

HCS HB 433 -- RETAILERS OF INTOXICATING LIQUOR

SPONSOR: Cornejo

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on General Laws by a vote of 9 to 3. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 9 to 2.

This bill changes the law to allow manufacturers of beer and wine to offer consumer cash rebate coupons. Currently, only manufacturers of intoxicating liquor other than beer or wine can offer such coupons. The bill specifies that a wholesaler cannot directly or indirectly fund the cost of any cash rebate coupon provided by manufacturers of intoxicating liquor, beer, or wine.

The bill also authorizes retailers of intoxicating liquor or beer to offer and advertise coupons, premiums, prizes, rebates, and other promotional programs of any type to consumers as an inducement to purchase alcoholic or nonalcoholic merchandise, so long as no advertisement for intoxicating liquor or beer contains a price that is below the retailer's actual cost. Retailers who offer a loyalty program for nonalcoholic merchandise or intoxicating liquor purchases must include all nonalcoholic merchandise or intoxicating liquors in the loyalty program and the rewards must be applied at the same rate for all nonalcoholic merchandise or intoxicating liquor purchases. The bill allows retailers to purchase, publish, or display advertisements of intoxicating liquors that list the amount of the rebate or discount and the retail price after the rebate or discount.

This bill makes changes to the law regarding wine direct shipper licenses. The bill requires a \$100 per year licensing fee. It also requires a winery located out of state to make monthly rather than yearly reports to the supervisor of Alcohol and Tobacco Control listing the total amount of wine shipped into the state. This bill requires an alcohol carrier license in order to transport and deliver shipments of intoxicating liquor directly to a resident of this state. The bill sets out certain requirements the alcohol carrier licensees need to meet, including obtaining the signature of a person at least 21 years of age as a condition of delivery. This bill specifies that intoxicating liquor can only be shipped from a wine direct shipper or licensed retailer. However, a retailer without an alcohol carrier license can deliver intoxicating liquor, except powdered alcohol, directly to a resident under certain circumstances. The bill requires anyone shipping or delivering powdered alcohol to a resident of this state for personal use to have an alcohol carrier license. The bill also adds powdered alcohol to the definition of intoxicating liquor used

in state liquor control laws.

The bill states that beer and other malt liquors brewed, manufactured, and sold exclusively in this state does not need a certificate of label approval or any other inspection by the Alcohol and Tobacco Tax and Trade Bureau. Such products shall be under the sole supervision of the state liquor control which shall not require product samples prior to granting approval for sale.

PROPOSERS: Supporters say that current law allows retailers to offer coupons, prizes, or rebates but not to advertise for them outside their stores. The current prohibition on advertisement just prevents consumers from knowing where to get the best price. The rule violates the First Amendment of the United States Constitution and is unfair to the media.

Testifying for the bill were Representative Cornejo; Mark Sableman, Missouri Broadcasters Association; Missouri Retailers and Missouri Grocers Association; Missouri Press Association; and Edward Cooper, Total Wine And More.

OPPOSERS: Those who oppose the bill say that this bill will create predatory pricing within the industry. Currently, all retailers purchase alcohol from wholesalers at the same price. This bill would allow retailers to offer alcohol to consumers at a lower price than the retailer purchased the alcohol (the original language in this bill allowed retailers to advertise liquor at below cost). Opponents believe that Total Wine is a moving force behind this bill. Total Wine opened stores in Missouri last year and now wants to change the law to give it an advantage over smaller, local liquor stores. Only a large chain store like Total Wine can afford to sell below cost; smaller, local stores will go out of business trying to compete and then Total Wine can raise its prices after it has driven its competition out of business. The current system has been in place for years and it is working; we shouldn't change it for one company.

Testifying against the bill were Randall's Wines & Spirits; Jase Bennett, Randall's Wines And Spirits; Gary Bilder, Lukas Wine And Spirits; Missouri Retailers For Fair Competition, Inc.; Patrick Doohan, Mike's Wine and Spirits; Gary Hinton, Gomer's State Line; Missouri Petroleum Marketers & Convenience Store Association (MPCA); Matt Prchal, Brown Derby Stores; Paul Hayden, Wine And Cheese Place; Lynn Wallis, Wallis Companies; Barry Horn, Mike's Wine And Spirits; Dhaval Mehta, SIRA; Cameron Probst, Gomer's Fine Wine And Spirits; and Missouri Grape And Wine Alliance.