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HOUSE BILL 154

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MURRAY RYAN

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING THAT A SUCCESSOR  
SUPPLIER SHALL BE BOUND BY THE TERMS AND CONDITIONS OF AN  
EXISTING FRANCHISE AGREEMENT; AMENDING A SECTION OF THE LIQUOR  
CONTROL ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-8A-8 NMSA 1978 (being Laws 1981,  
Chapter 39, Section 55, as amended) is amended to read:

"60-8A-8. FRANCHISES--VIOLATIONS.--

A. The purpose of the provisions of Sections 60-8A-7  
through 60-8A-11 NMSA 1978 is to provide an equal bargaining  
position between the parties and to protect the health, safety  
and welfare of the citizens by ensuring that there is an orderly  
and fair distribution of alcoholic beverages in the state.

B. It is a violation of Sections 60-8A-7 through

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1 60-8A-11 NMSA 1978 for the supplier, directly or through any  
2 officer, agent or employee, to fail to act in good faith in  
3 performing or complying with any terms, provisions or conditions  
4 of the franchise, or in terminating, canceling or not renewing a  
5 franchise with a wholesaler, unless such termination,  
6 cancellation or failure to renew is done in good faith and for  
7 good cause. Good cause shall not include supplier mergers or  
8 acquisitions or consolidation of brands with one wholesaler.

9 C. If more than one franchise for the same brand  
10 [~~or brands~~] of alcoholic beverages is originally granted to  
11 different wholesalers in this state, it is a violation of  
12 Sections 60-8A-7 through 60-8A-11 NMSA 1978 for any supplier to  
13 discriminate in any of the terms, provisions and conditions of  
14 the franchise between the wholesalers. It is not the purpose of  
15 this section to allow suppliers to unilaterally and without good  
16 cause or in violation of the contract change the terms of an  
17 existing franchise or exclusive distribution agreement by  
18 authorizing the transfer of brands to another wholesaler [~~in~~  
19 ~~violation of this act~~].

20 D. A successor supplier shall be bound by the terms  
21 and conditions, whether express or implied, of the existing  
22 franchise agreement. It is a violation of Sections 60-8A-7  
23 through 60-8A-11 NMSA 1978 for a successor supplier to fail to  
24 comply with the terms and conditions, whether express or  
25 implied, of the existing franchise agreement."

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Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1997.

- 3 -

**State of New Mexico**  
**House of Representatives**

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**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

February 6, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
been referred

HOUSE BILL 154

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
JUDICIARY COMMITTEE.

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**HBIC/HB 154**

**Page 5**

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Respectfully submitted,

\_\_\_\_\_  
Fred Luna, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 1 Against

Yes: 10

No: Gubbels

Excused: Getty, Olguin

Absent: None

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# **State of New Mexico House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

February 15, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 154

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Thomas P. Foy, Chairman

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 2 Against

Yes: 7

No: King, Mallory

Excused: Carpenter, Rios, Stewart, Vaughn

Absent: None

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

Page 8

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HB 154/a

March 5, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 154

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 1, line 11, after "SUCCESSOR" insert "TO A".
2. On page 1, lines 12 and 13, strike "BY THE TERMS AND CONDITIONS OF AN EXISTING FRANCHISE AGREEMENT" and insert in lieu thereof "TO PROVIDE THE SAME BRANDS OF ALCOHOLIC BEVERAGES TO A WHOLESALER".
3. On page 2, strike lines 20 through 25 in their entirety and insert in lieu thereof the following new subsection:  
"D. A successor to a supplier shall be bound to provide the same brands of alcoholic beverages to the same wholesaler who had those brands in this state.".,



FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Shannon Robinson, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Garcia, Ingle, Vernon, Smith

Absent: None

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1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997

HB 154/a

3  
4 March 10, 1997

5  
6 Mr. President:

7  
8 Your JUDICIARY COMMITTEE, to whom has been referred

9  
10 HOUSE BILL 154, as amended

11 has had it under consideration and reports same with  
12 recommendation that it DO PASS, amended as follows:

13  
14 1. Strike Senate Public Affairs Committee Amendment 3.

15  
16 2. On page 2, strike lines 20 through 25 in their entirety  
17 and insert in lieu thereof the following new subsection:

18 "D. A successor to a supplier shall be bound to provide  
19 the same brands of alcoholic beverages to the same wholesaler who  
20 has those brands in this state."".  
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24 Respectfully submitted,  
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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Fernando R. Macias, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Sanchez

Absent: None

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