



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1221 be amended to read as follows:

- 1 Page 2, line 6, delete "nonalcoholic packaged beverages" and insert
- 2 **"all paper products"**.
- 3 Page 7, delete lines 23 through 42, begin a new paragraph and
- 4 insert:
- 5 "SECTION 4. IC 24-5-0.5-11 IS ADDED TO THE INDIANA
- 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2021]: **Sec. 11. (a) This section applies only**
- 8 **to transactions concerning the sale of all paper products.**
- 9 **(b) As used in this section, "division" means the consumer**
- 10 **protection division of the office of the attorney general.**
- 11 **(c) As used in this section, "retailer" means a person, and any**
- 12 **entity affiliated and under common control with the person, that**
- 13 **engages in the business of selling tangible personal property to**
- 14 **consumers. For purposes of this section, "retailer" does not include**
- 15 **a supplier.**
- 16 **(d) For purposes of this section, "supplier" means a supplier:**
- 17 **(1) in a sale of all paper products, contract to sell all paper**
- 18 **products, or franchise agreement to sell all paper products;**
- 19 **and**
- 20 **(2) whose gross revenues are at least eighty percent (80%)**
- 21 **comprised from supplying all paper products.**
- 22 **(e) Except as provided in subsection (f), a supplier may not**

1 discriminate among retailers by granting a price, discount,
 2 allowance, or service charge that is not available to all retailers at
 3 the same time. Not later than the first day of each month, a
 4 supplier must publish and make available to all retailers a deal
 5 sheet that lists all prices, discounts, allowances, or service charges
 6 that are available to retailers for that month. Except as provided
 7 in subsection (f), a supplier may not offer a price, discount,
 8 allowance, or service charge that is not published on the monthly
 9 deal sheet.

10 (f) A supplier may only charge a retailer a price for a paper
 11 product that is different than the price the supplier charges
 12 another retailer in one (1) or more of the following circumstances:

13 (1) The supplier charges the retailer a volume based discount
 14 price that is:

15 (A) based on a volume of not more than one (1) semitrailer
 16 (as defined in IC 9-13-2-164) load delivered to a single
 17 location of the retailer per stock keeping unit of the paper
 18 product; and

19 (B) not offered to other retailers or published on the deal
 20 sheet.

21 (2) The supplier charges the retailer a higher price for all
 22 paper products based only on a greater cost to the supplier to
 23 deliver the paper products to the retailer.

24 (3) The supplier charges a different price for all paper
 25 products in response to changing conditions affecting the
 26 market for or marketability of the paper product, including:

27 (A) obsolescence of paper products; or

28 (B) distressed sales in anticipation of discontinuance of
 29 business in all paper products.

30 Any discounts not published on the monthly deal sheet, other than
 31 the discounts listed in this subsection, are prohibited, including any
 32 nonvolume based discounts involving marketing incentives such as
 33 display and placement requirements.

34 (g) A supplier, franchise, or other distribution agreement to
 35 which a supplier is a party may not include an agreement that
 36 prohibits the disclosure of the prices, discounts, allowances, or
 37 service charges to a retailer.

38 (h) A supplier must offer all retailers capable of receiving
 39 delivery of all paper products by a certain means of delivery the
 40 choice to receive all paper products by that means of delivery.

41 (i) A supplier of all paper products is prohibited from engaging
 42 in any communication, in any form either directly or indirectly,
 43 that instructs, encourages, discourages, threatens, or otherwise
 44 influences a retailer to stop selling all paper products to a specific
 45 consumer or other retailer, or group of consumers or other
 46 retailers.

47 (j) A supplier that fails to comply with any provision of this

1 **section commits an unconscionable act that is treated the same as**
 2 **a deceptive act under this chapter and is actionable by the attorney**
 3 **general.**
 4 **(k) A retailer may submit a written complaint to the division**
 5 **alleging a violation of this section for investigation by the division.**
 6 **The division may receive, investigate, and prosecute written**
 7 **complaints concerning retailers and suppliers subject to this**
 8 **section.**
 9 **(l) If:**
 10 **(1) the division brings an action to enjoin an unconscionable**
 11 **act under this section on behalf of identified retailers; and**
 12 **(2) the court finds a supplier has committed an**
 13 **unconscionable act under this section;**
 14 **the division may recover from the supplier on behalf of the state a**
 15 **civil penalty equal to two (2) times the amount of the difference**
 16 **between the higher price at which all paper products were sold to**
 17 **a retailer and the lower price at which all paper products were sold**
 18 **to another retailer. An identified retailer may receive an award**
 19 **equal to two (2) times the amount of the difference between the**
 20 **higher price at which all paper products were sold to the retailer**
 21 **and the lower price at which all paper products were sold to**
 22 **another retailer plus attorney's fees incurred in the action by the**
 23 **retailer."**
 24 Delete pages 8 through 9.
 25 Renumber all SECTIONS consecutively.
 (Reference is to HB 1221 as printed February 11, 2021.)

Representative Austin