

## CHAPTER 325B

### BEER BREWERS AND WHOLESALERS

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#### 325B.01 DEFINITIONS.

Subdivision 1. As used in sections 325B.01 to 325B.17 and unless otherwise required by the context, the terms defined in this section have the meanings given them.

Subd. 2. "Agreement" means one or more of the following:

(a) A commercial relationship between a licensed beer wholesaler and a licensed brewer of a definite or indefinite duration, which is not required to be evidenced in writing;

(b) A relationship whereby the beer wholesaler is granted the right to offer and sell a brand or brands of beer offered by a brewer;

(c) A relationship whereby the beer wholesaler, as an independent business, constitutes a component of a brewer's distribution system;

(d) A relationship whereby the beer wholesaler's business is substantially associated with a brewer's brand or brands, designating the brewer;

(e) A relationship whereby the beer wholesaler's business is substantially reliant on a brewer for the continued supply of beer;

(f) A written or oral arrangement for a definite or indefinite period whereby a brewer grants to a beer wholesaler a license to use a brand, trade name, trademark, or service mark, and in which there is a community of interest in the marketing of goods or services at wholesale or retail.

Subd. 3. "Beer wholesaler" shall mean any licensed person importing or causing to be imported into this state or purchasing or causing to be purchased within this state, any beer for sale or resale to retailers or wholesalers licensed under chapter 340, without regard to whether the business of the person is conducted under the terms of an agreement with a licensed brewer.

Subd. 4. "Brewer" means every licensed brewer of beer located within or without the state of Minnesota, who enters into an "agreement" with any beer wholesaler licensed to do business in the state of Minnesota.

Subd. 5. "Person" means a natural person, corporation, partnership, trust, agency, or other entity as well as the individual officers, directors or other persons in active control of the activities of each such entity. Person also includes heirs, assigns, personal representatives and guardians.

Subd. 6. "Territory" or "sales territory" means the area of primary sales responsibility designated by any agreement between any beer wholesaler and brewer for the brand or brands of any brewer.

**History:** 1977 c 328 s 1

#### 325B.02 NO INDUCEMENT OR COERCION.

No brewer shall:

(1) Induce or coerce, or attempt to induce or coerce, any beer wholesaler to accept delivery of any alcoholic beverage or any other commodity which shall not have been ordered by the beer wholesaler.

(2) Induce or coerce, or attempt to induce or coerce, any beer wholesaler to do any illegal act or thing by threatening to amend, cancel, terminate, or refuse to renew any agreement existing between a brewer and a beer wholesaler.

(3) Require a wholesaler to assent to any condition, stipulation or provision limiting the wholesaler's right to sell the product of any other brewer anywhere in the state of Minnesota, provided that the acquisition of the product of another brewer does not materially impair the quality of service or quantity of sales of the existing brand or brands of the brewer seeking to impose the condition, stipulation or provision.

**History:** 1977 c 328 s 2; 1986 c 444

### **325B.03 NO DUAL DISTRIBUTION.**

No brewer who designates a sales territory for which any wholesaler shall be primarily responsible shall enter into any agreement with any other beer wholesaler for the purpose of establishing an additional agreement for its brand or brands of beer in the same territory served by a beer wholesaler with that particular brand.

**History:** 1977 c 328 s 3

### **325B.04 CANCELLATION.**

Notwithstanding the terms, provisions or conditions of any agreement, no brewer shall amend, cancel, terminate or refuse to continue to renew any agreement, or cause a wholesaler to resign from an agreement, unless good cause exists for amendment, termination, cancellation, nonrenewal, noncontinuation or causing a resignation. "Good cause" shall not include the sale or purchase of a brewer. "Good cause" shall include, but not be limited to, the following:

(1) Revocation of the wholesaler's license to do business in the state.

(2) Bankruptcy or insolvency of the wholesaler.

(3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler.

(4) Failure by the wholesaler to substantially comply, without reasonable excuse or justification, with any reasonable and material requirement imposed upon the wholesaler by the brewer.

**History:** 1977 c 328 s 4; 1986 c 444

### **325B.05 NOTICE OF INTENT TO TERMINATE.**

Except as provided in this section, a brewer shall provide a wholesaler at least 90 days prior written notice of any intent to amend, terminate, cancel or not renew any agreement. The notice shall state all the reasons for the intended amendment, termination, cancellation or nonrenewal. The wholesaler shall have 90 days in which to rectify any claimed deficiency. If the deficiency shall be rectified within 90 days of notice, then the proposed amendment, termination, cancellation or nonrenewal shall be null and void and without legal effect. The notice provisions of this section shall not apply if the reason for the amendment, termination, cancellation, or nonrenewal is:

(1) The bankruptcy or insolvency of the wholesaler.

(2) An assignment for the benefit of creditors or similar disposition of the assets of the business.

(3) Revocation of the wholesaler's license.

(4) Conviction or a plea of guilty or no contest to a charge of violating a law relating to the business that materially affects the wholesaler's ability to remain in business.

**History:** 1977 c 328 s 5

### **325B.06 ASSIGNMENT, TRANSFER OR SALE OF BUSINESS.**

No brewer shall unreasonably withhold consent to any assignment, transfer or sale

of the wholesaler's business whenever the wholesaler to be substituted meets the material and reasonable qualifications and standards required of its wholesalers.

**History:** 1977 c 328 s 6

**325B.07 REASONABLE COMPENSATION.**

Subdivision 1. Any brewer which amends, cancels, terminates, or refuses to continue or renew any beer agreement, or causes a wholesaler to resign, unless for good cause shown as defined in section 325B.04, from an agreement or unreasonably withholds consent to any assignment, transfer or sale of a wholesaler's business, shall pay the wholesaler reasonable compensation for the value of the wholesaler's business with relationship to the terminated brand or brands. The value of the wholesaler's business shall include, but not be limited to, its good will, if any.

Subd. 2. In the event that the brewer and the beer wholesaler are unable to mutually agree on the reasonable compensation to be paid for the value of the wholesaler's business, as defined herein, the matter shall be submitted to a neutral arbitrator to be selected by the parties, or if they cannot agree, by the chief judge of the district court. All of the costs of the arbitration shall be paid one-half by the wholesaler and one-half by the brewer. The award of the neutral arbitrator shall be final and binding on the parties.

**History:** 1977 c 328 s 7

**325B.08 JUDICIAL REMEDIES.**

If a brewer engages in conduct prohibited under sections 325B.01 to 325B.17, a wholesaler may maintain a suit against the brewer. The court may grant equitable relief as is necessary to remedy the effects of conduct which it finds to exist and which is prohibited under sections 325B.01 to 325B.17, including, but not limited to, declaratory judgment and injunctive relief. The court may, if it finds that the brewer has acted in bad faith in invoking the amendment, termination, cancellation or nonrenewal provisions of sections 325B.01 to 325B.17, or has unreasonably withheld its consent to any assignment, transfer or sale of the wholesaler's agreement, award punitive damages, as well as actual damages, costs and attorneys fees.

**History:** 1977 c 328 s 8

**325B.09 PRICE OF PRODUCT.**

No brewer, whether by means of a term or condition of an agreement or otherwise, shall fix or maintain the price at which the wholesaler shall sell any alcoholic beverage.

**History:** 1977 c 328 s 9

**325B.10 RETALIATORY ACTION PROHIBITED.**

A brewer shall not take retaliatory action against a wholesaler who files or manifests an intention to file a complaint of alleged violation of state or federal law or regulation by the brewer with the appropriate state or federal regulatory authority. Retaliatory action shall include, but shall not be limited to, refusal without good cause to continue the agreement, or a material reduction in the quality of service or quantity of products available to the wholesaler under the agreement.

**History:** 1977 c 328 s 10

**325B.11 MANAGEMENT.**

No brewer shall require or prohibit any change in management or personnel of any wholesaler unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the brewer.

**History:** 1977 c 328 s 11

**325B.12 NO DISCRIMINATION.**

No brewer shall discriminate among its wholesalers in any business dealings including, but not limited to, the price of beer sold to the wholesaler, unless the classification among its wholesalers is based upon reasonable grounds.

**History:** 1977 c 328 s 12

**325B.13 NO WAIVER.**

No brewer shall require any wholesaler to waive compliance with any provision of sections 325B.01 to 325B.17. Nothing in sections 325B.01 to 325B.17 shall be construed to limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

**History:** 1977 c 328 s 13

**325B.14 OBLIGATIONS OF PURCHASER.**

Except for good cause, which shall include, but not be limited to (1) revocation of the wholesaler's license to do business in the state, (2) bankruptcy or insolvency of the wholesaler, (3) assignment for the benefit of creditors or similar disposition of the assets of the wholesaler, (4) failure by the wholesaler to substantially comply, without reasonable excuse or justification, with any reasonable and material requirement imposed upon the wholesaler by the brewery, the purchaser of a "brewer" as defined in sections 325B.01 to 325B.17 shall become obligated to all of the terms and conditions of the agreement in effect on the date of purchase. "Purchase", as defined for the purposes of sections 325B.01 to 325B.17, shall include, but is not limited to, the sale of stock, sale of assets, merger, lease, transfer or consolidation.

**History:** 1977 c 328 s 14; 1986 c 444

**325B.15 COVERAGE.**

The provisions of sections 325B.01 to 325B.17 shall cover agreements in existence on May 28, 1977, as well as agreements entered into after May 28, 1977.

**History:** 1977 c 328 s 15

**325B.16 RIGHT OF FREE ASSOCIATION.**

No brewer or wholesaler shall restrict or inhibit, directly or indirectly, the right of free association among brewers or wholesalers for any lawful purpose.

**History:** 1977 c 328 s 16

**325B.17 RELATION TO PRIOR LAW.**

Sections 325B.01 to 325B.17 supplement and do not supersede any prior law. If they are found to be inconsistent with prior law, the prior law shall govern.

**History:** 1977 c 328 s 17