

AMENDMENTS TO HOUSE BILL NO. 1096

Sponsor: SENATOR DILLON

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1 Amend Bill, page 1, line 20, by striking out "AND" and
2 inserting
3 , for malt and brewed beverages manufacturers', distributors'
4 and importing distributors' licenses, for interlocking
5 business prohibited,
6 Amend Bill, page 1, line 21, by inserting after "county"
7 and for unlawful acts relative to malt or brewed beverages and
8 licensees

9 Amend Bill, page 5, lines 20 and 21, by striking out all of
10 said lines and inserting

11 Section 3. Section 431(d)(1) of the act is amended and the
12 subsection is amended by adding a paragraph to read:

13 Section 431. Malt and Brewed Beverages Manufacturers',
14 Distributors' and Importing Distributors' Licenses.--* * *

15 (d) (1) All distributing rights as hereinabove required
16 shall be in writing, shall be equitable in their provisions and
17 shall be substantially similar as to terms and conditions with
18 all other distributing rights agreements between the
19 manufacturer giving such agreement and its other importing
20 distributors and distributors shall not be modified, cancelled,
21 terminated or rescinded by the manufacturer without good cause,
22 and shall contain a provision in substance or effect as follows:
23 "The manufacturer recognizes that the importing distributor and
24 distributor are free to manage their business in the manner the
25 importing distributor and distributor deem best and that this
26 prerogative vests in the importing distributor and distributor
27 the exclusive right to establish a selling price, to select the
28 brands of malt or brewed beverages they wish to handle and to
29 determine the efforts and resources, including the e-commerce
30 platform if one is used, which the importing distributor and
31 distributor will exert to develop and promote the same of the
32 manufacturer's products handled by the importing distributor and
33 distributor. However, the manufacturer expects that the
34 importing distributor and distributor will price competitively
35 the products handled by them, devote reasonable effort and

resources to the sale of such products and maintain a reasonable sales level." "Good cause" shall mean the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential, reasonable and commercially acceptable requirement imposed by the other party under the terms of an agreement.

(1.1) Providing or using an e-commerce platform shall not be construed as providing a thing of value under section 493(24).

* * *

Section 4. Section 443 of the act is amended by adding a subsection to read:

Section 443. Interlocking Business Prohibited.--* * *

(i) Notwithstanding any other provision of law to the contrary, a malt or brewed beverage manufacturer and its officers, directors, shareholders, servants, agents or employees may provide an e-commerce platform or access to an e-commerce platform to a distributor or importing distributor. The e-commerce platform or access to the e-commerce platform may be provided free of charge or may be made available for a fee.

Section 5. Section 461(c)(9.2) of the act is amended to read:

Amend Bill, page 6, by inserting between lines 29 and 30

Section 6. Section 492 of the act is amended by adding a paragraph to read:

Section 492. Unlawful Acts Relative to Malt or Brewed Beverages and Licensees.--

It shall be unlawful--

* * *

(23) Interfering with the use of e-commerce. For any manufacturer or retail licensee to prohibit or mandate any particular e-commerce platform by any distributor or importing distributor.

Amend Bill, page 6, line 30, by striking out "4" and inserting