OLR RESEARCH REPORT

October 22, 2012 2012-R-0430

LEGISLATIVE HISTORY OF EXCLUSIVE BEER TERRITORIES

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You asked for the legislative history allowing beer wholesalers to have exclusive sales territories.

SUMMARY

Under normal circumstances, retailers located in a particular geographic area must buy their beer from the wholesaler to whom the beer manufacturer has granted an exclusive territory. Two state laws support this arrangement. The principal act, PA 72-95, passed in 1972 and amended in 1979 and 1984, sets limits on when manufacturers can diminish or terminate a beer wholesaler's right to be the exclusive seller in an assigned territory. The second act, PA 81-294, enacted in 1981 exempts beer wholesalers from the law that requires other wholesalers to sell to retailers located outside their assigned territories under certain circumstances.

The record is silent on the legislature's rationale for regulating the exclusivity of beer wholesalers' territories. But it indicates that the prohibition on sales to out-of-territory retailers was motivated by its concern that such arrangements would hamper wholesalers' and retailers' efforts to comply with the state bottle bill law.

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DEFINING "EXCLUSIVE TERRITORY"

State liquor laws do not define the term "exclusive territory," when this term is used in the context of diminishing a beer wholesaler's territory. There seem to be at least two plausible definitions.

The first considers a wholesaler's exclusive sales territory to have been diminished when the manufacturer who granted the wholesaler exclusive rights to sell in one territory takes away a portion of the territory and grants another wholesaler rights to make sales in the newly-apportioned territory. Under the second definition, a wholesaler's exclusive rights to sell in a specific geographic area are not diminished when the manufacturer divides the former territory among one or more additional wholesalers, so long as the original wholesaler retains exclusive authority to make sales in any portion of it.

CURRENT LAW

Generally the law allows a beer manufacturer to appoint one wholesaler to distribute its product within a particular territory. However, the law relieves manufacturers of maintaining exclusive arrangements and allows them to appoint other wholesalers to already-assigned territories by agreement or for "just and sufficient cause." "Just and sufficient cause" means the existence of circumstances which, in the opinion of a reasonable person considering all the equities of both the wholesaler and the manufacturer warrants a termination or a diminishment of a distributorship as the case may be. The Department of Consumer Protection must hold hearings to determine if there is "just and sufficient cause" (CGS § 30-17(a)(2)). There is no "just and sufficient cause" requirement for appointing additional distributors for other alcohol types.

The law also exempts beer wholesalers from the law requiring other wholesalers to sell to retailers located outside of their assigned territories when the product the retailer seeks to buy is not available in its assigned territory or costs more than the extra-territorial wholesaler is charging (CGS § 30-17a).

CHANGES IN LAW REGARDING APPOINTMENTS OF ADDITIONAL BEER WHOLESALERS

The law (1) as first enacted in 1972 did not allow beer manufacturers to appoint additional wholesalers for any reason; (2) as amended in 1979, allowed such appointments; and (3) beginning in 1984, required "just and sufficient cause" before doing so.

1972

PA 72-95 allowed liquor, but not beer, wholesalers to appoint additional wholesalers. The Liquor Control Committee voted favorably on a bill that allowed all liquor manufacturers to appoint additional wholesalers. But House Amendment "A" exempted beer, and it was adopted in both chambers without discussion.

1979

Subsequently, PA 79-131, eliminated territorial exclusivity for beer wholesalers, by allowing additional beer appointments. Again the legislative history does not indicate why the legislature made this change.

1984

PA 84-432 added the "just and sufficient cause" limit on beer manufacturers' rights to appoint additional wholesalers. The legislative history does not reveal legislative intent, but there was some discussion of preventing out-of-state manufacturers and shippers from taking punitive actions against wholesalers.

EXEMPTION FROM SELLING OUTSIDE TERRITORY REQUIREMENT

In 1981, the legislature exempted beer wholesalers from coverage under PA 81-294, which required wholesalers to make out-of-territory sales to retailers when the wholesaler assigned to their territory either (1) did not carry the product they wished to buy or (2) charged a higher price for it (CGS § 30-17a).

The legislative history indicates its rationale for exempting beer wholesalers was that compliance would (1) make it difficult for them to comply with bottle bill requirements and (2) cause them economic hardship. (The bottle bill, applicable only to beer wholesalers, establishes a complex procedure for collecting and redeeming deposits consumers pay when they buy most bottled beverages.)

House and Senate members opposing the beer exemption generally argued that it would be a restraint on the free market, thus reducing price competition among retailers.

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