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STATE OF NEBRASKA
OFFICIAL
MAR 23 1994
DEPT. OF JUSTICE

DON STENBERG
ATTORNEY GENERAL

L. STEVEN GRASZ
SAM GRIMMINGER
DEPUTY ATTORNEYS GENERAL

DATE: March 22, 1994

SUBJECT: Amendment 3455 to LB 1292 (1993 Legislative Session)

REQUESTED BY: Senator Stan Schellpeper
Chairperson, General Affairs Committee

WRITTEN BY: Don Stenberg, Attorney General
Laurie Smith Camp, Assistant Attorney General

You have asked whether AM 3455, which would include beer as an item required to be obtained from a primary American source under LB 1292, would prohibit the practice of one Nebraska beer wholesaler resupplying a brand of beer to another Nebraska beer wholesaler.

We find that AM 3455 would not prohibit this practice, as long as the Nebraska beer wholesaler who is resupplying the beer is serving as the agent of the manufacturer for that purpose. If the manufacturer of the beer approves of the practice and authorizes the resupplying wholesaler to serve as the manufacturer's agent for that purpose, neither the resupplying wholesaler nor the receiving wholesaler would be in violation of the terms of LB 1292 or of other provisions of the Liquor Control Act.

It should be noted that resupplying among wholesalers is not now permitted and would not be permissible under LB 1292 with respect to wine and spirits. Neb. Rev. Stat. § 53-169.01 (Cum. Supp. 1992) prevents an agency affiliation between manufacturers and wholesalers of alcoholic liquor, with the exception of beer. Manufacturers of beer, but not of other alcoholic beverages, are permitted to engage in wholesale distribution. Neb. Rev. Stat. § 53-123.01 (Cum. Supp. 1992).

Before LB 1292 is passed, with or without AM 3455, consideration should be given to whether or not its terms may

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Senator Stan Schellpeper

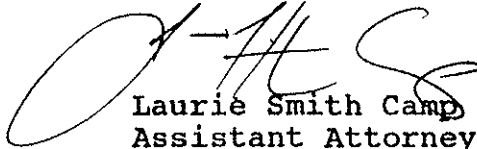
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violate international trade agreements governing alcoholic beverages, such as the General Agreement on Tariffs and Trade (GATT) panel report of 1992.

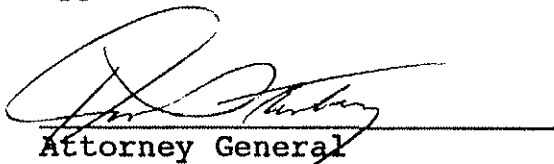
Sincerely yours,

DON STENBERG
Attorney General



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Approved:



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