BILL	DATE	PAGE(S)
S. 598	May 12, 1980	S 5247-48

ACTION

Soft Drink Products: Senate began consideration of S. 598, preserving the manufacture, bottling, and distribution of trademarked soft drink products by local companies operating under territorial licenses. Pending at the recess was Thurmond unprinted amendment No. 1094, (printed amendment No. 1757), to Bayh unprinted amendment No. 1093 (printed amendment No. 1756), to assure that the bill is not in any way interpreted to authorize enforcement of the territorial restrictions used in the industry by means which would otherwise be illegal under the antitrust laws.

Senate will resume consideration of this measure tomorrow. Pages S5247–S5248

SOFT DRINK INTERBRAND COMPETITION ACT

The PRESIDING OFFICER. Under a previous order, the Senate will proceed to the consideration of S. 598, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (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.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1093

(SUBSEQUENTLY AMENDMENT NO. 1756)

(Purpose: To assure that S. 598 is not in any way interpreted to authorize enforcement of the territorial restrictions used in the industry by means which would otherwise be illegal under the anti-trust laws)

Mr. BAYH, Mr. President, I send to the desk an amendment to S. 598 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 1093:

On page 3, insert the following new Section 5:

SEC. 5. "Nothing contained in this Act shall be construed to legalize any acquisition of licensees engaged in the manufacture, distribution and sale of trademarked soft drink products which would otherwise be unlawful under section 7 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914."

UP AMENDMENT NO. 1094

(SUBSEQUENTLY AMENDMENT NO. 1757)

Mr. BAYH. Mr. President, I have here in an amendment that I should like to propose for the Senator from Mississippi (Mr. COCHRAN), who intended to be here, but he was called off the floor temporarily. Inasmuch as the parliamentary position is a bit delicate right now, I should like to send to the desk the amendment in the name of the Senator from Mississippi.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. ROBERT C. BYRD. Mr. President, that would require unanimous consent, would it not?

The PRESIDING OFFICER. The Senator is correct. It would take unanimous consent.

Mr. BAYH. I understand that the Senator from South Carolina is prepared to offer the amendment.

Mr. THURMOND. Mr. President, I offer the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) for Mr. COCHRAN proposes an unprinted amendment numbered 1094 to unprinted amendment numbered 1093:

After the period insert the following:

"Nothing contained in this Act shall be construed to legalize enforcement of the territorial provisions described in this Act by means of horizontal restraints of trade which would otherwise be unlawful."

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Can an amendment in the second degree be offered prior to the time the rollcall has been asked for in connection with an amendment in the first degree?

The PRESIDING OFFICER. The Chair advises that it certainly may, because a Senator cannot offer an amendment to his own amendment as long as he still has the right to modify it.

Mr. METZENBAUM. I thank the Chair.

Mr. BAYH. Mr. President, the measure before us is a measure which the Senator from Indiana and some 80 of our colleagues have been working to get passed over the past couple of years. It basically deals with the preservation of the franchise agreement of the soft drink bottling industry. It is critical to the continued existence of hundreds of small bottling companies in the country.

I think that the best course of action would be—I respectfully ask the leader's advice and also that of my distinguished colleague from Ohio, who is also my very dear friend. I very rarely find myself in dispute with him, but on this one, we are on opposite sides of the issue. I wonder if wisdom might not suggest that we wait until tomorrow to make our major presentations on this bill.

Mr. ROBERT C. BYRD. Is the Senator asking me?

Mr. BAYH. I shall follow the will of our leader and of the Senator from Ohio.

The PRESIDING OFFICER. Will the Senator yield to the Senator from Ohio?

Mr. BAYH. I shall be glad to yield to the Senator from Ohio, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, the hour is 9 o'clock. The measure is an important one. I think that the comments of the Senator from Indiana, which I am certain are significant and persuasive—except to me and some others—should be made at an earlier hour of the day, some time tomorrow. At that time, I shall be prepared to address myself to the issue contained in this bill. I have no objection if we wait until tomorrow in order to debate this matter.

Mr. BAYH. Mr. President, I ask unanimous consent that on tomorrow, the Senator from Indiana and the Senator from Ohio will have the opportunity to debate this as if we were starting out initially, right out of the batter's box.

Mr. ROBERT C. BYRD. Reserving the right to object, Mr. President, what is the request?

Mr. BAYH. That tomorrow, we each start off with our first speech.

Mr. ROBERT C. BYRD. The Senator is asking unanimous consent that he be recognized immediately upon the resumption of the debate on this bill tomorrow and that Mr. METZENBAUM be recognized next, after him; is that it?

Mr. BAYH. Yes, Mr. President. What the Senator from Indiana was asking was unanimous consent that when we start tomorrow, each Senator who seeks recognition will be speaking for the first time. Unfortunately, that only applies to one Senator, namely, the Senator from Indiana.

Therefore, Mr. President, I ask unanimous consent that these brief remarks not be counted as a first speech on this subject.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I certainly have no objection. I assume that the ruling will be equally applicable to the Senator from Ohio, who did make some remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.