

Calendar No. 687

96TH CONGRESS
2D SESSION

S. 598

[Report No. 96-645]

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 SENATE OF THE UNITED STATES

MARCH 8 (legislative day, FEBRUARY 22), 1979

Mr. BAYH (for himself, Mr. COCHRAN, Mr. ARMSTRONG, Mr. BAKER, Mr. BAUCUS, Mr. BELLMON, Mr. BENTSEN, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BUMPERS, Mr. BURDICK, Mr. CANNON, Mr. CHILES, Mr. CHURCH, Mr. COHEN, Mr. CRANSTON, Mr. CULVER, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HART, Mr. HATCH, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUE, Mr. JACKSON, Mr. JEPSEN, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LONG, Mr. LUGAR, Mr. MAGNUSON, Mr. LAXALT, Mr. MATHIAS, Mr. MATSUNAGA, Mr. McCLURE, Mr. MCGOVERN, Mr. MELCHER, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. NUNN, Mr. PERCY, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. RIEGLE, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. SIMPSON, Mr. STENNIS, Mr. STEVENS, Mr. STEWART, Mr. STONE, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, Mr. WILLIAMS, Mr. YOUNG, and Mr. ZORINSKY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MARCH 26 (legislative day, JANUARY 3), 1980

Reported by Mr. BAYH, without amendment

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
4 Interbrand Competition Act".

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

18 SEC. 3. The existence or enforcement of territorial pro-
19 visions in a trademark licensing agreement for the manufac-

1 ture, distribution, and sale of a trademarked soft drink prod-
2 uct prior to any final determination that such provisions are
3 unlawful shall not be the basis for recovery under section 4 of
4 the Act entitled "An Act to supplement existing laws against
5 unlawful restraints and monopolies, and for other purposes",
6 approved October 15, 1914.

7 SEC. 4. As used in this Act, the term "antitrust law"
8 means the Act entitled "An Act to protect trade and com-
9 merce against unlawful restraints and monopolies" (the Sher-
10 man Act), approved July 2, 1890, the Federal Trade Com-
11 mission Act, approved September 26, 1914, and the Act en-
12 titled "An Act to supplement existing laws against unlawful
13 restraints and monopolies, and for other purposes" (the Clay-
14 ton Act), approved October 15, 1914, and all amendments to
15 such Acts and any other Acts in pari materia.

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