



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 303 [2003 Senate Bill 489]	Termination of Distribution Rights of Beer Wholesalers
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 303 relates to compensation of fermented malt beverages (e.g., beer) wholesalers for termination of distribution rights. The Act affects the relationship between terminated wholesalers (wholesalers with whom a brewer has terminated, canceled, or failed to renew an agreement to supply a brand to that wholesaler) and successor wholesalers (wholesalers who enter into an agreement to obtain a supply of a brand after the brewer has terminated, canceled, or failed to renew an agreement with a terminated wholesaler).

Under the Act, a successor wholesaler is required to compensate a terminated wholesaler for the fair market value of the distribution rights to any brand of fermented malt beverages assumed by the successor wholesaler for the same territory, less any amount paid by the brewer to the terminated wholesaler. If the terminated wholesaler's distribution rights are divided among two or more successor wholesalers, each successor wholesaler must compensate the terminated wholesaler for the fair market value of the distribution rights assumed by the successor wholesaler for the applicable part of the same territory, less any amount paid by the brewer to the terminated wholesaler.

A successor wholesaler is not required to provide compensation if the terminated wholesaler's agreement was terminated, canceled, or not renewed because the wholesaler or a principal of the wholesaler did any of the following: (1) engaged in material fraudulent conduct or made substantial misrepresentations in its dealings with the brewer or with others regarding any brand of the brewer; (2) was convicted of, or pleaded no contest to, a felony; (3) knowingly distributed any brand of the brewer outside the territory authorized for distribution of the brand; or (4) became insolvent or instituted bankruptcy proceedings, dissolved or liquidated the wholesaler's business, or assigned or attempted to assign the assets of the wholesaler's business for the benefit of creditors. (In this paragraph, the term "brewer" includes brewers, brewers' agents, and out-of-state shippers.)

The Act states that if a terminated wholesaler and a successor wholesaler agree to the fair market value of the distribution rights, the successor wholesaler must pay the agreed upon sum within 30 days.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

If the parties cannot agree on the compensation due, either party may require binding arbitration under specified arbitration rules. The arbitration must be conducted on an expedited basis to the extent that this is available. The terminated wholesaler and the successor wholesaler are required to each pay an equal share of the cost of arbitration.

The above provisions of the Act do not apply if the terminated wholesaler is a dealer, as defined in the Fair Dealership Law, whose business relationship to any discontinued brand constitutes a dealership, as determined by a court. The arbitration proceedings described above are to be stayed pending this determination.

Effective Date: The Act takes effect on May 5, 2004.

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RNS:ksm:rv