

SUBJECT: Prohibiting price discrimination by alcoholic beverage manufacturers

COMMITTEE: Licensing and Administrative Procedures— favorable, without amendment

VOTE: 6 ayes — Flores, Chisum, Hamilton, D. Jones, Morrison, Quintanilla
1 nay — Geren
2 absent — Goolsby, Homer

WITNESSES: None

BACKGROUND: The Alcoholic Beverage Code regulates the sale of alcoholic beverages in Texas, including relationships between manufacturers, wholesalers, and retailers.

DIGEST: HB 2016 would require each manufacturer to file a price nondiscrimination agreement with the Texas Alcoholic Beverage Commission (TABC), stating that the manufacturer would sell beverages to each wholesaler at the same price, beginning on January 1, 2005.

Manufacturers would be required to notify wholesalers of price changes 45 days prior to a change taking effect. If an insufficient supply of beverages was available for sale to wholesalers, the manufacturer would be required to allocate the supply fairly among wholesalers.

If a manufacturer did discriminate on pricing, TABC would notify each wholesaler by registered mail and assess a civil penalty per violation of \$10,000 per day for the first violation, \$25,000 per day for the second, and \$100,000 per day for any subsequent violation.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: HB 2016 would promote fairness in relationships between manufacturers of alcoholic beverages and wholesalers by prohibiting unequal pricing policies. It would ensure that all wholesalers of alcoholic beverages had access to similar pricing and supplies of products. Some manufacturers

unfairly use pricing to harm or reward certain wholesalers, restricting competition in the market.

OPPONENTS
SAY:

This bill inappropriately would restrict manufacturers' authority to set prices at market levels. Texas is a huge state with widely different local economies. Different geographic regions may require different pricing levels. Restricting a manufacturer's ability to offer premium pricing to certain wholesalers also could impair its ability to develop strong business relationships and encourage higher sales.

The terms in this bill are too vague. Pricing discrimination could mean a difference of 5 percent or a 50 percent. The findings TABC would need to reach in deciding that a manufacturer had engaged in price discrimination also are not well defined.