

123A.9 Judicial remedies.

1. If a brewer or a wholesaler who is a party to an agreement pursuant to this chapter fails to comply with this chapter or otherwise engages in conduct prohibited under this chapter, the aggrieved party may maintain a civil action in district court if the cause of action directly relates to or stems from the relationship of the individual parties under the agreement.

2. A brewer or wholesaler may bring an action for declaratory judgment for determination of any controversy arising under this chapter or out of the brewer and wholesaler agreement.

3. Upon proper petition to the district court, a brewer or wholesaler may obtain injunctive relief against a violation of this chapter.

4. In an action under subsection 1, the district court may grant the relief as the court determines is necessary or appropriate considering the purposes of this chapter. The district court may, if it finds that a brewer has acted in bad faith in invoking the amendment, modification, cancellation, nonrenewal, or termination provision of the agreement between the brewer and wholesaler, or has unreasonably withheld its consent to any assignment, transfer, or sale of the wholesaler's business, award equitable relief, actual damages, court costs, and attorney's fees.

5. The prevailing party in an action under subsection 1 shall be entitled to actual damages, court costs, and attorney's fees at the court's discretion.

6. With respect to a dispute arising under this chapter or out of the agreement between a brewer and wholesaler, the wholesaler and brewer each has the absolute right, before the wholesaler or brewer has agreed to arbitrate a particular dispute, to refuse to arbitrate that particular dispute. A brewer shall not, as a condition of entering into or renewing an agreement, require the wholesaler to agree to arbitration in lieu of judicial remedies.

7. A brewer shall not take retaliatory action against a wholesaler who files or manifests an intention to file a complaint of alleged violation of state or federal law or regulation by the brewer with the appropriate state or federal regulatory authority. Retaliatory action shall include, but shall not be limited to, refusal without good cause to continue the agreement, or a material reduction in the quality of service or quantity of products available to the wholesaler under the agreement, or impede the normal business operations of the wholesaler.

95 Acts, ch 101, §9

Referred to in §123A.7