

HOUSE No. 951

By Mr. Lindstrom of Cambridge, petition of the Massachusetts Package Stores Association Inc. and Francis W. Lindstrom for the elimination of certain trade abuses in the sale and distribution of alcoholic beverages. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Two.

AN ACT TO ELIMINATE CERTAIN TRADE ABUSES IN THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES.

1 *Whereas*, It is hereby declared as the policy of the
2 commonwealth that the sale of alcoholic beverages
3 should be subjected to certain restrictions, provi-
4 sions and regulations; and

5 *Whereas*, The deferred operation of this act would
6 delay the proper regulation thereunder of the al-
7 coholic beverages industry and be contrary to the
8 best interests of temperance, therefore this act is
9 hereby declared to be an emergency law, necessary
10 for the immediate preservation of the public con-
11 venience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 138 of the General Laws, as appearing in
2 section 2 of chapter 376 of the acts of 1933 is hereby

3 amended by inserting after section 25B the following
4 section: —

5 *Section 25C.* (a) No brand of alcoholic beverages
6 shall be sold within the commonwealth to a whole-
7 saler or retailer, and no manufacturer or wholesaler
8 shall sell, offer for sale, solicit any order for, or ad-
9 vertise, any alcoholic beverages, the container of
10 which bears a label stating the brand or the name of
11 the owner or producer, unless a schedule of minimum
12 consumer prices for each such brand of alcoholic bev-
13 erages shall first have been filed with the commission
14 and is then in effect.

15 (b) Each of the schedules hereinafter referred to
16 shall be in writing, duly verified, and filed in the
17 number of copies and form as required by the com-
18 mission, and shall contain, with respect to each item,
19 the exact brand or trade name, capacity of package,
20 nature of contents, age and proof where stated on the
21 label, the percentage and type of spirits where stated
22 on the label, the minimum consumer resale price of
23 a bottle and/or a case, but not a multiple of a bottle
24 price or a case price or a fraction of a case price, which
25 prices shall be uniform throughout the common-
26 wealth.

27 (c) Such schedule shall be filed by (1) the manu-
28 facturer or wholesaler who owns such brand, if li-
29 censed by the commission; or (2) a wholesaler sell-
30 ing such brand, who is appointed as exclusive agent,
31 in writing by the brand owner for the purpose of
32 filing such schedule, if the brand owner is not li-
33 censed by the commission; or (3) any wholesaler,
34 with the approval of the commission, in the event
35 that the owner of such brand does not file or is un-

36 able to file a schedule or designate an agent for such
37 purpose.

38 (d) The first schedule shall be filed on or before a
39 date to be fixed by the commission, and the prices
40 therein shall become effective on a date to be fixed by
41 the commission and shall remain in effect for a period,
42 not exceeding four months, to be fixed by the com-
43 mission. Subsequent schedules shall be filed at the
44 times and for the periods hereinafter set forth, and
45 shall be effective during the periods hereinafter set
46 forth: —

FILING DATES.

July 1-10
September 1-10
November 1-10
January 1-10
March 1-10
May 1-10

EFFECTIVE DATES.

September 1-October 31
November 1-December 31
January 1-February 28
March 1-April 30
May 1-June 30
July 1-August 31

47 provided, however, that nothing contained herein
48 shall require any manufacturer or wholesaler to file
49 a schedule of minimum consumer resale prices for
50 any brand of alcoholic beverages offered for sale or
51 sold (1) to a retailer under a brand which is owned
52 exclusively by such retailer and sold within the
53 commonwealth exclusively by such retailer; (2) to
54 a church, synagogue or religious organization under
55 a brand which is owned exclusively by such manu-
56 facturer or wholesaler, if authorized to sell wine to
57 such persons and such wine is sold exclusively to
58 such persons; (3) to on-premises retailers under a
59 brand which is owned exclusively by such manufac-
60 turer or wholesaler and is sold by such manufacturer
61 or wholesaler exclusively to such retailers for con-
62 sumption on the premises.

63 (e) Within ten days after the filing of each such
64 schedule the commission shall make it or a com-
65 posite thereof available for inspection by licensees.
66 All such schedules so filed shall be subject to public
67 inspection from the time that they are required to be
68 made available for inspection by licensees. Each
69 manufacturer and wholesaler shall retain in his li-
70 censed premises a copy of his filed schedules, and
71 shall, as soon as practicable after the tenth day of
72 the month in which such schedules are filed, com-
73 pile, publish and mail to each retailer authorized to
74 sell alcoholic beverages for off-premises consumption,
75 a list, to be designated "minimum consumer resale
76 price list." Such list, as then in effect, shall be con-
77 spicuously displayed within the interior of the li-
78 censed premises where sales are made and where they
79 can be readily inspected by consumers.

80 (f) No licensee authorized to sell alcoholic bev-
81 erages at retail for off-premises consumption shall
82 sell, offer to sell, solicit an order for, or advertise, any
83 alcoholic beverages at a price less than the minimum
84 consumer resale price then in effect, unless written
85 permission of the commission is granted for good
86 cause shown and for reasons not inconsistent with
87 the purposes of this section and under such terms and
88 conditions as the commission deems necessary.

89 (g) The commission is hereby authorized to make
90 rules which are necessary (1) to prevent circumven-
91 tion of the provisions of this section by the offering
92 or giving of any rebate, allowance, free goods, dis-
93 count or any other thing or service of value; (2) to
94 permit the withdrawal of, an addition to, a deletion
95 from, or an amendment of any schedule containing
96 the minimum consumer retail price or a modifica-

97 tion of prices therein, when not inconsistent with
98 the purposes of this section, whenever necessary to
99 avoid practical difficulties or unnecessary hardships
100 to any licensee affected by this section or because of
101 acts or circumstances beyond the control of such
102 licensee, and under such terms and conditions as are
103 necessary to carry out the purposes of this section;
104 (3) to permit the sale at a price less than the mini-
105 mum consumer resale price of alcoholic beverages
106 which are damaged or deteriorated in quality, or the
107 closeout of a brand for the purpose of discontinuing
108 its sale, under such terms and conditions as are neces-
109 sary to carry out the purposes of this section; (4) to
110 permit the sale by a retailer of a brand of alcoholic
111 beverages for which a schedule of minimum con-
112 sumer resale prices has not been and cannot be filed,
113 whenever necessary to avoid practical difficulties or
114 unnecessary hardships to any licensee affected by
115 this section or because of acts or circumstances be-
116 yond the control of such licensee, and under such
117 terms and conditions as are necessary to carry out
118 the purposes of this section.

119 All schedules filed pursuant to this section shall be
120 subject to public inspection from the time that they
121 are required to be made available for inspection by
122 licensees, and shall not be considered confidential.
123 For the violation of any provision of this section or any
124 rule or regulation duly promulgated under this sec-
125 tion, the commission may suspend a license as fol-
126 lows: — for a first offence, not exceeding six days
127 suspension of license; for a second offence, not ex-
128 ceeding fifteen days suspension of license; and for a
129 third and all subsequent offences, thirty days sus-
130 pension of license. Each manufacturer and whole-

131 saler shall retain in his licensed premises for inspec-
132 tion by licensees a copy of his filed schedules as then
133 in effect. The commission may make such rules and
134 regulations as shall be appropriate to carry out the
135 purposes of this section.



