

HOUSE BILL 574
EMERGENCY BILL

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1999 Regular Session
9r1724
CF 9r2085

By: **Delegate Barve**

Introduced and read first time: February 11, 1999

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 1999

CHAPTER _____

1 AN ACT concerning

2 **Alcoholic Beverages - Suppliers and Wholesalers - Stale Malt Products**

3 FOR the purpose of allowing a supplier to enter into an agreement with a wholesaler
4 or authorized representative to replace stale or out-of-date malt beverage
5 products under certain circumstances; allowing a supplier to unilaterally submit
6 to the State Comptroller a plan for replacing products under certain
7 circumstances; specifying that the replacement plan may contain a certain
8 designation; specifying that certain provisions apply only to certain counties;
9 making this Act an emergency measure; and generally relating to suppliers and
10 wholesalers of alcoholic beverages.

11 BY repealing and reenacting, with amendments,
12 Article 2B - Alcoholic Beverages
13 Section 12-102
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 1998 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article 2B - Alcoholic Beverages**

19 12-102.

20 (a) In order to eliminate the undue stimulation of the sale of alcoholic
21 beverages and the practice of manufacturers and wholesalers in granting secret
22 discounts, rebates, allowances, free goods or other inducement to selected licensees
23 which contribute to a disorderly distribution of alcoholic beverages, it shall be

1 unlawful for any person licensed hereunder as a manufacturer or wholesaler to
 2 discriminate directly or indirectly in price, discounts or the quality of merchandise
 3 sold, between one dispensary and another dispensary, between one wholesaler and
 4 another wholesaler or between one retailer and another retailer purchasing alcoholic
 5 beverages bearing the same brand and trade name and of like age and quality. It shall
 6 be unlawful for any nonresident dealer or nonresident unlicensed manufacturer to
 7 use or promote the use of any such practices for the sale or distribution of alcoholic
 8 beverages to or through the manufacturers, wholesalers or county dispensaries in this
 9 State. This section shall not restrict a manufacturer or wholesaler or nonresident
 10 dealer from limiting the quantity of alcoholic beverages to be sold to any licensee
 11 under a voluntary or compulsory plan of ration and the word "purchase" shall not
 12 imply that a manufacturer, wholesaler or nonresident dealer shall be required to sell
 13 all licensees from whom they receive orders. The Comptroller may promulgate such
 14 rules and regulations as are necessary to carry out the purpose of this section.

15 (b) A supplier, nonresident dealer, or wholesaler may not make a discount,
 16 rebate, or depletion allowance that is offered on a product dependent on the pricing
 17 policy or practice of the licensee who is invoiced for the product.

18 (C) (1) THIS SUBSECTION APPLIES ONLY TO THOSE COUNTIES WHOSE
 19 LIQUOR CONTROL BOARDS ESTABLISH AND MAINTAIN COUNTY LIQUOR
 20 DISPENSARIES IN ACCORDANCE WITH § 15-203 OF THIS ARTICLE.

21 ~~(C)~~ ~~(1)~~ (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
 22 A SUPPLIER MAY ENTER INTO AN AGREEMENT WITH A WHOLESALER OR
 23 AUTHORIZED REPRESENTATIVE TO REPLACE, DIRECTLY OR INDIRECTLY, STALE OR
 24 OUT-OF-DATE MALT BEVERAGE PRODUCTS ON RETAIL LICENSED PREMISES:

25 (I) ON A CASE-FOR-CASE BASIS;

26 (II) AT THE SUPPLIER'S EXPENSE; AND

27 (III) UNDER A PLAN SUBMITTED TO AND APPROVED BY THE STATE
 28 COMPTROLLER.

29 ~~(C)~~ ~~(2)~~ (3) IF A WHOLESALER REFUSES TO REPLACE STALE OR
 30 OUT-OF-DATE MALT BEVERAGE PRODUCTS ON RETAIL LICENSED PREMISES, THE
 31 SUPPLIER MAY UNILATERALLY SUBMIT A REPLACEMENT PLAN TO THE STATE
 32 COMPTROLLER FOR APPROVAL.

33 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A
 34 REPLACEMENT PLAN SUBMITTED TO THE STATE COMPTROLLER IN ACCORDANCE
 35 WITH PARAGRAPH (3) OF THIS SUBSECTION MAY DESIGNATE AN AUTHORIZED
 36 REPRESENTATIVE OR WHOLESALER, OUTSIDE THE TERRITORY OF THE WHOLESALER
 37 THAT REFUSES TO PARTICIPATE IN THE PLAN, TO REPLACE THE STALE OR
 38 OUT-OF-DATE MALT BEVERAGE PRODUCTS.

39 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
 40 measure, is necessary for the immediate preservation of the public health and safety,
 41 has been passed by a ye and nay vote supported by three-fifths of all the members

1 elected to each of the two Houses of the General Assembly, and shall take effect from
2 the date it is enacted.