



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1116 be amended to read as follows:

- 1 Page 3, between lines 6 and 7, begin a new paragraph and insert:
- 2 "SECTION 2. IC 7.1-5-5-9, AS AMENDED BY P.L.94-2008,
- 3 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 MARCH 15, 2014 (RETROACTIVE)]: Sec. 9. (a) This section does
- 5 not apply to product management (as described in 905 IAC 1-5.2-15)
- 6 by a permittee.
- 7 (b) It is unlawful for a permittee to knowingly or intentionally
- 8 coerce, or attempt to coerce, or persuade another permittee to enter into
- 9 an agreement, or to take an action, which would violate a provision of
- 10 this title or of the rules and regulations of the commission.
- 11 (c) It is unlawful for a beer wholesaler or a primary source of supply
- 12 to cancel or terminate an agreement or contract between a beer
- 13 wholesaler and a primary source of supply for the sale of beer, unfairly
- 14 and without due regard for the equities of the other party.
- 15 **(d) Because an emergency exists, this subsection and subsections**
- 16 **(e) and (f) take effect on March 15, 2014, and apply to agreements**
- 17 **entered into, renewed, modified, or amended after March 14, 2014.**
- 18 **It is unlawful for a beer wholesaler or primary source of supply to**
- 19 **cancel or terminate an agreement or contract between a beer**
- 20 **wholesaler and a primary source of supply for the sale of beer,**
- 21 **cider, or flavored malt beverages unfairly and without:**
- 22 **(A) good cause;**
- 23 **(B) due regard for the equities of the other party; or**
- 24 **(C) allowing the beer wholesaler at least sixty (60) days**
- 25 **following receipt of written notice to cure any alleged**
- 26 **deficiencies in the beer wholesaler's operations.**
- 27 **(e) Notwithstanding subsection (d), a primary source of supply**

1 may immediately cancel, terminate, or refuse to renew an
 2 agreement or contract with a beer wholesaler for one (1) or more
 3 of the following reasons:

4 (1) The beer wholesaler's permit issued under this title has
 5 been revoked for a period of more than thirty (30) days.

6 (2) The beer wholesaler is insolvent, has filed for
 7 bankruptcy, or has had a receiver or trustee appointed for
 8 a substantial portion of the beer wholesaler's property or
 9 assets.

10 (3) The beer wholesaler's assets have been assigned for the
 11 benefit of creditors or a similar disposition of the beer
 12 wholesaler's assets has occurred.

13 (4) The beer wholesaler has engaged in actual fraud with
 14 regard to the primary source of supply or any of the
 15 primary source of supply's products.

16 (5) The transfer of a majority or controlling interest in the
 17 beer wholesaler that has not been approved by the primary
 18 source of supply.

19 (6) The beer wholesaler, or a person who owns a majority
 20 or controlling interest in the beer wholesaler, has been
 21 convicted of a felony, or convicted of or entered a plea of
 22 nolo contendere to a crime that may materially impair the
 23 beer wholesaler's ability to fulfill the terms of the
 24 distribution agreement with the primary source of supply.

25 (7) The beer wholesaler fails to pay for products ordered
 26 from the primary source of supply.

27 (f) A provision of subsection (d) or (e) may not be waived. If a
 28 beer wholesaler enters or has entered into a distribution
 29 agreement, supplemental agreement, amendment, or any other
 30 agreement with a primary source of supply that waives a law, the
 31 beer wholesaler does not waive the beer wholesaler's rights under
 32 this section."

33 Page 4, after line 24, begin a new paragraph and insert:

34 "SECTION 4. An emergency is declared for this act."

35 Renumber all SECTIONS consecutively.

(Reference is to EHB 1116 as printed February 28, 2014.)

Senator ALTING