

1 A bill to be entitled
2 An act relating to distributors and manufacturers of
3 wine and liquor; creating ss. 564.034 and 565.034,
4 F.S.; requiring wine and liquor distributors to notify
5 vendors in certain circumstances; authorizing vendors
6 to purchase from other vendors in certain
7 circumstances; providing requirements for distributors
8 and manufacturers; providing penalties and remedies;
9 providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 564.034, Florida Statutes, is created
14 to read:

15 564.034 Relations between wine manufacturers,
16 distributors, and vendors.-

17 (1) A distributor that is unable to fulfill an order
18 request from a vendor because the distributor does not have
19 sufficient inventory of a specific product must notify the
20 vendor of the delay or nondelivery of the product.

21 Notwithstanding any other law, a vendor that has been notified
22 under this subsection may purchase the specific product from
23 another vendor for up to 24 hours after receiving notice from
24 the distributor. Notification includes, but is not limited to, a
25 written, verbal, or electronic communication from a distributor.

26 If a vendor receives multiple notifications from a distributor,
27 each notification may be used to authorize purchases from
28 another vendor under this subsection.

29 (2)(a) A distributor or manufacturer, or an officer,
30 agent, or other representative thereof, must:

31 1. Meet the terms of any coupon provided to the vendor by
32 a consumer, if the coupon was made available to the public by a
33 manufacturer or distributor, or an officer, agent, or other
34 representative thereof.

35 2. Make every coupon provided to a vendor available to all
36 vendors.

37 3. Allow a vendor at least 3 business days to accept the
38 terms of an offer to purchase wine at a discounted price.

39 (b) A distributor or manufacturer, or an officer, agent,
40 or other representative thereof, may not:

41 1. Reimburse a vendor for the cost of separately packaged
42 merchandise that is provided at no charge to the consumer
43 concurrent with the sale of wine.

44 2. Willfully discriminate either directly or indirectly in
45 the price offered to vendors if the effect of such
46 discrimination is likely to substantially lessen competition.

47 3. Misrepresent the availability of any product to a
48 vendor.

49 4. Take any retaliatory action against a vendor that files
50 a complaint regarding an alleged violation of a state or federal

51 law or an administrative rule.

52 (3) A violation of subsection (2) shall be considered to
53 be an unfair method of competition and an unfair or deceptive
54 act. Such acts are declared to be unlawful. Any person who
55 violates any provision of this section is not subject to the
56 criminal penalties in the Beverage Law on account of such
57 violation.

58 (4) (a) In any action brought under this section, the court
59 may grant temporary, preliminary, and final injunctive relief.
60 If the court grants injunctive relief, bond may not be required
61 to be posted.

62 (b) In addition to temporary, preliminary, or final
63 injunctive relief, any person who is aggrieved or injured in his
64 or her business or property by reason of anything forbidden in
65 this section may bring an action therefor in the appropriate
66 circuit court of this state and, if successful, shall recover
67 the damages sustained and the costs of such action, including a
68 reasonable attorney fee.

69 (c) Without regard and in addition to any other remedy or
70 relief to which a person is entitled, anyone aggrieved by a
71 violation of this section may bring an action to obtain a
72 declaratory judgment that an act, action, or practice violates
73 this section and to enjoin a manufacturer or distributor that
74 has violated, is violating, or is otherwise likely to violate
75 this section.

76 (d) When such action is one of common or general interest
 77 to many persons or when the parties are numerous and it is
 78 impracticable to bring them all before the court, one or more
 79 persons may bring a class action for the benefit of the whole
 80 including actions for injunctive relief.

81 (e) In an action for monetary damages, if a judge or jury
 82 finds that the defendant acted maliciously, the judge or jury
 83 may award punitive damages as authorized by general law.

84 (f) The remedies provided in this subsection are in
 85 addition to any other civil remedies provided by general law or
 86 in equity. This subsection does not give rise to or foreclose
 87 any claim which would otherwise exist against the manufacturer
 88 or distributor by any proposed purchaser of the distributor's
 89 business.

90 Section 2. Section 565.034, Florida Statutes, is created
 91 to read:

92 565.034 Relations between liquor manufacturers,
 93 distributors, and vendors.-

94 (1) A distributor that is unable to fulfill an order
 95 request from a vendor because the distributor does not have
 96 sufficient inventory of a specific product must notify the
 97 vendor of the delay or nondelivery of the product.

98 Notwithstanding any other law, a vendor that has been notified
 99 under this subsection may purchase the specific product from
 100 another vendor for up to 24 hours after receiving notice from

101 the distributor. Notification includes, but is not limited to, a
 102 written, verbal, or electronic communication from a distributor.
 103 If a vendor receives multiple notifications from a distributor,
 104 each notification may be used to authorize purchases from
 105 another vendor under this subsection.

106 (2) (a) A distributor or manufacturer, or an officer,
 107 agent, or other representative thereof, must:

108 1. Meet the terms of any coupon provided to the vendor by
 109 a consumer, if the coupon was made available to the public by a
 110 manufacturer or distributor, or an officer, agent, or other
 111 representative thereof.

112 2. Make every coupon provided to a vendor available to all
 113 vendors.

114 3. Allow a vendor at least 3 business days to accept the
 115 terms of an offer to purchase liquor at a discounted price.

116 (b) A distributor or manufacturer, or an officer, agent,
 117 or other representative thereof, may not:

118 1. Reimburse a vendor for the cost of separately packaged
 119 merchandise that is provided at no charge to the consumer
 120 concurrent with the sale of liquor.

121 2. Willfully discriminate either directly or indirectly in
 122 the price offered to vendors if the effect of such
 123 discrimination is likely to substantially lessen competition.

124 3. Misrepresent the availability of any product to a
 125 vendor.

126 4. Take any retaliatory action against a vendor that files
127 a complaint regarding an alleged violation of a state or federal
128 law or an administrative rule.

129 (3) A violation of subsection (2) shall be considered to
130 be an unfair method of competition and an unfair or deceptive
131 act. Such acts are declared to be unlawful. Any person who
132 violates any provision of this section is not subject to the
133 criminal penalties in the Beverage Law on account of such
134 violation.

135 (4) (a) In any action brought under this section, the court
136 may grant temporary, preliminary, and final injunctive relief.
137 If the court grants injunctive relief, bond may not be required
138 to be posted.

139 (b) In addition to temporary, preliminary, or final
140 injunctive relief, any person who is aggrieved or injured in his
141 or her business or property by reason of anything forbidden in
142 this section may bring an action therefor in the appropriate
143 circuit court of this state and, if successful, shall recover
144 the damages sustained and the costs of such action, including a
145 reasonable attorney fee.

146 (c) Without regard and in addition to any other remedy or
147 relief to which a person is entitled, anyone aggrieved by a
148 violation of this section may bring an action to obtain a
149 declaratory judgment that an act, action, or practice violates
150 this section and to enjoin a manufacturer or distributor that

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151 has violated, is violating, or is otherwise likely to violate
152 this section.

153 (d) When such action is one of common or general interest
154 to many persons or when the parties are numerous and it is
155 impracticable to bring them all before the court, one or more
156 persons may bring a class action for the benefit of the whole
157 including actions for injunctive relief.

158 (e) In an action for monetary damages, if a judge or jury
159 find that the defendant acted maliciously, the judge or jury may
160 award punitive damages as authorized by general law.

161 (f) The remedies provided in this subsection are in
162 addition to any other civil remedies provided by general law or
163 in equity. This subsection does not give rise to or foreclose
164 any claim which would otherwise exist against the manufacturer
165 or distributor by any proposed purchaser of the distributor's
166 business.

167 Section 3. This act shall take effect July 1, 2022.