operators testified in writing regarding their considerable costs to operate in a co-op. Certainly when prorated on a per store basis, the costs of warehousing scales down

significantly. Rule 32.1 does not require anyone to operate a warehouse. It is done voluntarily. Why? There are significant advantages to operating a warehouse.

- 1) As mentioned above, there are economies of scale, the more stores you own, the less costs per store.
- 2) You can buy more inventory when it is cheaper and hold it for longer periods of time, reducing your overall costs of goods sold.
- 3) Inventory is brought to your warehouse by the wholesaler. There is no need to pick it up from an independent co-op drop point, thus avoiding one leg of the process.

Since independent co-ops have already demonstrated the significant costs associated with operating within a co-op, arbitrarily adding ADDITIONAL costs to members that would serve no useful purpose, would be discriminatory, arbitrary and capricious. Such an action, such as requiring a warehouse or disallowing the use of an approved parking lot for product transfer would put independent co-ops at a greater disadvantage than they currently are and would cause irreparable damage to hundreds of Hoosier small businesspeople who for over 30 years built their business model based upon Rule 32 and Rule 32.1.

BRL asserts in its statement that independent co-ops operate in “conditions more akin to an unregulated third-world marketplace.” Nothing could be further from the truth. Typically, six to eight licensed wholesaler employees, including a co-op coordinator and two to eight licensed retailers are present at an independent co-op delivery. It is their responsibility to monitor the delivery from beginning to end and assure compliance with all applicable laws. The evidence indicates that they have been highly successful in doing so, as there have been no violations that I know of associated with independent co-op deliveries. As I mentioned in oral testimony, beer deliveries routinely are staged in parking lots of all types of permittees twice a week, fifty-two times a year and no one has mentioned irresponsible practices or public safety issues. Minors are not permitted in or on licensed permit premises, including the approved extended floor plan. I know of no minor violations associated with such approved floor plans. Rule 32.1 currently DOES NOT allow independent co-op members to be in multiple co-ops and requires independent and commonly owned co-ops to register their locations with the ATC. BRL proposes some arbitrary limits to both the geographical area of co-op members and the number of stores in a co-op. I assume they are referring to INDEPENDENT CO-OPS, otherwise they would be limiting BRL and other commonly owned co-ops to the same restrictions. To limit independent co-ops and not limit commonly owned co-ops would be discriminatory. The ATC and Rule 32.1 have historically been very careful about being non-discriminatory. We would hope that to continue to be the case.

In our ongoing discussions with our wholesale partners, we have agreed to work together to ever improve and modernize our deliveries to further our long-standing practices to assure the highest standards in public safety, efficiency and control of our highly regulated product. We and our wholesaler partners take very seriously the privilege granted to us and our responsibility to public welfare. To suggest otherwise is reckless.

There is also nothing inherently unsafe about co-ops transferring products in approved parking lots. This practice has been commonplace in the industry for twenty plus years, even before Rule 32 was amended to become Rule 32.1. In fact, I presented evidence that other places where beverage alcohol is delivered are more prone to incidents than a co-op drop point. To my knowledge, there have been no violations of ATC Rule or statutes at independent co-op deliveries. Should a claim that co-ops deliveries are unsafe be made by any wholesaler or permittee, it would be important to know what type of safety-related incidents happen in other settings, like other types of deliveries at other retailers, the wholesaler's warehouse, etc.

In closing, I would again like to thank the Commission for their time with this issue. Hopefully, the Commission has become more familiar with the operation of co-ops in this state and their importance to our industry. Rule 32.1 has allowed both Commonly Owned Co-ops and Independently Owned Co-ops to coexist and prosper simultaneously, evidenced by the fact that Big Red has nearly doubled in size in the past seven years. Several other Commonly Owned Co-ops have also increased in size in the past seven years. (The Cork, who testified, Indiana Liquor Group, Keg Liquors.) Indeed, market conditions have evolved in the years since Rule 32 was originally promulgated. Today BRL, at over one hundred stores, is about twice as big as the second largest liquor store chain. Other grocery/ drug store competitors numbering in the hundreds are now a significant factor in the market. How have smaller operators managed to continue serving their communities responsibly with competitive pricing, selection and good service? The answer is Rule 32.1. At the end of the day, this is not an issue brought on by some perceived public policy lapse or a lapse of responsible handling of a highly regulated substance. This is a purely competitive issue. It is anti-consumer as it would increase prices and decrease selection. It is picking winners and losers as it would harm hundreds of Hoosier small businesses in favor of private equity.

I respectfully urge the Commission to readopt Rule 32.1 as it is written today. Thanks again for your time in considering this vital issue. Please don't hesitate to call me at 317-445-1923 or email me at elitebeverages1@aol.com with any questions.

Sincerely,

Raymond Cox, Elite Beverages, Dollar Saver Co-op

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Indianapolis, IN 46229