

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.)