

96TH CONGRESS
1ST SESSION

H. R. 3567

To clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1979

Mr. HALL of Texas (for himself, Mr. MOLLOHAN, Mr. SHELBY, Mr. VANDER JAGT, Mr. BROYHILL, Mr. MOORHEAD of California, Mr. ABDNOE, Mr. ADDABBO, Mr. AKAKA, Mr. ALBOSTA, Mr. ALEXANDER, Mr. AMBRO, Mr. ANDREWS of North Carolina, Mr. ANDREWS of North Dakota, Mr. ANTHONY, Mr. APPEGATE, Mr. ARCHER, Mr. ASHBROOK, Mr. ASPIN, Mr. ATKINSON, Mr. BADHAM, Mr. BAFALIS, Mr. BAILEY, Mr. BARNARD, Mr. BEVILL, Mr. BIAGGI, Mr. BLANCHARD, Mr. BONIOR of Michigan, Mr. BONKER, Mrs. BOUQUARD, Mr. BOWEN, Mr. BREAUX, Mr. BRINKLEY, Mr. BRODHEAD, Mr. BROOKS, Mr. BROWN of California, Mr. BUCHANAN, Mr. BURGNER, Mr. BUTLER, Mr. CAMPBELL, Mr. CARNEY, Mr. CHAPPELL, Mr. CHENEY, Mrs. CHISHOLM, Mr. CLAUSEN, Mr. CLAY, Mr. CLINGER, Mr. COELHO, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DANIEL B. CRANE, Mr. ROBERT W. DANIEL, JR., Mr. AU COIN, Mr. DASCHLE, Mr. DAVIS of South Carolina, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DERRICK, Mr. DEVINE, Mr. DICKINSON, Mr. DICKS, Mr. DIXON, Mr. DORNAN, Mr. DOUGHERTY, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EDWARDS of Alabama, Mr. EMERY, Mr. ENGLISH, Mr. ERTTEL, Mr. EVANS of Georgia, Mr. EVANS of Delaware, Mr. FAZIO, Ms. FERRARO, Mr. FISH, Mr. FLIPPO, Mr. FLOOD, Mr. FLORIO, Mr. FOLEY, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FOUNTAIN, Mr. FOWLER, Mr. FRENZEL, Mr. FUQUA, Mr. GARCIA, Mr. GAYDOS, Mr. GEPHARDT, Mr. GIBBONS, Mr. GILMAN, Mr. GINGRICH, Mr. GINN, Mr. GLICKMAN, Mr. GOODLING, Mr. GRADISON, Mr. GRAMM, Mr. GRASSLEY, Mr. GRAY, Mr. GRISHAM, Mr. GUDGER, Mr. GUYER, Mr. HAGEDORN, Mr. HAMILTON, Mr. HANCE, Mr. HANLEY, Mr. HARKIN, Mr. HAWKINS, Mr. HEFNER, Mr. HIGHTOWER, Mr. HILLIS, Mr. HINSON, Mr. HOLLAND, Mr. HOLLENBECK, Mrs. HOLT, Mr. HOPKINS, Mr. HORTON, Mr. HOWARD, Mr. HUBBARD, Mr. HUCKABY, Mr. HUTTO, Mr. HYDE, Mr. ICHORD, Mr. IRELAND, Mr. JEFFRIES, Mr. JENKINS, Mr. JENRETTE, Mr. JOHNSON of California, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr.

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KAZEN, Mr. KELLY, Mr. KEMP, Mr. KILDEE, Mr. KINDNESS, Mr. KRAMER, Mr. LaFALCE, Mr. LATTA, Mr. LEACH of Louisiana, Mr. LEATH of Texas, Mr. LEDERER, Mr. LEE, Mr. LEHMAN, Mr. LELAND, Mr. LENT, Mr. LEVITAS, Mr. LOEFFLER, Mr. LONG of Louisiana, Mr. LOTT, Mr. LOWBY, Mr. LUJAN, Mr. LUNDINE, Mr. LUNGREN, Mr. McCLOSKEY, Mr. McCORMACK, Mr. McDONALD, Mr. McEWEN, Mr. MCHUGH, Mr. MCKAY, Mr. MCKINNEY, Mr. MADIGAN, Mr. MARKS, Mr. MARLENEE, Mr. MARRIOTT, Mr. MARTIN, Mr. MATHIS, Mr. MATTOX, Mr. MAVROULES, Mr. MAZZOLI, Mr. MILLER of Ohio, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. MOORE, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. MURTHA, Mr. MYERS of Indiana, Mr. MYERS of Pennsylvania, Mr. NEDZI, Mr. NOLAN, Mr. NOWAK, Mr. O'BRIEN, Mr. OTTINGER, Mr. PATTEN, Mr. PAUL, Mr. PEPPER, Mr. PERKINS, Mr. PEYSER, Mr. PICKLE, Mr. PRICE, Mr. PURSELL, Mr. QUILLEN, Mr. RAHALL, Mr. RICHMOND, Mr. RINALDO, Mr. ROBERTS, Mr. ROBINSON, Mr. ROE, Mr. ROSE, Mr. RUDD, Mr. SAWYER, Mr. SEBELIUS, Mr. SENSENBRENNER, Mr. SHARP, Mr. SHUMWAY, Mr. SHUSTER, Mr. SLACK, Mr. SOLOMON, Mrs. SPELLMAN, Mr. SPENCE, Mr. STANGELAND, Mr. STEED, Mr. STENHOLM, Mr. STOCKMAN, Mr. STRATTON, Mr. STUMP, Mr. SYMMS, Mr. SYNAR, Mr. TAUKE, Mr. TAYLOR, Mr. TRAXLER, Mr. TREEN, Mr. TRIBLE, Mr. VAN DEERLIN, Mr. VENTO, Mr. VOLKMER, Mr. WALKER, Mr. WATKINS, Mr. WEAVER, Mr. WHITE, Mr. WHITEHURST, Mr. WHITLEY, Mr. WHITTAKER, Mr. WHITTEN, Mr. WILLIAMS of Ohio, Mr. BOB WILSON, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, Mr. WINN, Mr. WOLFF, Mr. WRIGHT, Mr. WYATT, Mr. WYLIE, Mr. YATRON, Mr. YOUNG of Alaska, Mr. YOUNG of Missouri, Mr. ZEFERETTI, Mr. PANETTA, Mr. RITTER, Mr. ROSTENKOWSKI, Mr. FASCELL, Mr. ROUSSELOT, Mr. BONER of Tennessee, Mr. SNYDER, Mr. HAMMERSCHMIDT and Mr. COLEMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. This Act may be cited as the "Soft Drink In-
 4 terbrand Competition Act".

1 SEC. 2. Nothing contained in any antitrust law shall
2 render unlawful the inclusion and enforcement in any tradē-
3 mark licensing contract or agreement, pursuant to which the
4 licensee engages in the manufacture (including manufacture
5 by a sublicensee, agent, or subcontractor); distribution, and
6 sale of a trademarked soft drink product, of provisions grant-
7 ing the licensee the sole and exclusive right to manufacture,
8 distribute, and sell such product in a defined geographic area
9 or limiting the licensee, directly or indirectly, to the manufac-
10 ture, distribution, and sale of such product only for ultimate
11 resale to consumers within a defined geographic area: *Pro-*
12 *vided,* That such product is in substantial and effective com-
13 petition with other products of the same general class.

14 SEC. 3. The existence or enforcement of territorial pro-
15 visions in a trademark licensing agreement for the manufac-
16 ture, distribution, and sale of a trademarked soft drink prod-
17 uct prior to any final determination that such provisions are
18 unlawful shall not be the basis for recovery under section 4 of
19 the Act entitled "An Act to supplement existing laws against
20 unlawful restraints and monopolies, and for other purposes,"
21 approved October 15, 1914.

22 SEC. 4. As used in this Act, the term "antitrust law"
23 means the Act entitled "An Act to protect trade and com-
24 merce against unlawful restraints and monopolies" (the Sher-
25 man Act), approved July 2, 1890, the Federal Trade Com-

1 mission Act, approved September 26, 1914, and the Act en-
 2 titled "An Act to supplement existing laws against unlawful
 3 restraints and monopolies, and for other purposes" (the Clay-
 4 ton Act), approved October 15, 1914, and all amendments to
 5 such Acts and any other Acts in pari materia.

