

House BILL NO. 286

INTRODUCED BY

Carlson *Rasmussen* *Angelo* *Quinn*
Castiglione *Forbes* *McKee* *Chapman* *Henry*

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT IT IS AN UNLAWFUL ACT FOR ANY BREWER OR BEER IMPORTER TO COERCE OR ATTEMPT TO COERCE A BEER WHOLESALER TO SET A PRICE FOR ANY PRODUCT; AND AMENDING SECTION 16-3-221, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-221, MCA, is amended to read:

"16-3-221. Illegal acts by brewers or beer importers. It is unlawful for any brewer or beer importer or any officer, agent, or representative of any brewer or beer importer to:

(1) coerce, ~~or~~ attempt to coerce, or persuade any person licensed to sell beer at wholesale to set a price for any product or to enter into any agreement or to take any action ~~which that~~ would violate or tend to violate any of the laws of this state or any rules promulgated by the department;

(2) sell its products in the state without a written contract, which conforms to the provisions of 16-3-221 through 16-3-226, with each appointed licensed wholesale distributor;

(3) designate or allow more than one wholesale distributor to sell or distribute a specific brand of the brewer's or beer importer's products to retail licensees in the same area, provided that nothing ~~herein shall prohibit~~ in this part prohibits the brewer or beer importer from designating more than one wholesale distributor to sell or distribute different brands of the same manufacturer to retail licensees in the same area; and

(4) cancel or terminate, except for just cause or in accordance with the current terms and standards established by the brewer or beer importer then equally applicable to all wholesalers, any agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or ~~thereafter~~ entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's franchise, the brewer or beer importer has the burden of proving that the classification was reasonable and not arbitrary. After July 1, 1974, the provisions of 16-3-221 through 16-3-226 ~~shall~~ must be a part of any

1 franchise, contract, agreement, or understanding, whether written or oral, between any wholesaler of beer
2 licensed to do business in this state and any manufacturer or beer importer doing business with the licensed
3 wholesaler just as though the provisions had been specifically agreed upon between the wholesaler and the
4 manufacturer or beer importer."

5 -END-

1 HOUSE BILL NO. 286
 2 INTRODUCED BY PAVLOVICH, LARSON, TROPILA, QUILICI, COCCHIARELLA, FORBES, MCKEE, OHS,
 3 SHEA, HARRINGTON
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT IT IS AN UNLAWFUL ACT FOR ANY BREWER
 6 OR BEER IMPORTER TO COERCE OR ATTEMPT TO COERCE A BEER WHOLESALER TO SET A PRICE FOR
 7 ANY PRODUCT; AND AMENDING SECTION 16-3-221, MCA."

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 13 or any officer, agent, or representative of any brewer or beer importer to:

14 (1) ~~coerce, or~~ OR attempt to coerce, or persuade any person licensed to sell beer at wholesale to
 15 set a price for any product or to enter into any agreement or to take any action which that would violate
 16 or tend to violate any of the laws of this state or any rules promulgated by the department; HOWEVER,
 17 NOTHING IN THIS PART PROHIBITS A BREWER OR BEER IMPORTER FROM SUGGESTING WHOLESAL
 18 PRICES FOR PRODUCTS TO DISTRIBUTORS OR FROM DISCUSSING WHOLESAL PRICES WITH
 19 DISTRIBUTORS.

20 (2) sell its products in the state without a written contract, which conforms to the provisions of
 21 16-3-221 through 16-3-226, with each appointed licensed wholesale distributor;

22 (3) designate or allow more than one wholesale distributor to sell or distribute a specific brand of
 23 the brewer's or beer importer's products to retail licensees in the same area, provided that nothing ~~herein~~
 24 ~~shall prohibit~~ in this part prohibits the brewer or beer importer from designating more than one wholesale
 25 distributor to sell or distribute different brands of the same manufacturer to retail licensees in the same area;
 26 and

27 (4) cancel or terminate, except for just cause or in accordance with the current terms and
 28 standards established by the brewer or beer importer then equally applicable to all wholesalers, any
 29 agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or
 30 ~~thereafter~~ entered into after that date to sell beer manufactured by the brewer or imported by the beer

1 importer. A brewer or beer importer may, notwithstanding the preceding sentence, make reasonable
2 classifications among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's
3 franchise, the brewer or beer importer has the burden of proving that the classification was reasonable and
4 not arbitrary. After July 1, 1974, the provisions of 16-3-221 through 16-3-226 ~~shall~~ must be a part of any
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7 wholesaler just as though the provisions had been specifically agreed upon between the wholesaler and the
8 manufacturer or beer importer."

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17 NOTHING IN THIS PART PROHIBITS A BREWER OR BEER IMPORTER FROM SUGGESTING WHOLESALE
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7 wholesaler just as though the provisions had been specifically agreed upon between the wholesaler and the
8 manufacturer or beer importer."

9

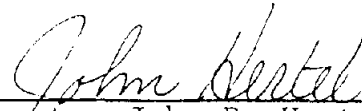
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 8, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 286 (third reading copy -- blue), respectfully report that HB 286 be amended as follows and as so amended be concurred in.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 6.

Following: first "coerce"

Strike: "or"

Insert: ", "

Following: second "coerce"

Insert: ", or persuade"

2. Page 1, line 14.

Strike: "or"

Insert: ", "

Following: "persuade"

Insert: ", or persuade"

3. Page 1, line 15.

Strike: "set a price for any product or to"

4. Page 1, lines 16 through 19.

Strike: "." on line 16 through "DISTRIBUTORS." on line 19

Insert: ";"



5. Page 1, line 26.

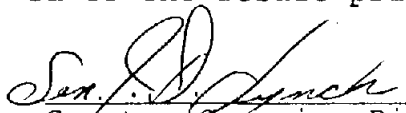
Strike: "and"

Insert: "(4) fix or maintain the price at which a wholesale distributor resells the brewer's or beer importer's products. Without limitation, it is a violation of this section if:

(a) after a wholesale distributor has exceeded a resale price increase recommended by a brewer or beer importer, the brewer or beer importer raises the price that it charges the wholesale distributor for those products within 60 days; or

(b) after a wholesale distributor has exceeded a resale price increase recommended by a brewer or beer importer, the brewer or beer importer raises the price that it charges the wholesale distributor in an amount proportionately larger than the amount that it raised the wholesale distributor's prices initially when compared to the resale price that it recommended


Amd. Coord.

Sec. of Senate


Senator Carrying Bill

HB 286
SENATE
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to the wholesale distributor."
Renumber: subsequent subsection

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14 (1) coerce, ~~or OR~~, attempt to coerce, ~~or persuade~~, OR PERSUADE any person licensed to sell beer
15 at wholesale to ~~set a price for any product or to~~ enter into any agreement or to take any action ~~which~~ that
16 would violate or tend to violate any of the laws of this state or any rules promulgated by the department;
17 ~~HOWEVER, NOTHING IN THIS PART PROHIBITS A BREWER OR BEER IMPORTER FROM SUGGESTING~~
18 ~~WHOLESALE PRICES FOR PRODUCTS TO DISTRIBUTORS OR FROM DISCUSSING WHOLESALE PRICES~~
19 ~~WITH DISTRIBUTORS.;~~

20 (2) sell its products in the state without a written contract, which conforms to the provisions of
21 16-3-221 through 16-3-226, with each appointed licensed wholesale distributor;

22 (3) designate or allow more than one wholesale distributor to sell or distribute a specific brand of
23 the brewer's or beer importer's products to retail licensees in the same area, provided that nothing ~~herein~~
24 ~~shall prohibit in this part prohibits~~ the brewer or beer importer from designating more than one wholesale
25 distributor to sell or distribute different brands of the same manufacturer to retail licensees in the same area;
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27 (4) FIX OR MAINTAIN THE PRICE AT WHICH A WHOLESALE DISTRIBUTOR RESELLS THE
28 BREWER'S OR BEER IMPORTER'S PRODUCTS. WITHOUT LIMITATION, IT IS A VIOLATION OF THIS
29 SECTION IF:

30 (A) AFTER A WHOLESALE DISTRIBUTOR HAS EXCEEDED A RESALE PRICE INCREASE

1 RECOMMENDED BY A BREWER OR BEER IMPORTER, THE BREWER OR BEER IMPORTER RAISES THE
2 PRICE THAT IT CHARGES THE WHOLESALE DISTRIBUTOR FOR THOSE PRODUCTS WITHIN 60 DAYS;
3 OR

4 (B) AFTER A WHOLESALE DISTRIBUTOR HAS EXCEEDED A RESALE PRICE INCREASE
5 RECOMMENDED BY A BREWER OR BEER IMPORTER, THE BREWER OR BEER IMPORTER RAISES THE
6 PRICE THAT IT CHARGES THE WHOLESALE DISTRIBUTOR IN AN AMOUNT PROPORTIONATELY LARGER
7 THAN THE AMOUNT THAT IT RAISED THE WHOLESALE DISTRIBUTOR'S PRICES INITIALLY WHEN
8 COMPARED TO THE RESALE PRICE THAT IT RECOMMENDED TO THE WHOLESALE DISTRIBUTOR.

9 ~~(4)~~ (5) cancel or terminate, except for just cause or in accordance with the current terms and
10 standards established by the brewer or beer importer then equally applicable to all wholesalers, any
11 agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or
12 ~~thereafter~~ entered into after that date to sell beer manufactured by the brewer or imported by the beer
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20 manufacturer or beer importer."

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