

HOUSE No. 7116

The Commonwealth of Massachusetts



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GOVERNOR

EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133

July 10, 1973

To the Honorable Senate and House of Representatives:

In accordance with the provisions of Article LVI of the Amendments to the Constitution, I am returning, herewith, House Bill No. 1905 entitled "AN ACT PREVENTING THE UNFAIR MANIPULATION OF PRICES IN THE SALE OF MALT BEVERAGES BY CERTAIN LICENSEES UNDER THE ALCOHOLIC BEVERAGES CONTROL LAW."

Under the terms of this legislation any brewer, wholesaler or any licensee under G.L. c. 138 s. 18, 18A, 18B, or 19) who reduces the price on any package of any brand of malt or brewed beverages sold for resale within the Commonwealth may reduce the price at any time - but would be required to keep such reduction in effect for at least 180 days. The present statutory requirement (G.L. c. 138 s. 25A) is that all price lists or quotations made to a licensee or wholesaler shall remain in effect for at least 30 days.

The proponents of this legislation believe that it will benefit the consumer by bringing a measure of stability to the pricing of malt beverages in the Commonwealth. It is said that as a result of "promotional pricing", an increasingly larger portion of the business is being controlled by fewer and fewer brewers and wholesalers. Apparently it is anticipated that price reductions for 180 days or more will not be commonplace and thus the market will be somewhat stabilized and the threat of price competition will be significantly reduced, and the businesses of both brewers and wholesalers, large and small, will be protected - if not in fact preserved.

However, some people believe that this bill would actually harm the industry, especially the small brewer and small wholesaler, since it is said that only the largest operations could afford to sustain price reductions for 180 days or more. Thus, it is argued that this bill, were it to become law, would benefit only a few and could be used by the larger brewers and wholesalers to drive smaller ones out of business.

Nevertheless, it is obvious that the consumer would suffer as a result of this legislation's becoming law since price reductions would be at least infrequent and perhaps, in effect, abolished. The Secretary of Consumer Affairs, the Executive Secretary of the Consumers' Council, and the members of the Alcoholic Beverages Control Commission have all recommended to me that this bill should not become law in its present form. Each has indicated that this legislation will not serve the best interests of either the industry or the consumer. I will not sign legislation which would benefit only a segment of an industry and, at the same time, harm the consumer. In the long run, it will not be to the consumer's advantage nor to our economy's benefit if the brewing and wholesaling of malt beverages in the Commonwealth are controlled by a few giants.

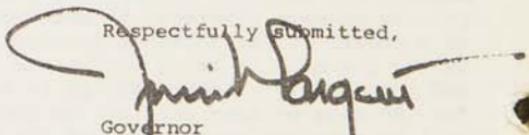
I believe that the issues raised by this legislation are very complex and merit a thorough examination. Therefore, I am returning this bill with the recommendation that it be amended to require that the price reductions governed by this legislation must be continued in effect for at least 60 days. I believe that this period will be sufficient to prevent the unfair manipulation of prices which the sponsors of this bill seek to halt. It should also not be so long as to discourage price reductions to the point where they are effectively prohibited. In addition, I have asked the Secretary of Consumer Affairs to review the impact of this amended bill, after it becomes law, and to report to me whenever he feels that legislation to eliminate, reduce, or increase this 60 day period is needed to assist the "industry" and to benefit the consumer.

Therefore, I recommend that the bill be amended as follows:--

By striking out all after the enacting clause and inserting in place thereof the following:--

Section 25A of chapter 138 of the General Laws, as most recently amended by chapter 494 of the acts of 1971, is hereby further amended by adding the following paragraph:-

Any licensee under section eighteen, eighteen A, eighteen B or nineteen who reduces the price on any package of any brand of malt or brewed beverages sold for resale within the commonwealth may further reduce the price at any time, but any reduction shall continue in full force and effect for at least sixty days from the date on which the last such reduced price becomes effective; provided, that such reduced price may be increased during such sixty day period to reflect any tax increase on malt or brewed beverages.

Respectfully Submitted,

 Governor
 Commonwealth of Massachusetts