OLR RESEARCH REPORT

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LEGISLATIVE HISTORY OF ALCOHOL MINIMUM PRICING

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You asked for the legislative history of the law prohibiting retailers who sell alcohol for off-premises consumption (off-premises retailers) from selling alcohol below costs.

SUMMARY

Connecticut law generally prohibits off-premises retailers (primarily package and grocery stores) from selling any kind of alcoholic beverage below cost and prescribes how "cost" must be calculated for this purpose. The law allows such retailers to monthly discount one alcoholic item for sale below cost.

The original prohibition was adopted as part of a 1981 law repealing a mandatory minimum markup on retail sale of alcoholic beverages. According to the legislative history of the 1981 law, it appears the prohibition on selling below cost was intended to mitigate possible adverse effects of the minimum markup repeal on smaller package stores.

Since its enactment in 1981, the law was amended four times. The legislature (1) in 1982, specified that the prohibition applied only to off-premises retailers; (2) in 1993, defined "bottle price" for purposes of calculating cost; (3) in 2005, established a different method for calculating the cost of beer as opposed to other types of alcohol; and (4) in 2012, allowed one monthly item to be sold below cost.

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LAW

With one exception, CGS § 30-68m(a) prohibits off-premises retailers from selling alcoholic liquor below cost. Retailers may sell one alcoholic item a month below cost, but not for less than 90% of the cost. The law establishes different formulas for calculating "cost": one for beer and one for other alcoholic beverages.

By law, liquor and wine manufacturers and wholesalers must post their bottle, can, and case prices each month with the Department of Consumer Protection. Except for beer, the prices are the controlling prices for the entire month in which they are posted. For beer, manufacturers and distributors may post additional prices for the following month and such prices are controlling for the portion of the following month (CGS § 30-63(c)).

Under the law, the cost for alcohol, other than beer, is the posted bottle price plus shipping and handling. "Bottle price" means the price of a bottle of alcoholic liquor, determined by dividing the case price by the number of bottles and adding two, four, or eight cents depending on the bottle size (CGS § 30-68m(b)).

The "cost" for beer is the lowest posted price for the month in which the beer is being sold plus any shipping or delivery charges. This means that a retailer can sell beer below cost if the lowest posted price during the month is below the price at which he or she bought the beer.

LEGISLATIVE HISTORY

1981

PA 81-294 (HB 7405) eliminated minimum markups on alcoholic beverages and instead prohibited selling below cost. Prior law required wholesalers and retailers to add a certain percentage to their cost. The amount of the markup depended on the alcohol type, which ranged from 21.5% to 33.3%. The enacted bill was taken up as an emergency certification and thus had no public hearing.

House Debate. The House debated the bill on April 1. Representative Carragher introduced the bill and explained that the main reason for repealing the minimum markup law was to lower alcohol prices, thereby discouraging residents from buying cheaper alcohol out of state. He felt that the bill was an attempt to be fair to both consumers and industry members. He also said that the additional sales would result in increased

sales tax revenue. Some legislators also argued that eliminating the minimum markups would remove what they saw as protection for the alcohol industry.

Some opponents of the legislation, including Representative Sorenson, argued that the act would hurt retailers. Other opponents said they were not convinced that the repeal would actually lower consumer prices and argued that it could possibly increase other social problems like traffic accidents. The House passed the bill by a vote of 92-49.

Senate Debate. The Senate took up the bill on May 14. The bill the Senate debated had additional negotiated compromises, none of which changed the prohibition on selling alcohol below cost. The Senate raised similar arguments for and against the repeal of the mandatory minimum markup as those made in the House. Senator Mustone reiterated that the minimum markup was hurting businesses and costing the state between $1 and $4 million annually. Likewise, opponents like Senator Ciarlone repeated concerns that prices could actually rise after repeal. The Senate passed the bill by a vote of 25-10 and referred it back to the House, which passed it by a 125-17 vote.

1982 and 1993

PA 82-332 (HB 5680) specified that the prohibition on selling alcohol below cost applied only to off-premises retailers. This was a technical change recommended by the Legislative Commissioner's Office that was part of a larger liquor bill. HB 5680 passed without discussion by the House on a 131-5 vote. The Senate passed it on consent.

PA 93-139 (SB 823) added the "bottle price" definition and deleted an obsolete exemption for wine sales. The act was a recommendation from the Connecticut Law Revision Commission and had no substantive discussion. The bill passed without discussion by a 144-0 vote in the House and a 36-0 vote in the Senate.

2005

PA 05-240 (HB 6608) established a different method for calculating the cost of beer. The provision was added in House Amendment "A" and was not discussed in committee.

It defined beer cost to mean the lowest posted price during the month in which the retailer is selling plus any shipping or delivery charge paid in addition to the price originally paid by the retailer.

Representative Stone explained the rationale was to allow retailers to pass on to consumers some of the savings that they might realize with the multiple price postings.

The bill passed without discussion by a vote of 139-8 in the House and a Senate vote of 36-0.

2012

PA 12-17 (HB 5021) allows off-premises retailers to in any month discount one alcohol item for sale below cost. The original governor's bill would have repealed all alcoholic minimum pricing, including the provision prohibiting retailers from selling below cost.

General Law Committee. The General Law Committee held a public hearing on the bill on February 28. There was significant opposition to the minimum price repeal. The major source of opposition came from the package stores, which contended that a repeal would be debilitating to their business and force many of them to close.

Due to this opposition, a compromise bill was drafted including a provision allowing retailers to discount one alcoholic item each month. The General Law Committee approved this version by a 15-3 vote and referred the substitute bill to the Finance and Revenue and Bonding Committee, which approved it on a 39-11 vote. There was little substantive discussion in either committee on allowing the one monthly discount.

House Debate. The House debated the bill on April 26. Representative Taborsak introduced and explained the bill. Representative Srinivasan expressed concern about how the exemption would be enforced. Representative Taborsak responded that the minimum pricing enforcement is a self-reporting process, involving complaints and then investigation, rather than active enforcement. The House passed the bill by a 116-27 vote.

Senate Debate. The Senate took up the bill on May 1. Senator Doyle introduced and explained the bill. There was no opposition to the one discounted item provision, but Senator Frantz did ask for the rationale. In response, Senator Doyle explained that the one item was a negotiated compromise by the General Law Committee. The Senate passed the bill by a 28-6 vote.

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