

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3619

STATE OF NEW JERSEY
211th LEGISLATURE

ADOPTED JUNE 9, 2005

Sponsored by:

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

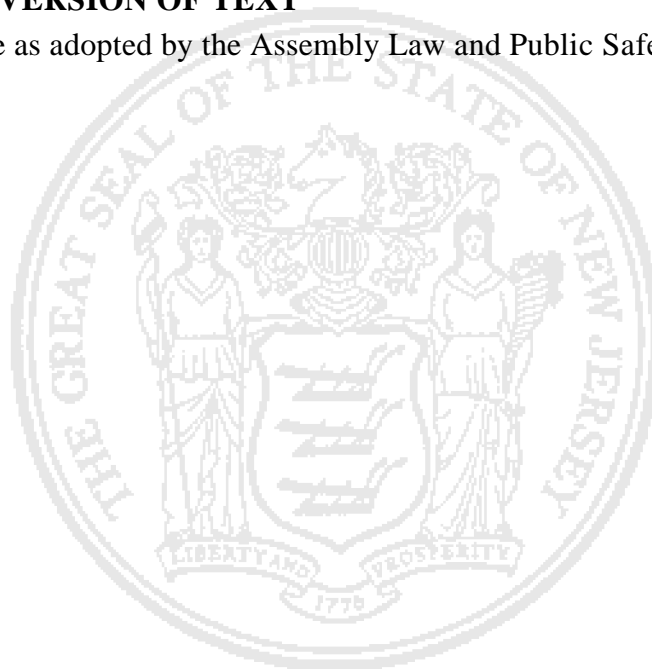
Senator Kenny

SYNOPSIS

Concerns relationship between manufacturers and wholesalers of malt alcoholic beverages; authorizes certain alcoholic beverage trade practices.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Law and Public Safety Committee.



(Sponsorship Updated As Of: 12/9/2005)

1 AN ACT concerning alcoholic beverages and supplementing Title 33
2 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Sections 1 through 9 of this act shall be known and may be
8 cited as the "Malt Alcoholic Beverage Practices Act."

9

10 2. The Legislature finds and declares that:

11 a. The distribution and sale of malt alcoholic beverages in this
12 State vitally affects the general economy and revenues of the State, as
13 well as the public interest and public welfare.

14 b. It is appropriate to recognize the guiding characteristics
15 regarding the distribution of malt alcoholic beverages to foster
16 responsible industry practices involving the moderate and responsible
17 use of these beverages, to provide a framework for the malt alcohol
18 beverage industry that recognizes and encourages the beneficial
19 aspects of competition, to provide trade stability, to maintain the
20 three-tier distribution system, to protect the interests of the consumer
21 regarding product quality and freshness and to achieve all facets of the
22 legislatively declared public policy of this State as set forth in section
23 4 of P.L.1985, c.258 (C.33:1-3.1).

24 c. It is therefore fitting and proper to regulate the business
25 relationship between and brewers and wholesalers of malt alcoholic
26 beverages and set forth their respective responsibilities to further the
27 public policy of this State and protect beer wholesalers from
28 unreasonable demands and requirements by brewers, while devoting
29 sufficient efforts and resources to the distribution and sale of malt
30 alcoholic beverages.

31 d. The Legislature also finds and declares that nothing in sections
32 1 through 9 of this act shall be construed in any manner whatsoever to
33 apply to wholesalers of wines and spirits and that sections 1 through
34 9 of the act shall be strictly limited to the responsibilities of brewers
35 and wholesalers. But section 10 of this act shall apply to wholesalers
36 of beer, wine and spirits alike.

37

38 3. As used in sections 1 through 9 of this act:

39 "Base product" is a malt alcoholic beverage product distributed by
40 a wholesaler.

41 "Brand extension" means any malt alcoholic beverage product
42 offered for sale in the State, other than on a test market basis in a
43 defined market area, that uses as part of its brand name, logo,
44 packaging or trade dress, including but not limited to, the name of the
45 brewer if the brewer's name is a part of the product name, or that is
46 sold or marketed to the beer trade or to the consumer substantially in

1 association with, a brand name, logo, packaging or trade dress,
2 including, but not limited to, the name of the brewer if the brewer's
3 name is a part of the product name, of a malt alcoholic beverage
4 product then distributed by a wholesaler.

5 "Brewer" means any person, whether located within or outside the
6 State who:

7 a. brews, manufactures, imports, markets or supplies malt
8 alcoholic beverages and sells malt alcoholic beverages to a plenary
9 wholesale licensee or a limited wholesale licensee for the purpose of
10 resale; or

11 b. is an agent or broker of such a person who solicits orders for
12 or arranges sales of such person's malt alcoholic beverages to a plenary
13 wholesale licensee or a limited wholesale licensee for the purpose of
14 resale; or

15 c. is a successor brewer.

16 "Fair market value" of an asset means the price at which the asset
17 would change hands between a willing seller and a willing buyer when
18 neither is acting under compulsion and when both have knowledge of
19 the relevant facts.

20 "Good cause" means and is limited to a failure to substantially
21 comply with reasonable terms contained in a contract or agreement
22 between a brewer and wholesaler that contains the same terms as the
23 brewer's contract with similarly situated United States, not including
24 United States territories or possessions, distributors.

25 "Person" means a natural person, corporation, partnership, trust,
26 or other entity and, in case of an entity, it shall include any other
27 entity, except a natural person, which has a majority interest in such
28 entity or effectively controls such entity.

29 "Sale or transfer" means any disposition of a contract, agreement
30 or relationship between a brewer and a wholesaler or of any rights to
31 acquire and distribute products of a brewer, or any interest therein,
32 with or without consideration, including, but not limited to, bequest,
33 inheritance, gift, exchange, lease or license.

34 "Successor brewer" means any person, not under common control
35 with the predecessor brewer, who by any means, including, without
36 limitation, by way of purchase, assignment, transfer, lease, license,
37 appointment, contract, agreement, joint venture, merger, or other
38 disposition of all or part of the business, assets, including trademarks,
39 brands, distribution rights and other intangible assets, or ownership
40 interests of a brewer, acquires the business or malt alcoholic beverage
41 brands of another brewer, or otherwise succeeds to a brewer's interest
42 with respect to any malt alcoholic beverage brands.

43 "Wholesaler" means a plenary wholesale licensee or a limited
44 wholesale licensee who purchases malt alcoholic beverages from a
45 brewer for the purpose of resale to Class C licensees or State
46 Beverage Distributor Licensees.

1 4. a. Every brewer shall contract and agree in writing with a
2 wholesaler for all supply, distribution and sale of the products of the
3 brewer in this State, and each contract shall provide and specify the
4 rights and duties of the brewer and the wholesaler with regard to such
5 supply, distribution and sale. The terms and provisions of such
6 contracts shall be reasonable, reflect the parties' mutuality of purpose
7 and community of interest in the responsible sale and marketing of
8 their products, and shall comply with and conform to State law and the
9 terms of this act. The provisions of this act may not be waived or
10 modified by written or oral agreement, estoppel or otherwise, and any
11 provision of a contract or ancillary agreement that directly or
12 indirectly requires or amounts to a waiver of any provision of this act,
13 or that would relieve any person of any obligation or liability under
14 this act, or that imposes unreasonable standards of performance on a
15 wholesaler, shall be a violation of this act and shall be null, void and
16 of no effect.

17 b. This act shall apply to all contracts, agreements and
18 relationships among any brewers and wholesalers, including contracts,
19 agreements or relationships entered into, renewed, extended or
20 modified after the effective date of this act. Contracts, agreements and
21 relationships existing prior to the effective date of this act that are
22 continuing in nature, have an indefinite term or have no specific
23 duration shall be deemed for purposes of this act to have been renewed
24 60 days after the effective date of this act.

25 c. The terms or provisions of a contract or agreement between a
26 brewer and wholesaler shall not permit a brewer, and it shall be a
27 violation of this act for a brewer:

28 (1) to terminate, cancel or refuse to renew a contract, agreement
29 or relationship with a wholesaler, or to fail or refuse to grant to a
30 wholesaler the right to purchase and resell any brand extension under
31 the same form of agreement as the base product, in part or in whole,
32 except where the brewer establishes that it has acted for good cause
33 and in good faith;

34 (2) to terminate, cancel or refuse to renew a contract, agreement
35 or relationship with a wholesaler, in part or in whole, because the
36 wholesaler refuses or fails to accept an unreasonable amendment to the
37 contract, agreement or relationship;

38 (3) to terminate, cancel or refuse to renew a contract, agreement
39 or relationship with a wholesaler, in part or in whole, without first
40 giving the wholesaler written notice setting forth all of the alleged
41 deficiencies on the part of the wholesaler and giving the wholesaler a
42 reasonable opportunity of not more than 120 days to cure the alleged
43 deficiencies; provided, however, that such period for cure may be
44 increased or reduced to a commercially reasonable period by an order
45 of a court in this State in a proceeding in which each party shall bear
46 its own costs and expenses;

1 (4) to require the brewer's consent to the acquisition, sale or
2 transfer of distribution rights for products other than those of the
3 brewer or of assets unrelated to the distribution of the brewer's
4 products;

5 (5) to unreasonably withhold consent to a proposed sale or
6 transfer of any ownership interests in the wholesaler to the spouse,
7 children or heirs of existing holders of such ownership interests or to
8 employees of the wholesaler, or to trusts for the benefit of such
9 persons, except upon a statement of reasonable grounds, provided
10 such transfer does not result in a sale or transfer of effective control,
11 including but not limited to a change in the persons holding the
12 majority voting power, of the wholesaler; or to take more than 30 days
13 to approve or disapprove the proposed sale or transfer after the
14 brewer has received written notice of the proposal from the wholesaler
15 and received all reasonably requested information from the wholesaler
16 to enable the brewer to pass upon the proposed sale or transfer.

17 (6) to unreasonably withhold consent to a proposed sale or
18 transfer, in part or in whole, of any ownership interests in the
19 wholesaler or the distribution rights for the brewer's products, assets
20 of the wholesaler related to the distribution of the brewer's products,
21 or of ownership interests in the wholesaler to other parties, except
22 upon a statement of reasonable grounds that are based upon
23 reasonable, previously announced, in an agreement with its
24 wholesalers or otherwise, standards of the brewer, relating to the
25 qualifications of such transferee relating to the character, financial
26 ability or business experience of the proposed transferee, or relating
27 to the resulting market combinations or territory to be serviced by the
28 transferee; or to take more than 30 days to approve or disapprove the
29 proposed sale or transfer after the brewer has received written notice
30 of the proposal from the wholesaler and received all reasonably
31 requested information from the wholesaler to enable the brewer to
32 pass upon the proposed sale or transfer, provided that such period may
33 be extended by agreement of the parties; provided, however, that at
34 any time within such 30-day period prior to the date on which the
35 brewer approves or disapproves such a proposed sale or transfer, the
36 brewer shall have the right and option to purchase, and in the event of
37 a brewer's disapproval relating to the resulting market combinations or
38 territory to be serviced by the transferee, the wholesaler shall have the
39 right and option to require the brewer to purchase at the price and on
40 the terms and conditions set forth in the agreement between the
41 wholesaler and the proposed transferee, all of the distribution rights,
42 assets or ownership interest that are the subject of the proposed sale
43 or transfer, at the price and on the terms and conditions set forth in the
44 agreement between the wholesaler and the proposed transferee,
45 subject to the following:

46 (a) if the proposed transferee is the spouse, children or heirs of

1 existing holders of ownership interests in the wholesaler, then the
2 brewer shall not have the right and option to purchase such ownership
3 interest;

4 (b) if the proposed transferee is an existing holder of ownership
5 interests in the wholesaler, or is the manager or the successor manager
6 of the wholesaler, then if the brewer exercises its option to purchase
7 under this section, the wholesaler may, instead of selling or
8 transferring to the brewer, rescind the proposed sale or transfer by
9 notice to the brewer; and

10 (c) the brewer shall complete such purchase within sixty days of
11 its exercise of its right to do so.

12 (7) to allow more than one wholesaler to sell any of the brewer's
13 product lines or brands within the same territory or area at the same
14 time. This paragraph shall not apply to contracts or agreements
15 entered into prior to the effective date of this act, or future renewals
16 of such contracts or agreements, to the extent that, as permitted under
17 the existing contract or agreement and the future renewals allow, as of
18 the effective date of this act, different wholesalers to sell certain but
19 not all of the brewer's brands or brand extensions within the same
20 territory or area at the same time;

21 (8) to unreasonably fail to consent to the wholesaler's designation
22 of an individual as the wholesaler's manager or successor-manager in
23 accordance with previously announced non-discriminatory and
24 reasonable qualifications and standards;

25 (9) to withdraw approval of an individual as the wholesaler's
26 manager or successor-manager unless in good faith and with just cause
27 based upon deficiencies in the performance of the manager or
28 successor-manager, which in the case of the manager shall be material
29 deficiencies; or

30 (10) to prohibit, directly or indirectly, the right of free association
31 among wholesalers for any lawful purpose; or

32 (11) to fail to act, during the term of the contract, agreement or
33 relationship between them in a manner consistent with the covenant of
34 good faith and fair dealing implicit in State contract law.

35 A wholesaler also shall act in a manner consistent with the
36 covenant of good faith and fair dealing implied in State contract.

37 d. It shall not be a violation of this act for a successor brewer to:

38 (1) terminate, in whole or in part, its contract, agreement or
39 relationship with a wholesaler, or the contract, agreement or
40 relationship with a wholesaler of the brewer it succeeded, for the
41 purpose of transferring the distribution rights in the wholesaler's
42 territory for the malt alcoholic beverage brands to which the successor
43 brewer succeeded, to a wholesaler or wholesalers that then distributes
44 other products of the successor brewer in such territory, provided that
45 the successor brewer or the second wholesaler or wholesalers first
46 pays to the first wholesaler the fair market value of the first

1 wholesaler's business with respect to the terminated brand or brands;
2 provided, however, that such termination shall not be permitted, and
3 may be enjoined, where it may cause irreparable injury to the first
4 wholesaler and the standards for injunctive relief are otherwise met;
5 and provided further that a rebuttable presumption of such irreparable
6 injury shall be inferred when the terminated brand or brands represent
7 20% or more of the first wholesaler's gross sales; or

8 (2) to assume and continue the contract, agreement or relationship
9 of the brewer it succeeded with a wholesaler in the wholesaler's
10 territory for the malt alcoholic beverage brands to which it succeeded,
11 notwithstanding that the successor brewer distributes other products
12 in such territory through another wholesaler.

13 e. Whether the terms of a contract, agreement or relationship
14 conform with the provisions of this section shall be determined by a
15 court of this State in the context of a specific case or controversy
16 among wholesalers and brewers only, and not by generally applicable
17 rule, regulation or otherwise. In any such determination proper
18 consideration should be given to relevant precedents provided under
19 the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.),
20 and the fact that a term of a contract, agreement or relationship may
21 be a term of the kind described in section 9 of this act shall not be
22 considered in making such determination.

23

24 5. Notwithstanding the provisions of paragraphs (1) through (3)
25 of subsection c. of section 4 of this act, a brewer may immediately
26 terminate a contract or agreement with a wholesaler, to the extent
27 provided in reasonable terms of the contract or agreement that
28 contains the same terms as the brewer's contract with similarly situated
29 United States, not including United States territories or possessions,
30 distributors, if any of the following occur:

31 a. The assignment or attempted assignment by the wholesaler for
32 the benefit of creditors, the institution of proceedings in bankruptcy by
33 or against the wholesaler, the dissolution or liquidation of the
34 wholesaler, the insolvency of the wholesaler or the wholesaler's failure
35 to pay for malt alcoholic beverages in accordance with the agreed
36 terms;

37 b. Failure of any owner to sell his ownership interest in a
38 wholesaler within 120 days after the:

39 (1) owner has been convicted of a felony or crime of the third
40 degree or higher which, in the reasonable judgment of the brewer, may
41 adversely affect the goodwill or interests of the wholesaler or the
42 brewer and the brewer notifies the wholesaler that it requires such
43 sale; or

44 (2) brewer learns of such conviction and notifies the wholesaler
45 that it requires such sale because, in the reasonable judgment of the
46 brewer, it may adversely affect the goodwill or interests of the

1 wholesaler or the brewer and the brewer notifies the wholesaler that
2 it requires such sale;

3 c. Fraudulent conduct of the wholesaler, in any of its dealings with
4 the brewer or the brewer's products, that is known to, or should have
5 been known to the senior management or the owners of the
6 wholesaler;

7 d. Revocation or suspension for more than 31 days of the
8 wholesaler's federal basic permit or of any state or local license
9 required of a wholesaler for the normal operation of its business;

10 e. Intentional sale, directly or indirectly, of malt alcoholic
11 beverages by a wholesaler outside the sales territory prescribed by the
12 brewer; or

13 f. Without brewer consent, the wholesaler engages in changes in
14 ownership, the establishment of trusts or other ownership interests,
15 enters into buy-sell agreements, or grants an option to purchase an
16 ownership interest; this provision will not apply if the wholesaler
17 establishes that the brewer's failure to consent, after having received
18 notice as provided in paragraphs (5) or (6) of subsection c. of section
19 4 of this act, was in violation of this act.

20

21 6. During the term of a contract or agreement between a brewer
22 and a wholesaler subject to this act, the wholesaler shall, in accordance
23 with the reasonable standards of such contract or agreement, as
24 reasonably relied upon by the wholesaler, enforced without
25 discriminatory intent and in good faith, and uniformly applicable to
26 similarly situated distributors, maintain physical facilities, equipment
27 and personnel so that the product and brand of the brewer are properly
28 represented in the territory of the wholesaler, the reputation and trade
29 name of the brewer are reasonably protected, and the public is served.

30

31 7. a. Any brewer or wholesaler may bring an action against a
32 brewer for violation of this act, or against a successor brewer in
33 connection with a termination pursuant to paragraph (1) of subsection
34 d. of section 4 of this act, in the Superior Court of the State of New
35 Jersey. Any brewer who violates any provision of this act, and any
36 successor brewer who terminates a contract, agreement or relationship
37 with a wholesaler pursuant to paragraph (1) of subsection d. of section
38 4 of this act, shall pay the injured wholesaler all reasonable damages
39 sustained by it as a result of the brewer's violations. Injunctive and
40 other equitable relief also shall be available in appropriate
41 circumstances under the applicable standards for such relief under
42 State law. Injunctive equitable relief shall be granted against an actual
43 or threatened unlawful failure or refusal to grant a wholesaler the right
44 to purchase and resell a brand extension. The wholesaler or brewer
45 who sues alleging a violation of this act shall, if successful, also be
46 entitled to the costs of the action including, but not limited to,

1 reasonable attorney's fees.

2 b. Without limiting the provisions of subsection a. of this section,
3 if a brewer violates paragraphs (1), (2) or (3) of subsection c. of
4 section 4 of this act, the injured wholesaler's reasonable damages shall
5 include the fair market value of the wholesaler's business with respect
6 to the terminated brand or brands.

7 c. If a brewer terminates or fails to renew, in whole or in part, a
8 contract, agreement or relationship with a wholesaler for good cause
9 and in good faith, other than terminations or failures to renew properly
10 based upon grounds for immediate termination under section 5 of this
11 act, the brewer shall pay to the wholesaler reasonable compensation,
12 which may be established by a reasonable liquidated damages provision
13 in a written contract or written agreement between the brewer and the
14 wholesaler. Payment for inventory and other tangible assets owned and
15 used by the wholesaler in its operation as a wholesaler for the brewer's
16 products as provided for under the standards of a written contract or
17 written agreement, as well as a payment determined by multiplying by
18 two the wholesaler's pre-tax net income attributable to the sale of the
19 brewer's brand or brands for the wholesaler's most recently completed
20 fiscal year preceding the year in which the termination occurs, is
21 deemed to be a reasonable liquidated damages provision under this act
22 for such a termination of the right to distribute brands representing
23 more than 20% of the wholesaler's revenues. This payment shall not
24 be deemed reasonable compensation in any other circumstance or to
25 represent a basis for calculating fair market value. In particular and
26 without limitation, in the case of brands representing 20% or less of a
27 wholesaler's revenues, which may not require significant incremental
28 expenses for delivery, sales and service, making a net income standard
29 inappropriate, such payment shall not be deemed to be a reasonable
30 liquidated damages provision under this act.

31 d. In the event of a termination under section 5 of this act,
32 payment for inventory in the manner prescribed under the reasonable
33 standards of a contract or agreement is reasonable compensation under
34 this act.

35 e. Nothing in this act shall be deemed to give a right of action for
36 violation of this act to any third party to the relationship between a
37 brewer and a wholesaler, except for a brewer adversely affected by
38 another brewer's violation of this act with respect to a common
39 wholesaler.

40

41 8. If any material provision within any section of this act is held
42 invalid, the remainder of this act and the act as a whole shall be held
43 invalid; provided that if the application of any material provision
44 within any section of this act to any person or circumstance is held
45 invalid, then the remainder of this act and the act as a whole shall be
46 held invalid as to such person or circumstance. The "Franchise

1 Practices Act," P.L.1971, c. 356 (C.56:10-1 et seq.) shall not apply to
2 those agreements subject to this act; provided, however, that as the
3 material provisions of this act are not severable, this section shall not
4 be severable from the provisions of sections 3, 4 and 7 of this act, and
5 in the event that any provision thereof is held invalid, then the
6 "Franchise Practices Act" shall be fully applicable to the extent it
7 would otherwise apply as if this act had not been enacted, and if the
8 application of any provision thereof to any person or circumstance is
9 held invalid, then the "Franchise Practices Act" shall be fully applicable
10 to such person or circumstance to the extent it would otherwise apply
11 as if this act had not been enacted with respect to such person or
12 circumstance.

13

14 9. The Legislature finds that where a brewer's products represent
15 more than 20% of a wholesaler's gross sales and the brewer and
16 wholesaler have a community of interest in the marketing of the
17 brewer's products, there is a justification for certain input by the
18 brewer into the operations of the wholesaler, but that such input from
19 numerous brewers representing smaller percentages of a wholesaler's
20 gross sales might subject wholesalers to inconsistent obligations,
21 create uncertainty as to those obligations, and interfere unreasonably
22 with the wholesaler's ability to operate its business. Accordingly,
23 consistent with the legislatively declared public policy of this State in
24 section 4 of P.L.1985, c.258 (C.33:1-3.1), the use of the following
25 terms in any agreement or contract, including agreements or contracts
26 existing on the effective date of this act, between manufacturers of
27 malt alcoholic beverages and wholesalers, shall not be construed to
28 grant such manufacturer or wholesaler an interest in another
29 manufacturer or wholesaler under the relevant provisions of Title 33
30 of the Revised Statutes or any rule or regulation promulgated
31 thereunder provided that the brewer's products represent more than
32 20% of the wholesaler's gross sales and the brewer and wholesaler
33 have a community of interest in the marketing of the brewer's
34 products:

35 a. Terms providing brewers the ability to give reasonable consent
36 to wholesaler ownership and management changes, including successor
37 management;

38 b. Terms setting forth quality, operational, marketing and sales
39 standards designed to properly represent the products, brands,
40 reputation and trade name of the brewer, in the territory and at retail,
41 including terms under which a wholesaler commits to provide certain
42 efforts and resources toward a brewer's products;

43 c. Terms concerning ordering and inventory methods with respect
44 to the brewer's products; and

45 d. Terms requiring wholesalers to provide financial information to
46 a brewer related to sales and operations of the brewer's products, and

1 reasonable aggregated financial information related to the sales and
2 operations of all other malt alcoholic beverage products distributed by
3 the wholesaler.

4
5 10. a. Manufacturers, importing entities or wholesalers, as these
6 terms are defined in R.S.33:1-1, or third parties at the direction of
7 manufacturers, importing entities or wholesalers, may sell, lease or
8 provide services, items or equipment to retailers that are intended to
9 enhance or protect the quality, display, availability or marketing of
10 their products to consumers, including:

11 (1) Cleaning and needed repairs of dispensing systems for
12 alcoholic beverage products, including draught systems for malt
13 alcoholic beverages, powered decanter systems for wine and pouring
14 systems, and decanter racks or blending machines for distilled spirits.

15 (2) Certain equipment, such as tap handles, filters, faucets, tavern
16 heads, regulators, and similar ancillary equipment, that protects the
17 quality or taste of the alcoholic beverage products produced or
18 supplied by the appropriate licensee, subject to the provisions of
19 R.S.33:1-43.1. Substantial equipment such as complete draught or
20 refrigeration systems, or coolant shall only be sold at no less than fair
21 market value; however nothing in this subsection shall be construed to
22 prevent a licensee from renting or providing such substantial
23 equipment to a retailer on a short-term temporary basis for special
24 events.

25 (3) Delivery of alcoholic beverages into a retail account at the
26 number of locations as mutually agreed upon by the wholesaler and the
27 retailer.

28 (4) Occasional, unscheduled placing, and stocking of alcoholic
29 beverages sold by the wholesaler within a retail accounts' premises, to
30 ensure the alcoholic beverages will be available for consumers to
31 purchase, as mutually agreed upon by the wholesaler and retailer, and
32 regular rotation of alcoholic beverages sold by the wholesaler as
33 necessary to ensure the freshness of those products with a limited shelf
34 life.

35 (5) Shelf management, marketing and pricing recommendations,
36 and implementation of shelf management decisions and resets of a
37 manufacturer's supplier's, wholesaler's, or third party's own products
38 as mutually agreed upon by the wholesaler and the retailer.

39 (6) Building product displays, including price signs denoting
40 prices established by the retailer, sweepstakes prizes for customers as
41 part of a display and advertising items such as point of sale advertising
42 and consumer novelties, as mutually agreed upon by the wholesaler
43 and retailer.

44 b. A licensee may provide reasonable entertainment to another
45 licensee, such as engaging in sporting activities, taking a licensee to an
46 entertainment or sports event, or providing meals and beverages to the

1 licensee. The licensee shall not condition the provision of such
2 services, equipment, consumer sweepstakes prizes or entertainment on
3 an agreement to sell the alcoholic beverage products of a
4 manufacturer, supplier or wholesaler. A retailer shall not request the
5 provision of such services, equipment, consumer sweepstakes prizes
6 or entertainment as a condition for selling the alcoholic beverage
7 products of a manufacturer, supplier or wholesaler.

8

9 11. This act shall take effect on the first day of the third month
10 after enactment.