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SENATE BILL 1029

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

INTRODUCED BY

PETE CAMPOS

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE LIQUOR CONTROL ACT
TO CHANGE CERTAIN PROVISIONS PERTAINING TO NONRESIDENT
MANUFACTURERS.

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

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

"60-8A-1. UNFAIR COMPETITION--EXCLUSIVE OUTLET--TIED
HOUSE--CONSIGNMENT SALES.--

A. It is unlawful for any importer, manufacturer,
nonresident licensee or any kind or class of wholesaler,
directly or indirectly, or through an affiliate:

[A-] (1) to require by agreement or otherwise
that any wholesaler, retailer, dispenser, canopy licensee,
restaurant licensee, club licensee or governmental licensee or

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1 its lessee engaged in the sale of alcoholic beverages in the
2 state purchase alcoholic beverages from such person to the
3 exclusion in whole or in part of alcoholic beverages sold or
4 offered for sale by other persons;

5 [B-] (2) to induce through any of the following
6 means, any wholesaler, retailer, dispenser, canopy licensee,
7 restaurant licensee, club licensee or governmental licensee or
8 its lessee engaged in the sale of any kind or class of alcoholic
9 beverages to purchase alcoholic beverages from such person to
10 the exclusion in whole or in part of alcoholic beverages sold or
11 offered for sale by other persons:

12 [~~(1)~~] (a) by acquiring or holding, after
13 the expiration of any existing license, any interest in any
14 license with respect to the premises of the wholesaler,
15 retailer, dispenser, canopy licensee, restaurant licensee, club
16 licensee or governmental licensee or its lessee;

17 [~~(2)~~] (b) by acquiring any interest in
18 any real or personal property owned, occupied or used by any
19 wholesaler, retailer, dispenser, restaurant licensee or club
20 licensee in the conduct of the buying wholesaler's, retailer's,
21 dispenser's, canopy licensee's, restaurant licensee's, club
22 licensee's or governmental licensee's or its lessee's business,
23 subject to such exceptions as the director shall prescribe,
24 having due regard to the free flow of commerce, the purposes of
25 this subsection and established trade customs not contrary to

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1 the public interest;

2 [~~(3)~~] (c) by furnishing, giving, renting,
3 lending or selling to any wholesaler, retailer, dispenser,
4 canopy licensee, restaurant licensee, club licensee or
5 governmental licensee or its lessee any equipment, fixtures,
6 signs, supplies, money, services or other thing of value,
7 subject to such exceptions as the director shall by regulation
8 prescribe, having due regard for public health and welfare, the
9 quantity and value of the articles involved and established
10 trade customs not contrary to the public interest and the
11 purposes of this subsection;

12 [~~(4)~~] (d) by paying or crediting the
13 wholesaler, retailer, dispenser, canopy licensee, restaurant
14 licensee, club licensee or governmental licensee or its lessee
15 for any advertising, display or distribution services;

16 [~~(5)~~] (e) by requiring any wholesaler,
17 retailer, dispenser, canopy licensee, restaurant licensee, club
18 licensee or governmental licensee or its lessee to take and
19 dispose of a certain quota or combination of alcoholic
20 beverages; or

21 [~~(6)~~] (f) by commercial bribery by
22 offering or giving any bonus, premium or compensation to any
23 officer, employee, agent or representative of any wholesaler,
24 retailer, dispenser, canopy licensee, restaurant licensee, club
25 licensee or governmental licensee or its lessee; or

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1 [~~6-~~] (3) to sell, offer for sale or contract to
2 sell to any retailer, dispenser, canopy licensee, restaurant
3 licensee, club licensee or governmental licensee or its lessee
4 any alcoholic beverages of any kind or class on consignment or
5 under a conditional sale or on any basis other than a bona fide
6 sale; provided, that this subsection shall not apply to trans-
7 actions involving solely the bona fide return of merchandise for
8 ordinary and usual commercial reasons arising after the
9 merchandise has been sold.

10 B. Notwithstanding the provisions of Subsection A of
11 this section or any other provision of the Liquor Control Act, a
12 nonresident manufacturer may participate with a wholesaler in a
13 limited partnership, as defined in Section 54-2-2 NMSA 1978, in
14 which the nonresident manufacturer is a limited partner and the
15 wholesaler is a general partner. Further, notwithstanding the
16 provisions of Subsection A of this section, a nonresident
17 manufacturer may extend financing to a wholesaler, and that act
18 shall not constitute a means to induce within the meaning of
19 this section. In the event of a default by the wholesaler, the
20 nonresident manufacturer shall not control or operate the
21 wholesaler for more than one hundred eighty days or until a
22 suitable buyer is secured and the transaction is completed."