

SB3103



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3103

Introduced 2/7/2014, by Sen. Donne E. Trotter

SYNOPSIS AS INTRODUCED:

815 ILCS 720/1.1

from Ch. 43, par. 301.1

Amends the Beer Industry Fair Dealing Act. Includes within the definition of the term "beer" all beverages brewed or fermented wholly or in part from malt products.

LRB098 17735 JLS 52853 b

A BILL FOR

1 AN ACT concerning business.

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 1.1 as follows:

6 (815 ILCS 720/1.1) (from Ch. 43, par. 301.1)

7 Sec. 1.1. As used in this Act:

8 (1) "Beer" means a beverage obtained by the alcoholic
9 fermentation of an infusion or concoction of barley, or other
10 grain, malt, and hops in water, and includes, among other
11 things, beer, ale, stout, lager beer, porter, all beverages
12 brewed or fermented wholly or in part from malt products, and
13 the like; and for ~~For~~ purposes of this Act only, the term
14 "beer" shall also include malt beverage products containing
15 less than one-half of 1% of alcohol by volume and marketed for
16 adult consumption as an alternative beverage to beer.

17 (2) "Agreement" means any contract, agreement,
18 arrangement, operating standards, or amendments to a contract,
19 agreement, arrangement, or operating standards, the effect of
20 which is to substantially change or modify the existing
21 contract, agreement, arrangement, or operating standards,
22 whether expressed or implied, whether oral or written, for a
23 definite or indefinite period between a brewer and a wholesaler

1 pursuant to which a wholesaler has been granted the right to
2 purchase, resell, and distribute as wholesaler or master
3 distributor any brand or brands of beer offered by a brewer.
4 The agreement between a brewer and wholesaler shall not be
5 considered a franchise relationship.

6 (3) "Wholesaler" or "beer wholesaler" means any person,
7 other than a manufacturer licensed under the Liquor Control Act
8 of 1934, who is engaged in this State in purchasing, storing,
9 possessing or warehousing any alcoholic liquors for resale or
10 reselling at wholesale, whether within or without this State.

11 (4) "Brewer" means a person who is engaged in the
12 manufacture of beer, a master distributor as defined in this
13 Section, a successor brewer as defined in this Section, a
14 non-resident dealer under the provisions of the Liquor Control
15 Act of 1934, a foreign importer under the provisions of the
16 Liquor Control Act of 1934, or a person who owns or controls
17 the trademark, brand, or name of beer.

18 (4.5) "Brand" means any word, name, group of letters,
19 symbols, or any combination thereof that is adopted and used by
20 a brewer to identify a specific beer product and to distinguish
21 that beer product from another beer product.

22 (4.7) "Brand extension" means any brand that incorporates
23 all or a substantial part of the features of a pre-existing
24 brand of the same brewer and that relies to a significant
25 extent on the good will associated with the pre-existing brand.

26 (5) "Master Distributor" means a person who, in addition to

1 being a wholesaler, acts in the same or similar capacity as a
2 brewer or outside seller of one or more brands of beer to other
3 wholesalers on a regular basis in the normal course of
4 business.

5 (6) "Successor Brewer" means any person who in any way
6 obtains the distribution rights that a brewer, non-resident
7 dealer, foreign importer, or master distributor once had to
8 manufacture or distribute a brand or brands of beer whether by
9 merger, purchase of corporate shares, purchase of assets, or
10 any other arrangement, including but not limited to any
11 arrangements transferring the ownership or control of the
12 trademark, brand or name of the brand.

13 (7) "Person" means a natural person, partnership,
14 corporation, trust, agency, or other form of business
15 enterprise. Person also includes heirs, assigns, personal
16 representatives and guardians.

17 (8) "Territory" or "sales territory" means the exclusive
18 geographic area of primary sales responsibility designated by
19 the agreement between a wholesaler and brewer for any brand,
20 brands, or brand extensions of the brewer. The "territory" or
21 "sales territory" designated by the agreement may not be
22 designated by address or specific location unless such specific
23 address or location is part of a general and broad territory or
24 sales territory description. The designation of a territory or
25 sales territory in violation of this subsection is prohibited
26 by this Act and deemed discriminatory.

1 (9) "Good cause" exists if the wholesaler or affected party
2 has failed to comply with essential and reasonable requirements
3 imposed upon the wholesaler or affected party by the agreement.
4 The requirements may not be discriminating either by their
5 terms or in the methods of their enforcement as compared with
6 requirements imposed on other similarly situated wholesalers
7 by the brewer. The requirements may not be inconsistent with
8 this Act or in violation of any law or regulation.

9 (10) "Good faith" means honesty in fact and the observance
10 of reasonable commercial standards of fair dealing in the trade
11 as defined and interpreted under Section 2-103 of the Uniform
12 Commercial Code.

13 (11) "Reasonable standards and qualifications" means those
14 criteria applied by the brewer to similarly situated
15 wholesalers during a period of 24 months before the proposed
16 change in manager or successor manager of the wholesaler's
17 business.

18 (12) "Affected party" means a wholesaler, brewer, master
19 distributor, successor brewer, or any person that is a party to
20 an agreement.

21 (13) "Signs" means signs described in Section 6-6 of the
22 Liquor Control Act of 1934.

23 (14) "Advertising materials" means advertising materials
24 described in Section 6-6 of the Liquor Control Act of 1934.

25 (Source: P.A. 95-240, eff. 8-17-07; 95-789, eff. 8-7-08;
26 96-662, eff. 8-25-09.)