

By: Isett

H.B. No. 2016

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the amount a manufacturer may charge for an alcoholic
3 beverage; providing civil penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 102, Alcoholic Beverage
6 Code, is amended by adding Section 102.011 to read as follows:

7 Sec. 102.011. MANUFACTURER PRICING AGREEMENTS. (a) This
8 section governs pricing agreements between manufacturers and
9 wholesalers, as the words "manufacturer" and "wholesaler" are
10 ordinarily used and understood, regardless of the specific names
11 given permits under Subtitle A, Title 3.

12 (b) A manufacturer who sells alcoholic beverages to a
13 wholesaler in this state shall file a price nondiscrimination
14 agreement with the commission on a form prescribed by the
15 commission. The price nondiscrimination agreement shall require
16 the manufacturer to sell alcoholic beverages manufactured by the
17 manufacturer to each wholesaler licensed in this state at the same
18 price, including any discounts, without discrimination.

19 (c) Before a manufacturer may change the price of an
20 alcoholic beverage, the manufacturer shall provide written notice
21 of the price change to each wholesaler not later than the 45th day
22 before the date the price change takes effect.

23 (d) If a manufacturer violates the agreement by refusing to
24 sell an alcoholic beverage to a wholesaler in this state or

1 discriminates in prices among wholesalers purchasing or attempting
2 to purchase alcoholic beverages from the manufacturer, the
3 administrator shall:

4 (1) notify, by registered mail, each wholesaler in
5 this state of the violation; and

6 (2) assess a civil penalty against the manufacturer in
7 the amount of:

8 (A) \$10,000 per day, per violation, for the first
9 violation;

10 (B) \$25,000 per day, per violation, for the
11 second violation; and

12 (C) \$100,000 per day, per violation, for the
13 third and any subsequent violation.

14 (e) If a manufacturer of an alcoholic beverage does not have
15 a sufficient supply of an alcoholic beverage to supply the demands
16 of all wholesalers, the manufacturer may ration the alcoholic
17 beverage and apportion the available supply among wholesalers
18 purchasing or attempting to purchase the alcoholic beverage in
19 accordance with a plan approved by the commission.

20 SECTION 2. (a) The Texas Alcoholic Beverage Commission
21 shall adopt price nondiscrimination agreement forms required under
22 Section 102.011, Alcoholic Beverage Code, as added by this Act, on
23 or before November 1, 2005.

24 (b) A manufacturer to whom Section 102.011, Alcoholic
25 Beverage Code, as added by this Act, applies is not required to file
26 an agreement required by that section before January 1, 2006.

27 SECTION 3. This Act takes effect September 1, 2005.