

SENATE BILL 634
EMERGENCY BILL

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1999 Regular Session
9r2085
CF 9r1724

By: **Senator Bromwell**

Introduced and read first time: February 5, 1999

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages - Replacement of 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4 or authorized representative to replace stale or out-of-date malt beverage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; making this Act an emergency measure; and generally relating
8 to the replacement of stale alcoholic beverages.

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

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

16 **Article 2B - Alcoholic Beverages**

17 12-102.

18 (a) In order to eliminate the undue stimulation of the sale of alcoholic
19 beverages and the practice of manufacturers and wholesalers in granting secret
20 discounts, rebates, allowances, free goods or other inducement to selected licensees
21 which contribute to a disorderly distribution of alcoholic beverages, it shall be
22 unlawful for any person licensed hereunder as a manufacturer or wholesaler to
23 discriminate directly or indirectly in price, discounts or the quality of merchandise
24 sold, between one dispensary and another dispensary, between one wholesaler and
25 another wholesaler or between one retailer and another retailer purchasing alcoholic
26 beverages bearing the same brand and trade name and of like age and quality. It shall
27 be unlawful for any nonresident dealer or nonresident unlicensed manufacturer to
28 use or promote the use of any such practices for the sale or distribution of alcoholic
29 beverages to or through the manufacturers, wholesalers or county dispensaries in this
30 State. This section shall not restrict a manufacturer or wholesaler or nonresident

1 dealer from limiting the quantity of alcoholic beverages to be sold to any licensee
2 under a voluntary or compulsory plan of ration and the word "purchase" shall not
3 imply that a manufacturer, wholesaler or nonresident dealer shall be required to sell
4 all licensees from whom they receive orders. The Comptroller may promulgate such
5 rules and regulations as are necessary to carry out the purpose of this section.

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

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

13 (I) ON A CASE FOR CASE BASIS;

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

15 (III) UNDER A PLAN SUBMITTED TO AND APPROVED BY THE STATE
16 COMPTROLLER.

17 (2) IF A WHOLESALER REFUSES TO REPLACE STALE OR OUT-OF-DATE
18 MALT BEVERAGE PRODUCTS ON RETAIL LICENSED PREMISES, THE SUPPLIER MAY
19 UNILATERALLY SUBMIT A REPLACEMENT PLAN TO THE STATE COMPTROLLER FOR
20 APPROVAL.

21 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE
22 REPLACEMENT PLAN THAT THE SUPPLIER UNILATERALLY SUBMITS TO THE STATE
23 COMPTROLLER MAY INCLUDE THE DESIGNATION OF AN AUTHORIZED
24 REPRESENTATIVE OR WHOLESALER OUTSIDE THE TERRITORY OF THE WHOLESALER
25 WHO REFUSES TO PARTICIPATE IN A PLAN TO REPLACE STALE OR OUT-OF-DATE
26 MALT BEVERAGE PRODUCTS.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
28 measure, is necessary for the immediate preservation of the public health and safety,
29 has been passed by a yea and nay vote supported by three-fifths of all the members
30 elected to each of the two Houses of the General Assembly, and shall take effect from
31 the date it is enacted.