

HCS HB 1841 -- PYRAMID SALES SCHEMES

SPONSOR: Scharnhorst (Jones, 117)

COMMITTEE ACTION: Voted "do pass by consent" by the Committee on Small Business by a vote of 14 to 0.

This substitute revises the definition of "franchise" as it applies to pyramid sales schemes to include a commercial arrangement between a wholesaler and a supplier with or without the grant of a license to use a trade name, trademark, service mark, or related characteristic, and whether or not there is a community of interest in the marketing of goods or services.

The substitute specifies that Section 407.400, RSMo, as amended, must be interpreted as set forth by the court in High Life Sales Co. V. Brown-Forman Corp., 823 S.W.2d 194 (Mo. banc 1992) and Brown-Forman Distillers Corp. v. McHenry, 566 S.W.2d 194 (Mo. banc 1978) rather than Missouri Beverage Co., Inc. v. Shelton Brothers, Inc. 796 F. Supp. 2d 988 (W.D. Mo. 2011), aff'd, 11-2456 (8th Cir. February 28, 2012) and the legislature declares that the federal court's interpretation of the subdivision as set forth in the Missouri Beverage case must be abrogated in favor of the preceding cases and any amendments to this subdivision are to clarify and specify the law existing prior to August 28, 2012.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that recently the wholesale liquor laws have been combined with general franchise law. In 1975, the law changed with pyramid sales schemes. It provides certain franchise protection for wine, liquor, and beer wholesalers. As long as a wholesaler meets sales quotas, etc., it cannot be terminated by a brand supplier. If a supplier terminates a wholesaler, the wholesaler has cause for a law suit since the supplier can't terminate without good cause or without sufficient notice. Wholesalers have franchise law protection. The new federal law changes that protection unless the wholesaler has an interest in the trademark and the merchandise brand. No wholesaler is tied to one brand and there is no community interest in the brand family. The bill will clarify that Missouri law is different than federal law and will ensure that our law is like it was six months ago.

Testifying for the bill were Representative Jones (117); Missouri Beer Wholesalers Association; Major Brands Premium Beverage Distributors; and Glazer's Family of Companies.

OPPOSERS: There was no opposition voiced to the committee.