

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2136

Introduced by

Senators Klein, Barta, Kessel

Representatives Hagert, Warrey

- 1 A BILL for an Act to amend and reenact sections 5-04-02 and 5-04-14 of the North Dakota
2 Century Code, relating to wholesaler and brewer relations.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 5-04-02 of the North Dakota Century Code is amended
5 and reenacted as follows:

6 **5-04-02. Inducement or coercion prohibited.**

7 ~~No~~A brewer may not:

- 8 1. Induce or coerce, or attempt to induce or coerce, ~~any~~a beer wholesaler to accept
9 delivery of ~~any~~an alcoholic beverage or ~~any~~ other commodity which has not been
10 ordered by the beer wholesaler.
11 2. Induce or coerce, or attempt to induce or coerce, ~~any~~a beer wholesaler to enter ~~any~~an
12 agreement or take ~~any~~an action that would violate ~~any~~a law or rule of this state by
13 threatening to amend, cancel, terminate, or refuse to renew ~~any~~an agreement existing
14 between a brewer and a beer wholesaler.
15 3. Require a wholesaler to assent to ~~any~~a condition, stipulation, or provision limiting the
16 wholesaler's right to sell any other brewer's product anywhere in this state, provided
17 the sale of another brewer's product does not materially impair the quality of service or
18 quantity of sales of the existing brand or brands of the brewer seeking to impose the
19 condition, stipulation, or provision.

- 1 4. Require a wholesaler to submit specific, confidential information ~~regarding, including,~~
- 2 ~~financial information associated with the purchase, sale, or distribution of~~ competitive
- 3 brands, as a condition of renewal or continuation of an agreement.
- 4 5. Fail to provide each wholesaler of its brands with a written contract ~~which~~that
- 5 conforms to this chapter and embodies the brewer's agreement with each wholesaler.
- 6 6. Require a wholesaler to use or prohibit a wholesaler from using a
- 7 business-to-business electronic commerce platform.

8 **SECTION 2. AMENDMENT.** Section 5-04-14 of the North Dakota Century Code is amended
9 and reenacted as follows:

10 **5-04-14. Sale of brewer.**

11 Except for good cause, as defined by section 5-04-04, the purchase of a brewer as defined
12 in section 5-04-01, ~~when the purchaser continues in business as a brewer,~~ shall obligate the
13 ~~new brewer~~purchaser to all terms and conditions of the agreement in effect on the date of
14 purchase. "Purchase", for the purposes of this chapter, includes the sale of stock, sale of
15 assets, merger, lease, transfer, or consolidation.