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135th General Assembly

Bill Analysis

Version: L-135-1293-1

Primary Sponsor: Sen. Brenner

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SUMMARY

- Exempts certain brewers from the Alcohol Franchise Law, specifically those that annually manufacture less than 250,000 barrels of beer.

DETAILED ANALYSIS

Alcohol Franchise Law

Background

Current law establishes requirements and procedures that govern the relationship between a manufacturer of beer or wine (manufacturer) and its distributors. A manufacturer must enter into a franchise agreement with its distributors providing for the sale of the manufacturer's brands or products. The agreement must stipulate the rights and duties of both parties. When a distributor for a manufacturer distributes beer or wine for at least 90 days without a written agreement, a franchise relationship is established between the parties, and the beer and wine franchise laws apply to both parties.¹

Generally, existing law prohibits a manufacturer or distributor from failing to act in good faith or without just cause under the terms of a franchise agreement. A manufacturer or distributor who violates the beer and wine franchise laws is liable to the party injured by the violation for all reasonable damages sustained by the party that are the proximate result of the manufacturer's or distributor's unlawful act.²

¹ R.C. 1333.83, not in the bill.

² R.C. 1333.84(A) to (F), not in the bill.

Current law also generally prohibits a manufacturer or distributor from canceling or failing to renew a franchise agreement or substantially changing a sales area or territory (substantial change) without:

1. Just cause;
2. The prior consent of the other party; and
3. Providing at least 60 days' written notice to the other party setting forth the reasons for the cancellation, failure to renew, or substantial change.

Thus, unless there is just cause, a manufacturer and distributor may not withdraw from a franchise agreement.

Existing law states that neither the manufacturer nor the distributor is required to give to the other party the cancellation notice when specified circumstances exist, including bankruptcy or revocation and suspension of either party's liquor permit. It also states that the occurrence of certain events does not constitute just cause, including:

1. The failure or refusal of either party to act in a manner that violates the law;
2. The restructuring of a manufacturer's business organization (other than through bankruptcy); and
3. A manufacturer's sale, assignment, or other transfer of the manufacturer's brand to another manufacturer over which it exercises control.

If a manufacturer or distributor cancels or fails to renew a franchise, the manufacturer must purchase its products from the distributor at a certain cost.³

Exclusion of small breweries

The bill exempts certain brewers from the Alcohol Franchise Law. Specifically, it exempts brewers that annually manufacture less than 250,000 barrels of beer.⁴ A barrel of beer contains 31 gallons.⁵ Thus, these brewers can enter franchise agreements that are not subject to the general requirements of the Alcohol Franchise Law.

³ R.C. 1333.85(A) to (C), not in the bill.

⁴ R.C. 1333.82.

⁵ 250,000 barrels of beer equals 7,750,000 gallons of beer.

HISTORY

Action	Date
Introduced	07-25-23
