



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/09/04, by Lou Lang

**SYNOPSIS AS INTRODUCED:**

815 ILCS 720/5

from Ch. 43, par. 305

Amends the Beer Industry Fair Dealing Act. Deletes provisions that prohibit a brewer from presenting an agreement to a wholesaler requiring the wholesaler to arbitrate all disputes without offering the wholesaler in writing the opportunity to reject arbitration and elect to resolve all disputes by maintaining a civil suit in accordance with the Act. Effective immediately.

LRB093 19005 LRD 44740 b

1 AN ACT concerning alcoholic liquor.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Beer Industry Fair Dealing Act is amended by  
5 changing Section 5 as follows:

6 (815 ILCS 720/5) (from Ch. 43, par. 305)

7 Sec. 5. Prohibited conduct. No brewer shall:

8 (1) Induce or coerce, or attempt to induce or coerce,  
9 any wholesaler to engage in any illegal act or course of  
10 conduct either by threatening to amend, modify, cancel,  
11 terminate, or refuse to renew any agreement existing  
12 between the brewer and the wholesaler, or by any other  
13 means.

14 (2) Require a wholesaler to assent to any unreasonable  
15 requirement, condition, understanding or term or an  
16 agreement prohibiting a wholesaler from selling the  
17 product of any other brewer or brewers.

18 (3) Directly or indirectly fix or maintain the price at  
19 which a wholesaler may resell beer.

20 (4) Fail to provide to each wholesaler of its brands a  
21 written contract which embodies the brewer's agreement  
22 with its wholesalers and conforms to the provisions of this  
23 Act.

24 (5) Require any wholesaler to accept delivery of any  
25 beer, signs, advertising materials, or any other item or  
26 commodity which has not been ordered by the wholesaler, or  
27 require any wholesaler to accept a common carrier for  
28 delivery of beer into this State unless the wholesaler  
29 consents to the common carrier. In the event a brewer  
30 adopts a uniform practice of delivering beer into this  
31 State to the premises of all licensed wholesalers, the  
32 brewer may select the common carrier in this State.

1           (6) Require a wholesaler without the wholesaler's  
2 approval to participate in an arrangement for the payment  
3 or crediting by an electronic fund transfer transaction for  
4 any item or commodity other than beer or to access a  
5 wholesaler's account for any item or commodity other than  
6 beer.

7           (7) Require a wholesaler to assent to any requirement  
8 prohibiting the wholesaler from disposing, after notice to  
9 the brewer, of a product which has been deemed salvageable  
10 by a local or State health authority. Nothing herein shall  
11 prohibit the brewer from having the first right to purchase  
12 the salvageable product from the wholesaler at a price not  
13 to exceed the original cost of the product or to  
14 subsequently repurchase the product from the insurance  
15 company or salvage company.

16           (8) Refuse to approve or require a wholesaler to  
17 terminate a manager or successor manager without good  
18 cause. A brewer has good cause only if the person  
19 designated as manager or successor manager by the  
20 wholesaler fails to meet reasonable standards and  
21 qualifications.

22           (9) Present an agreement to a wholesaler that attempts  
23 to waive compliance with any provision of this Act or that  
24 requires the wholesaler to waive compliance with any  
25 provision of this Act. No brewer shall induce or coerce, or  
26 attempt to induce or coerce, any wholesaler to assent to  
27 any agreement, amendment, renewal, or replacement  
28 agreement that does not comply with this Act and the laws  
29 of this State.

30           (10) Terminate or attempt to terminate an agreement on  
31 the basis that the wholesaler refuses to purchase signs or  
32 advertising materials or any quantity or types thereof.

33           (11) Discriminate against a wholesaler who has entered  
34 into a contract relative to signs or advertising materials  
35 by not making signs or advertising materials or any  
36 quantity or types thereof available to the wholesaler when

1 the brewer makes available such signs or advertising  
2 materials to other similarly situated wholesalers in this  
3 State.

4 (12) (Blank). ~~Present an agreement requiring the~~  
5 ~~wholesaler to arbitrate all disputes without offering the~~  
6 ~~wholesaler in writing the opportunity to reject~~  
7 ~~arbitration and elect to resolve all disputes by~~  
8 ~~maintaining a civil suit in accordance with this Act.~~

9 No brewer who, pursuant to an agreement with a wholesaler  
10 which does not violate antitrust laws, has designated a sales  
11 territory for which the wholesaler is primarily responsible or  
12 in which the wholesaler is required to concentrate its efforts,  
13 shall enter into an agreement with any other wholesaler for the  
14 purpose of establishing an additional wholesaler for the  
15 brewer's brand or brands in all or part of the same territory.

16 No wholesaler who, pursuant to an agreement is granted a  
17 sales territory for which it shall be primarily responsible or  
18 in which it is required to concentrate its efforts, shall make  
19 any sale or delivery of beer to any retail licensee whose place  
20 of business is not within the territory granted to the  
21 wholesaler.

22 (Source: P.A. 90-373, eff. 8-14-97; 91-247, eff. 7-22-99.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.