

South Carolina General Assembly
123rd Session, 2019-2020

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Bill 1099

~~Indicates Matter Stricken~~

Indicates New Matter

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-4-942, SO AS TO PROVIDE THAT A MANUFACTURER, BREWER, OR IMPORTER OF BEER SHALL NOT REQUEST OR REQUIRE THAT A WHOLESALER SUBMIT CERTAIN INFORMATION FOR BEER BRANDS NOT MANUFACTURED, BREWED, OR IMPORTED BY THE MANUFACTURER, BREWER, OR IMPORTER; SHALL NOT MANDATE CERTAIN EMPLOYMENT MATTERS; SHALL NOT REQUEST OR REQUIRE A WHOLESALER TO PAY BEER BRAND MARKETING OR ADVERTISING FUNDS; SHALL NOT SHIP, INVOICE, OR INITIATE PAYMENT FOR ANY QUANTITY OF BEER IN EXCESS OF THAT FORECAST BY A WHOLESALER OR FOR ANY POINT OF SALE ADVERTISING OR OTHER ITEMS IN EXCESS OF THAT SPECIFIED BY THE WHOLESALER; SHALL NOT ATTRIBUTE ANY FINANCIAL INTEREST TO A WHOLESALER FOR BEER NOT IN THE WHOLESALER'S POSSESSION; SHALL NOT REQUEST OR REQUIRE A WHOLESALER TO PAY FOR CERTAIN MATTERS PERTAINING TO SOFTWARE OWNED OR MANDATED BY THE MANUFACTURER, BREWER, OR IMPORTER; AND SHALL NOT REQUIRE PAYMENT OF A PENALTY BY THE WHOLESALER FOR NONCOMPLIANCE WITH ANY REQUIREMENT OF THE MANUFACTURER, BREWER, OR IMPORTER, EXCLUDING CERTAIN FEES OR INTEREST.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 9, Chapter 4, Title 61 of the 1976 Code is amended by adding:

"Section 61-4-942. Notwithstanding any existing beer distribution agreement to the contrary, a manufacturer, brewer, or importer of beer shall not:

- (1) request or require a wholesaler to gather or submit sales records, retail placement, price, discount, rebate, or other details for beer brands not manufactured, brewed, or imported by the manufacturer, brewer, or importer;
- (2) mandate wholesaler employee hiring decisions or payment rates, including incentives;
- (3) request or require a wholesaler to pay or contribute beer brand marketing or advertising funds for control or expenditure by the manufacturer, brewer, or importer, except a wholesaler may agree and spend funds directly with marketers and advertisers to market and advertise beer brands within the wholesaler's territory;
- (4) ship, invoice or initiate electronic funds transfer payment for any quantity of beer exceeding any order or forecast as submitted by a wholesaler, or include in a beer sales invoice charges for any items other than beer, freight, cooperage, dunnage, pallets and related deposits;
- (5) invoice or initiate electronic funds transfer payment for point of sale advertising specialties or other items exceeding an order placed by a wholesaler;

(6) attribute risk of loss, ownership or other financial interest to a wholesaler for beer not in the wholesaler's possession;

(7) request or require a wholesaler to pay for development, installation, or use of any software owned or mandated by the manufacturer, brewer, or importer, except a wholesaler may be required to maintain electronic information systems compatible with systems and standards adopted by a manufacturer, brewer, or importer; or

(8) request or require a wholesaler to pay a fee or penalty, of any description, for noncompliance with any requirement of the manufacturer, brewer, or importer, excluding fees or interest for untimely payment."

SECTION 2. This act takes effect upon approval by the Governor.

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