

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY *Carlson* *House* BILL NO. *310* - *Shen* *Menahan*
Cocchiarella *Lynch*

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT CERTAIN ACTIONS OF BREWERS OR BEER IMPORTERS CONSTITUTE ESTABLISHING OR MAINTAINING THE PRICE FOR RESALE OF THEIR PRODUCTS BY WHOLESALE BEER DISTRIBUTORS; AMENDING SECTION 16-3-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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, attempt to coerce, or persuade any person licensed to sell beer at wholesale to enter into any agreement or to take any action 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 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;

(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

1 when compared to the increase in the resale price that it recommended to the wholesale distributor, or
2 (c) the brewer or beer importer links or ties its participation in promotional discounts to the
3 wholesale distributor's compliance with any recommended resale price.

4 (5) cancel or terminate, except for just cause or in accordance with the current terms and
5 standards established by the brewer or beer importer then equally applicable to all wholesalers, any
6 agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or
7 entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A
8 brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications
9 among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's franchise, the brewer
10 or beer importer has the burden of proving that the classification was reasonable and not arbitrary. After
11 July 1, 1974, the provisions of 16-3-221 through 16-3-226 must be a part of any franchise, contract,
12 agreement, or understanding, whether written or oral, between any wholesaler of beer licensed to do
13 business in this state and any manufacturer or beer importer doing business with the licensed wholesaler
14 just as though the provisions had been specifically agreed upon between the wholesaler and the
15 manufacturer or beer importer."

16
17 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

18 -END-

APPROVED BY COM ON
BUSINESS & LABOR

1 *Carlson* *House* BILL NO. *310*-
2 INTRODUCED BY *Carlson* *Julian Lynch*
3 *Cocchiarella* *Chen* *Alen Khan*

4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT CERTAIN ACTIONS OF BREWERS OR BEER
5 IMPORTERS CONSTITUTE ESTABLISHING OR MAINTAINING THE PRICE FOR RESALE OF THEIR
6 PRODUCTS BY WHOLESALE BEER DISTRIBUTORS; AMENDING SECTION 16-3-221, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

12 **"16-3-221. Illegal acts by brewers or beer importers.** It is unlawful for any brewer or beer importer
13 or any officer, agent, or representative of any brewer or beer importer to:

14 (1) coerce, attempt to coerce, or persuade any person licensed to sell beer at wholesale to enter
15 into any agreement or to take any action that would violate or tend to violate any of the laws of this state
16 or any rules promulgated by the department;

17 (2) sell its products in the state without a written contract, which conforms to the provisions of
18 16-3-221 through 16-3-226, with each appointed licensed wholesale distributor;

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

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

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

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



1 when compared to the increase in the resale price that it recommended to the wholesale distributor; or
2 (c) the brewer or beer importer links or ties its participation in promotional discounts to the
3 wholesale distributor's compliance with any recommended resale price.

4 (5) cancel or terminate, except for just cause or in accordance with the current terms and
5 standards established by the brewer or beer importer then equally applicable to all wholesalers, any
6 agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or
7 entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A
8 brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications
9 among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's franchise, the brewer
10 or beer importer has the burden of proving that the classification was reasonable and not arbitrary. After
11 July 1, 1974, the provisions of 16-3-221 through 16-3-226 must be a part of any franchise, contract,
12 agreement, or understanding, whether written or oral, between any wholesaler of beer licensed to do
13 business in this state and any manufacturer or beer importer doing business with the licensed wholesaler
14 just as though the provisions had been specifically agreed upon between the wholesaler and the
15 manufacturer or beer importer."

16

17 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

18

-END-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY

House BILL NO. *310* --
Carbont *Julien Lynch*
Cocchiarella *Shen Alenakan*

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT CERTAIN ACTIONS OF BREWERS OR BEER IMPORTERS CONSTITUTE ESTABLISHING OR MAINTAINING THE PRICE FOR RESALE OF THEIR PRODUCTS BY WHOLESALE BEER DISTRIBUTORS; AMENDING SECTION 16-3-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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, attempt to coerce, or persuade any person licensed to sell beer at wholesale to enter into any agreement or to take any action 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 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;

(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

1 when compared to the increase in the resale price that it recommended to the wholesale distributor; or

2 (c) the brewer or beer importer links or ties its participation in promotional discounts to the
3 wholesale distributor's compliance with any recommended resale price.

4 (5) cancel or terminate, except for just cause or in accordance with the current terms and
5 standards established by the brewer or beer importer then equally applicable to all wholesalers, any
6 agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or
7 entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A
8 brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications
9 among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's franchise, the brewer
10 or beer importer has the burden of proving that the classification was reasonable and not arbitrary. After
11 July 1, 1974, the provisions of 16-3-221 through 16-3-226 must be a part of any franchise, contract,
12 agreement, or understanding, whether written or oral, between any wholesaler of beer licensed to do
13 business in this state and any manufacturer or beer importer doing business with the licensed wholesaler
14 just as though the provisions had been specifically agreed upon between the wholesaler and the
15 manufacturer or beer importer."

16
17 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

18 -END-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY Robert Luther Lynch
Cochise County House BILL NO. 310 -
Chen Anderson

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT CERTAIN ACTIONS OF BREWERS OR BEER IMPORTERS CONSTITUTE ESTABLISHING OR MAINTAINING THE PRICE FOR RESALE OF THEIR PRODUCTS BY WHOLESALE BEER DISTRIBUTORS; AMENDING SECTION 16-3-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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, attempt to coerce, or persuade any person licensed to sell beer at wholesale to enter into any agreement or to take any action that would violate or tend to violate any of the laws of this state or any rules promulgated by the department;

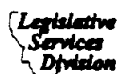
(2) sell its products in the state without a written contract, which conforms to the provisions of 16-3-221 through 16-3-226, with each appointed licensed wholesale distributor;

(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 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;

(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



1 when compared to the increase in the resale price that it recommended to the wholesale distributor; or
2 (c) the brewer or beer importer links or ties its participation in promotional discounts to the
3 wholesale distributor's compliance with any recommended resale price.

4 (5) cancel or terminate, except for just cause or in accordance with the current terms and
5 standards established by the brewer or beer importer then equally applicable to all wholesalers, any
6 agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or
7 entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A
8 brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications
9 among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's franchise, the brewer
10 or beer importer has the burden of proving that the classification was reasonable and not arbitrary. After
11 July 1, 1974, the provisions of 16-3-221 through 16-3-226 must be a part of any franchise, contract,
12 agreement, or understanding, whether written or oral, between any wholesaler of beer licensed to do
13 business in this state and any manufacturer or beer importer doing business with the licensed wholesaler
14 just as though the provisions had been specifically agreed upon between the wholesaler and the
15 manufacturer or beer importer."

16

17 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

18

-END-

HOUSE BILL NO. 310

INTRODUCED BY PAVLOVICH, QUILICI, LYNCH, COCCHIARELLA, SHEA, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT CERTAIN ACTIONS OF BREWERS OR BEER IMPORTERS CONSTITUTE ESTABLISHING OR MAINTAINING THE PRICE FOR RESALE OF THEIR PRODUCTS BY WHOLESALE BEER DISTRIBUTORS; AMENDING SECTION 16-3-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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, attempt to coerce, or persuade any person licensed to sell beer at wholesale to enter into any agreement or to take any action 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 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;

(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

1 when compared to the increase in the resale price that it recommended to the wholesale distributor; or
2 (c) the brewer or beer importer links or ties its participation in promotional discounts to the
3 wholesale distributor's compliance with any recommended resale price.

4 (5) cancel or terminate, except for just cause or in accordance with the current terms and
5 standards established by the brewer or beer importer then equally applicable to all wholesalers, any
6 agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or
7 entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A
8 brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications
9 among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's franchise, the brewer
10 or beer importer has the burden of proving that the classification was reasonable and not arbitrary. After
11 July 1, 1974, the provisions of 16-3-221 through 16-3-226 must be a part of any franchise, contract,
12 agreement, or understanding, whether written or oral, between any wholesaler of beer licensed to do
13 business in this state and any manufacturer or beer importer doing business with the licensed wholesaler
14 just as though the provisions had been specifically agreed upon between the wholesaler and the
15 manufacturer or beer importer."

16

17 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

18

-END-