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Beer and Pop Warehouse v Jones

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41 F.Supp.2d 552
United States District Court,
M.D. Pennsylvania.

BEER & POP WAREHOUSE, et. al., Plaintiffs,

v.

John E. JONES, III, et. al., Defendants.

No. Civ.A.1:97-CV-0753.

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Jan. 14, 1999.

Synopsis

Malt liquor manufacturers, distributors and retailers sued state, alleging that statute regulating pricing violated Sherman Act. Parties moved for summary judgment. The District Court, Caputo, J., held that: (1) state action exemption from antitrust liability did not apply; (2) complainants adequately alleged antitrust injury; (3) statute regulating price changes made within 120 days of effectiveness of price was per se violation of Sherman Act prohibition on contracts, combinations and conspiracies in restraint of trade; and (4) provision requiring distributors granting price discount to retailer within geographic area to offer same discount to all distributors violated Sherman Act.



Summary judgment for manufacturers and distributors.

West Headnotes (4)

[1] Antitrust and Trade Regulation Private Parties



29T Antitrust and Trade Regulation
29TXI Antitrust Exemptions and Defenses
29Tk901 State Action
29Tk904 Private Parties

(Formerly 265k12(15.6))

Exemption from antitrust liability, for actions taken by state, was not available for system of regulation of distribution and sale of malt liquor under which prices were set by private entities. Sherman Act,  § 1, as amended,  15 U.S.C.A. § 1; 47 P.S. § 4-447(a)(3), (c).

[2] Antitrust and Trade Regulation Injury to Business or Property

29T Antitrust and Trade Regulation
29TXVII Antitrust Actions, Proceedings, and Enforcement
29TXVII(B) Actions
29Tk972 Pleading
29Tk972(2) Complaint
29Tk972(5) Injury to Business or Property
(Formerly 265k28(6.7))

Retailers and distributors of malt liquors, challenging as illegal restraint of trade statute regulating price and other aspects of malt liquor distribution in state, adequately pleaded antitrust injury; retailers and distributors alleged that statute had as purpose reduction of consumption of malt liquor, and that any such reduction would hurt their profitability. Sherman Act,  § 1, as amended,  15 U.S.C.A. § 1; 47 P.S. § 4-447(a)(3), (c).

[3] Antitrust and Trade Regulation Federal and State Issues

29T Antitrust and Trade Regulation
29TVI Antitrust Regulation in General
29TVI(A) In General
29Tk521 Federal and State Issues
(Formerly 265k10)

State statute allowing manufacturer or distributor or malt liquor to change price less than 120 days after price went into effect, if market conditions or any other good cause supported change, was per se violation of Sherman Act prohibition of contracts, combinations and conspiracies in restraint of trade; statute was excessively cumbersome in light of its goal, as state Liquor Control Board was required to pass on question whether change was for good cause, there were no standards for determining good cause or time limits on Liquor Control Board decision, and practical effect of statute was to discourage any price changes less frequent than

120 days. Sherman Act, § 1, as amended,
15 U.S.C.A. § 1; 47 P.S. § 4-447(c).

[1 Cases that cite this headnote](#)

[4] Antitrust and Trade Regulation  Federal and State Issues

29T Antitrust and Trade Regulation

29TVI Antitrust Regulation in General

29TVI(A) In General

29Tk521 Federal and State Issues

(Formerly 265k10)

State statute requiring malt liquor distributors offering price discount to retailer within its geographic areas to offer same discount to

all retailers was per se violation of Sherman Act prohibition of contract, combinations and conspiracies in restraint of trade; provision interfered with pricing flexibility needed for optimum competition. Sherman Act, § 1, as amended, 15 U.S.C.A. § 1; 47 P.S. § 4-447(a) (3).

[1 Cases that cite this headnote](#)

All Citations

41 F.Supp.2d 552, 1999-2 Trade Cases P 72,593