96TH CONGRESS
1ST SESSION

# S. 598

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.

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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. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CANNON, Mr. CHILES, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. EAGLETON, Mr. FORD, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HART, Mr. HATCH, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LUGAR, Mr. MAGNUSON, Mr. LAXALT, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MCGOVERN, Mr. MELCHER, Mr. MORGAN, Mr. MOYNIHAN, Mr. NUNN, Mr. PERCY, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. RIEGLE, Mr. ROTH, Mr. SCHMITT, Mr. SIMPSON, Mr. STENNIS, Mr. STEVENS, Mr. STEWART, Mr. STONE, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WARNER, Mr. WILLIAMS, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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# 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.

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Soft Drink Interbrand Competition Act".

SEC. 2. Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided,* That such product is in substantial and effective competition with other products of the same general class.

SEC. 3. The existence or enforcement of territorial provisions in a trademark licensing agreement for the manufacture, distribution, and sale of a trademarked soft drink product prior to any final determination that such provisions are unlawful shall not be the basis for recovery under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914.

SEC. 4. As used in this Act, the term "antitrust law" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (the Sherman Act), approved July 2, 1890, the Federal Trade Commission Act, approved September 26, 1914, and the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), approved October 15, 1914, and all amendments to such Acts and any other Acts in pari materia.

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