

1 House BILL NO. 342
 2 INTRODUCED BY Carlovich

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CONTRACTUAL RELATION BETWEEN SUPPLIERS
 5 AND DISTRIBUTORS OF TABLE WINE; REFERENCING THE APPLICABILITY OF MONTANA STATUTORY
 6 PROVISIONS; PROHIBITING PRICE CONTROL; AMENDING SECTIONS 16-3-416 AND 16-3-419, MCA; AND
 7 PROVIDING AN APPLICABILITY DATE."

8

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

10

11 **Section 1.** Section 16-3-416, MCA, is amended to read:

12 **"16-3-416. Table wine distributor provisions.** (1) A supplier or table wine distributor ~~may not fail~~
 13 ~~or refuse to reduce to writing an~~ must have a written agreement of distributorship that provides for
 14 purchase of the supplier's products from the supplier by the table wine distributor.

15 (2) An agreement of distributorship must provide that:

16 (a) a supplier shall notify a table wine distributor in writing at least 60 days prior to termination of
 17 an agreement of distributorship unless a termination without notice is permitted as provided in 16-3-417.
 18 The written notice must state the reasons for termination. Notice of termination is void if within 60 days
 19 of the notice, the table wine distributor rectifies the deficiency stated as the reason for termination and if
 20 the deficiency was not stated as reason for termination in a notice previously voided under the provisions
 21 of this subsection.

22 (b) a supplier may not unreasonably withhold or delay approval of a sale or transfer of the
 23 ownership, management, or control of a table wine distributorship; ~~however,~~ However, a table wine
 24 distributor shall give a supplier no less than 60 days' prior written notice of any material change in
 25 ownership, management, or control.

26 (3) Within 60 days after entering into an agreement of distributorship, the supplier shall advise the
 27 department of the agreement by filing a copy of the agreement that must include the sales area or areas
 28 designated for the table wine distributor.

29 (4) If a supplier terminates an agreement of distributorship under the provisions of subsection
 30 (2)(a), the table wine distributor subject to the termination is entitled to compensation for the laid-in cost

1 of his inventory. In the event of any termination of the agreement by the supplier other than termination
 2 for good cause or for any reason set forth in 16-3-417(3), the distributor is entitled to compensation for
 3 the laid-in cost of his inventory and to liquidated damages based on the sales of the brand or brands
 4 involved, as may be provided in the agreement. If the supplier and the distributor are unable to agree on
 5 the amount of liquidated damages, the amount of liquidated damages must be determined by an arbitrator
 6 appointed under subsection (5) of this section.

7 (5) If undertaken in good faith by a supplier, a supplier may terminate an agreement of
 8 distributorship for a legitimate business reason not within the definition of good cause if an arbitrator
 9 appointed by the department finds, after hearing the supplier and the table wine distributor, that the
 10 termination is in the best interest of the table wine brand concerned. Arbitration under this section must
 11 be conducted under the provisions of Title 27, chapter 5.

12 (6) All agreements of distributorship are interpreted and governed by the laws of Montana.

13 (7) A provision in an agreement of distributorship that is inconsistent with the requirements of this
 14 section is void."

15

16 **Section 2.** Section 16-3-419, MCA, is amended to read:

17 **"16-3-419. Suppliers' prohibitions.** A supplier may not:

18 (1) coerce, induce, or attempt to coerce or induce a table wine distributor to engage in an illegal
 19 act or course of conduct;

20 (2) require a table wine distributor to accept delivery of a product or other item or commodity that
 21 was not ordered by the wine distributor;

22 (3) fix or maintain the price at which a distributor shall resell table wine."

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24 **NEW SECTION. Section 3. Applicability.** [Section 1] applies to all contracts entered into or
 25 renewed after October 1, 1995.

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APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

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(3) Within 60 days after entering into an agreement of distributorship, the supplier shall advise the department of the agreement by filing a copy of the agreement that must include the sales area or areas designated for the table wine distributor.

(4) If a supplier terminates an agreement of distributorship under the provisions of subsection (2)(a), the table wine distributor subject to the termination is entitled to compensation for the laid-in cost

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