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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1712

02/25/2019 Authored by Davnie, Dehn, Scott and Her The bill was read for the first time and referred to the Committee on Commerce

1.1 A bill for an act
1.2 relating to liquor; allowing limited self-distribution for commercial wineries;
1.3 amending Minnesota Statutes 2018, section 340A.301, subdivision 9.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2018, section 340A.301, subdivision 9, is amended to read:

1.6 Subd. 9. Permitted interests in wholesale business. (a) A brewer may financially assist
1.7 a wholesaler of malt liquor through participation in a limited partnership in which the brewer
1.8 is the limited partner and the wholesaler is the general partner. A limited partnership
1.9 authorized in this paragraph may not exist for more than ten years from the date of its
1.10 creation, and may not, directly or indirectly, be recreated, renewed, or extended beyond that
1.11 date.

1.12 (b) A brewer may financially assist a malt liquor wholesaler and collateralize the financing
1.13 by taking a security interest in the inventory and assets, other than the corporate stock, of
1.14 the wholesaler. A financial agreement authorized by this paragraph may not be in effect for
1.15 more than ten years from the date of its creation and may not be directly or indirectly
1.16 extended or renewed.

1.17 (c) A brewer who, after creation of a financial agreement authorized by paragraph (b),
1.18 or after creation of a limited partnership authorized in paragraph (a), acquires legal or
1.19 equitable title to the wholesaler's business which was the subject of the agreement or limited
1.20 partnership, or to the business assets, must divest the business or its assets within two years
1.21 of the date of acquiring them. A malt liquor wholesaler whose business or assets are acquired
1.22 by a brewer as described in this paragraph may not enter into another such financial

2.1 agreement, or participate in another such limited partnership, for 20 years from the date of  
2.2 the acquisition of the business or assets.

2.3 (d) A brewer may have an interest in the business, assets, or corporate stock of a malt  
2.4 liquor wholesaler as a result of (1) a judgment against the wholesaler arising out of a default  
2.5 by the wholesaler or (2) acquisition of title to the business, assets, or corporate stock as a  
2.6 result of a written request of the wholesaler. A brewer may maintain ownership of or an  
2.7 interest in the business, assets, or corporate stock under this paragraph for not more than  
2.8 two years and only for the purpose of facilitating an orderly transfer of the business to an  
2.9 owner not affiliated with the brewer.

2.10 (e) A brewer may continue to maintain an ownership interest in a malt liquor wholesaler  
2.11 if it owned the interest on January 1, 1991.

2.12 (f) A brewer that was legally selling the brewer's own products at wholesale in Minnesota  
2.13 on January 1, 1991, may continue to sell those products at wholesale in the area where it  
2.14 was selling those products on that date.

2.15 (g) A brewer that manufactures no more than 20,000 barrels of malt liquor or its metric  
2.16 equivalent in a calendar year may own or have an interest in a malt liquor wholesaler that  
2.17 sells only the brewer's products, provided that a brewer that manufactures between 20,000  
2.18 and 25,000 barrels in any calendar year shall be permitted to continue to own or have an  
2.19 interest in a malt liquor wholesaler that sells only the brewer's products if: (1) that malt  
2.20 liquor wholesaler distributes no more than 20,000 barrels per calendar year; and (2) the  
2.21 brewer has not manufactured 25,000 barrels in any calendar year. Notwithstanding the  
2.22 foregoing, a brewer that manufactured between 20,000 and 25,000 barrels in 2012 shall be  
2.23 permitted to continue to own or have an interest in a malt liquor wholesaler that sells only  
2.24 the brewer's products until that brewer manufactures 25,000 barrels in a calendar year.

2.25 (h) When the commissioner issues a license to a malt liquor wholesaler described in  
2.26 paragraph (a) or (b), the commissioner may issue the license only to the entity which is  
2.27 actually operating the wholesale business and may not issue the license to a brewer that is  
2.28 a limited partner under paragraph (a) or providing financial assistance under paragraph (b)  
2.29 unless the brewer has acquired a wholesaler's business or assets under paragraph (c) or (d).

2.30 (i) For purposes of this subdivision and subdivision 8, paragraph (b), "brewer" means:

2.31 (1) a holder of a license to manufacture malt liquor;

2.32 (2) an officer, director, agent, or employee of such a license holder; and

3.1 (3) an affiliate of such a license holder, regardless of whether the affiliation is corporate  
3.2 or by management, direction, or control.

3.3 (j) A commercial winery that manufactures no more than 75,000 gallons of wine or its  
3.4 metric equivalent in a calendar year may own or have an interest in a wine wholesaler that  
3.5 sells only the winery's products, provided that a winery that manufactures between 75,000  
3.6 and 80,000 gallons in any calendar year shall be permitted to continue to own or have an  
3.7 interest in a wine wholesaler that sells only the winery's products if: (1) that wine wholesaler  
3.8 distributes no more than 75,000 gallons per calendar year; and (2) the winery has not  
3.9 manufactured 80,000 gallons in any calendar year.

3.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.