

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ZIEGLER/NEWBOULT
SEPTEMBER 3, 2020

CLERK OF THE HOUSE

THE LICENSES, FEES AND OTHER TAXES SUBCOMMITTEE
PROPOSES THE FOLLOWING AMENDMENT No. TO S. 1099
(COUNCIL\CZ\1099C001.JN.CZ20):

REFERENCE IS TO PRINTER'S DATE 5/12/20-S.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

**/ SECTION 1. ARTICLE 9, CHAPTER 4, TITLE
61 OF THE 1976 CODE IS AMENDED BY ADDING:**

**“SECTION 61-4-942. NOTWITHSTANDING
ANY EXISTING BEER DISTRIBUTION AGREEMENT
TO THE CONTRARY, A MANUFACTURER, BREWER,
OR IMPORTER OF BEER SHALL NOT:**

(1) COERCE OR REQUIRE A WHOLESALER TO GATHER OR SUBMIT SALES RECORDS, RETAIL PLACEMENT, PRICE, DISCOUNT, REBATE, OR OTHER DETAILS FOR BEER BRANDS NOT MANUFACTURED, BREWED, OR IMPORTED BY THE MANUFACTURER, BREWER, OR IMPORTER;

(2) MANDATE WHOLESALER EMPLOYEE HIRING DECISIONS OR PAYMENT RATES, INCLUDING INCENTIVES;

(3) REQUIRE A WHOLESALER TO PAY OR CONTRIBUTE MARKETING, ADVERTISING, OR OTHER FUNDS FOR CONTROL OR EXPENDITURE BY THE MANUFACTURER, BREWER, OR IMPORTER, EXCEPT A WHOLESALER MAY AGREE, IN WRITING AND IN ADVANCE OF THE PAYMENT OR CONTRIBUTION, TO SPEND OR CONTRIBUTE WHOLESALER FUNDS FOR A SPECIFIED MARKETING OR ADVERTISING PLAN OR OPPORTUNITY;

(4) SHIP, INVOICE OR INITIATE AN ELECTRONIC FUNDS TRANSFER PAYMENT FOR ANY QUANTITY OF BEER EXCEEDING ANY ORDER OR FORECAST

SUBMITTED BY A WHOLESALER, OR INCLUDE IN A BEER SALES INVOICE CHARGES FOR ANY ITEMS OTHER THAN BEER, FREIGHT, FUEL, COOPERAGE, DUNNAGE, PALLETS, AND RELATED DEPOSITS;

(5) INVOICE OR INITIATE ELECTRONIC FUNDS TRANSFER PAYMENT FOR POINT OF SALE ADVERTISING SPECIALTIES OR OTHER ITEMS, EXCEPT A MANUFACTURER, BREWER, OR IMPORTER MAY PLACE AN ORDER AND INVOICE OR INITIATE AN ELECTRONIC FUNDS TRANSFER PAYMENT FOR POINT OF SALE ADVERTISING SPECIALTIES OR OTHER ITEMS PURSUANT TO A SPECIFIC WRITTEN AGREEMENT BETWEEN THE WHOLESALER AND THE MANUFACTURER, BREWER, OR IMPORTER MADE PRIOR TO THE PLACEMENT OF AN ORDER;

(6) ATTRIBUTE RISK OF LOSS, OWNERSHIP OR OTHER FINANCIAL INTEREST TO A WHOLESALER FOR BEER NOT IN THE WHOLESALER'S POSSESSION; OR

(7) REQUIRE A WHOLESALER TO PAY FOR DEVELOPMENT, INSTALLATION, OR USE OF ANY

SOFTWARE OWNED OR MANDATED BY THE MANUFACTURER, BREWER, OR IMPORTER, EXCEPT A WHOLESALER MAY BE REQUIRED TO MAINTAIN DATA IN A FORMAT COMPATIBLE WITH DATA FORMAT STANDARDS ADOPTED BY A MANUFACTURER, BREWER, OR IMPORTER.”

SECTION 2. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

REPORT OF THE LICENSES, FEES AND OTHER TAXES SUBCOMMITTEE

(Sottile, Bales, Hayes & Huggins - Staff Contact: Stephanie Meetze)

SENATE BILL 1099

S. 1099 -- Senator Talley, Shealy, Turner, Hutto, Sabb, Climer, McLeod, Gambrell, Johnson, Campsen, Scott, Williams, and Reese: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-4-942, SO AS TO PROVIDE THAT A MANUFACTURER, BREWER, OR IMPORTER OF BEER SHALL NOT REQUEST OR REQUIRE THAT A WHOLESALER SUBMIT CERTAIN INFORMATION FOR BEER BRANDS NOT MANUFACTURED, BREWED, OR IMPORTED BY THE MANUFACTURER, BREWER, OR IMPORTER; SHALL NOT MANDATE CERTAIN EMPLOYMENT MATTERS; SHALL NOT REQUEST OR REQUIRE A WHOLESALER TO PAY BEER BRAND MARKETING OR ADVERTISING FUNDS; SHALL NOT SHIP, INVOICE, OR INITIATE PAYMENT FOR ANY QUANTITY OF BEER IN EXCESS OF THAT FORECAST BY A WHOLESALER OR FOR ANY POINT OF SALE ADVERTISING OR OTHER ITEMS IN EXCESS OF THAT SPECIFIED BY THE WHOLESALER; SHALL NOT ATTRIBUTE ANY FINANCIAL INTEREST TO A WHOLESALER FOR BEER NOT IN THE WHOLESALER'S POSSESSION; SHALL NOT REQUEST OR REQUIRE A WHOLESALER TO PAY FOR CERTAIN MATTERS PERTAINING TO SOFTWARE OWNED OR MANDATED BY THE MANUFACTURER, BREWER, OR IMPORTER; AND SHALL NOT REQUIRE PAYMENT OF A PENALTY BY THE WHOLESALER FOR NONCOMPLIANCE WITH ANY REQUIREMENT OF THE MANUFACTURER, BREWER, OR IMPORTER, EXCLUDING CERTAIN FEES OR INTEREST.

Summary of Bill:

This bill provides eight actions which beer manufacturers, brewers and importers are prohibited from taking in business relations with wholesalers. The provisions of this bill do not apply to existing distribution agreements between beer producers and wholesalers. The prohibited actions in this bill relate to marketing data and funding, shipping product quantities in excess of ordered quantities, and software requirements.

Estimated Fiscal Impact:

This bill will have no expenditure or revenue impact to the General Fund, Other Funds or Federal Funds of the Department of Revenue (DOR) because it relates to business relations between beer producers and wholesalers and will not affect revenue collections or DOR's responsibilities in regulating beer sales or tax collections.

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

HOUSE ACTIONS:

<i>Received by Ways and Means:</i>	06/24/2020
<i>Subcommittee Recommendation:</i>	Favorable with amendment
<i>Full Committee Recommendation:</i>	Pending
<i>2nd Reading Vote:</i>	

SENATE ACTIONS:

<i>Referred to Judiciary:</i>	02/12/2020
<i>Full Committee Recommendations:</i>	Favorable with amendment
<i>2nd Reading Vote:</i>	37-0
<i>Read 3rd time and sent to House:</i>	05/13/2020

South Carolina General Assembly
123rd Session, 2019-2020

S. 1099

STATUS INFORMATION

General Bill

Sponsors: Senators Talley, Shealy, Turner, Hutto, Sabb, Climer, McLeod, Gambrell, Johnson, Campsen, Scott, Williams and Reese

Document Path: I:\s-jud\bills\talley\jud0086.mf.docx

Introduced in the Senate on February 12, 2020

Introduced in the House on June 24, 2020

Last Amended on May 12, 2020

Currently residing in the House Committee on **Ways and Means**

Summary: Alcohol

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/12/2020	Senate	Introduced and read first time (Senate Journal-page 3)
2/12/2020	Senate	Referred to Committee on Judiciary (Senate Journal-page 3)
2/14/2020	Senate	Referred to Subcommittee: Turner (ch), Hutto, Talley, Cash, Harpootlian
3/11/2020	Senate	Committee report: Favorable with amendment Judiciary (Senate Journal-page 7)
3/12/2020		Scrivener's error corrected
5/12/2020	Senate	Committee Amendment Adopted (Senate Journal-page 50)
5/12/2020	Senate	Read second time (Senate Journal-page 50)
5/12/2020	Senate	Roll call Ayes-37 Nays-0 (Senate Journal-page 50)
5/12/2020	Senate	Unanimous consent for third reading on next legislative day (Senate Journal-page 50)
5/13/2020	Senate	Read third time and sent to House (Senate Journal-page 5)
6/24/2020	House	Introduced and read first time (House Journal-page 32)
6/24/2020	House	Referred to Committee on Ways and Means (House Journal-page 32)

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VERSIONS OF THIS BILL

[2/12/2020](#)

[3/11/2020](#)

[3/12/2020](#)

[5/12/2020](#)

1 COMMITTEE AMENDMENT ADOPTED

2 May 12, 2020

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S. 1099

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6 Introduced by Senators Talley, Shealy, Turner, Hutto, Sabb, Climer,

7 McLeod, Gambrell, Johnson, Campsen, Scott, Williams and Reese

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9 S. Printed 5/12/20--S.

10 Read the first time February 12, 2020.

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-4-942, SO AS TO PROVIDE THAT A MANUFACTURER, BREWER, OR IMPORTER OF BEER SHALL NOT REQUEST OR REQUIRE THAT A WHOLESALER SUBMIT CERTAIN INFORMATION FOR BEER BRANDS NOT MANUFACTURED, BREWED, OR IMPORTED BY THE MANUFACTURER, BREWER, OR IMPORTER; SHALL NOT MANDATE CERTAIN EMPLOYMENT MATTERS; SHALL NOT REQUEST OR REQUIRE A WHOLESALER TO PAY BEER BRAND MARKETING OR ADVERTISING FUNDS; SHALL NOT SHIP, INVOICE, OR INITIATE PAYMENT FOR ANY QUANTITY OF BEER IN EXCESS OF THAT FORECAST BY A WHOLESALER OR FOR ANY POINT OF SALE ADVERTISING OR OTHER ITEMS IN EXCESS OF THAT SPECIFIED BY THE WHOLESALER; SHALL NOT ATTRIBUTE ANY FINANCIAL INTEREST TO A WHOLESALER FOR BEER NOT IN THE WHOLESALER'S POSSESSION; SHALL NOT REQUEST OR REQUIRE A WHOLESALER TO PAY FOR CERTAIN MATTERS PERTAINING TO SOFTWARE OWNED OR MANDATED BY THE MANUFACTURER, BREWER, OR IMPORTER; AND SHALL NOT REQUIRE PAYMENT OF A PENALTY BY THE WHOLESALER FOR NONCOMPLIANCE WITH ANY REQUIREMENT OF THE MANUFACTURER, BREWER, OR IMPORTER, EXCLUDING CERTAIN FEES OR INTEREST.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

1 SECTION 1. Article 9, Chapter 4, Title 61 of the 1976 Code is
2 amended by adding:

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4 “Section 61-4-942. Notwithstanding any existing beer
5 distribution agreement to the contrary, a manufacturer, brewer, or
6 importer of beer shall not:

7 (1) request or require a wholesaler to gather or submit sales
8 records, retail placement, price, discount, rebate, or other details for
9 beer brands not manufactured, brewed, or imported by the
10 manufacturer, brewer, or importer;

11 (2) mandate wholesaler employee hiring decisions or payment
12 rates, including incentives;

13 (3) request or require a wholesaler to pay or contribute beer
14 brand marketing or advertising funds for control or expenditure by
15 the manufacturer, brewer, or importer, except a wholesaler may
16 agree and spend funds directly with marketers and advertisers to
17 market and advertise beer brands within the wholesaler’s territory;

18 (4) ship, invoice or initiate electronic funds transfer payment for
19 any quantity of beer exceeding any order or forecast submitted by a
20 wholesaler, or include in a beer sales invoice charges for any items
21 other than beer, freight, cooperage, dunnage, pallets, and related
22 deposits;

23 (5) invoice or initiate electronic funds transfer payment for point
24 of sale advertising specialties or other items exceeding an order
25 placed by a wholesaler;

26 (6) attribute risk of loss, ownership or other financial interest to
27 a wholesaler for beer not in the wholesaler’s possession;

28 (7) request or require a wholesaler to pay for development,
29 installation, or use of any software owned or mandated by the
30 manufacturer, brewer, or importer, except a wholesaler may be
31 required to maintain electronic data in a format compatible with data
32 format standards adopted by a manufacturer, brewer, or importer; or

33 (8) request or require a wholesaler to pay a fee or penalty, of any
34 description, for noncompliance with any requirement of the
35 manufacturer, brewer, or importer, excluding fees or interest for
36 untimely payment.”

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38 SECTION 2. This act takes effect upon approval by the Governor.

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