

HOUSE BILL No. 5407

December 12, 1991, Introduced by Reps. Hertel, Olshove, Perry Bullard, Profit, DeMars, Leland, Ostling, Johnson, Knight, Gilmer, Griffin, Wozniak, Murphy, Porreca and Keith and referred to the Committee on Liquor Control.

A bill to amend sections 19, 24, and 40 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act,"

sections 19 and 24 as amended by Act No. 118 of the Public Acts of 1989 and section 40 as amended by Act No. 130 of the Public Acts of 1989, being sections 436.19, 436.24, and 436.40 of the Michigan Compiled Laws; and to add sections 2aa, 31b, and 31c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 19, 24, and 40 of Act No. 8 of the
2 Public Acts of the Extra Session of 1933, sections 19 and 24 as
3 amended by Act No. 118 of the Public Acts of 1989 and section 40
4 as amended by Act No. 130 of the Public Acts of 1989, being sec-
5 tions 436.19, 436.24, and 436.40 of the Michigan Compiled Laws,
6 are amended and sections 2aa, 31b, and 31c are added to read as
7 follows:

1 SEC. 2AA. "BREW PUB" MEANS A PERSON LICENSED BY THE
2 COMMISSION TO MANUFACTURE BEER AND WHO SELLS NOT MORE THAN 2,000
3 BARRELS PER YEAR FOR CONSUMPTION ONLY ON THE PREMISES WHERE THE
4 BEER IS BREWED.

5 Sec. 19. (1) The following license fees shall be paid at
6 the time of filing applications or as otherwise provided in this
7 act:

8 (a) Manufacturers of spirits, but not including makers,
9 blenders, and rectifiers of wines containing 21% of alcohol or
10 less by volume, \$10,000.00.

11 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
12 fraction of a barrel, production annually with a maximum fee of
13 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
14 delivery to retail licensees. A fee increase shall not apply to
15 a manufacturer of less than 15,000 barrels production per year.

16 (c) Outstate seller of beer, delivering or selling beer in
17 this state, \$1,000.00.

18 (d) Wine makers, blenders, and rectifiers of wine, including
19 makers, blenders, and rectifiers of wines containing 21% or less
20 alcohol by volume, \$100.00. The small wine maker license fee
21 shall be \$25.00.

22 (e) Outstate seller of wine, delivering or selling wine in
23 this state, \$300.00.

24 (f) Outstate seller of mixed spirit drink, delivering or
25 selling mixed spirit drink in this state, \$300.00.

26 (g) Dining cars or other railroad or pullman cars selling
27 alcoholic liquor, \$100.00 per train.

1 (h) Wholesale vendors other than manufacturers of beer,
2 \$300.00 for the first motor vehicle used in delivery to retail
3 licensees and \$50.00 for each additional motor vehicle used in
4 delivery to retail licensees.

5 (i) Watercraft, licensed to carry passengers, selling alco-
6 holic liquor, a minimum fee of \$100.00 and a maximum fee of
7 \$500.00 per year computed on the basis of \$1.00 per person per
8 passenger capacity.

9 (j) Specially designated merchants, for selling beer or wine
10 for consumption off the premises only, but not at wholesale,
11 \$100.00 for each location regardless of the fact that the loca-
12 tion may be a part of a system or chain of merchandising.

13 (k) Specially designated distributors licensed by the com-
14 mission to distribute spirits and mixed spirit drink in the orig-
15 inal package for the commission for consumption off the premises,
16 \$150.00 per year; and \$3.00 additional fee for each \$1,000.00 or
17 major fraction of that amount in excess of \$25,000.00 of the
18 total retail value of merchandise purchased under each license
19 from the liquor control commission during the previous calendar
20 year.

21 (l) Hotels of class A selling beer and wine, a minimum fee
22 of \$250.00 and for all bedrooms in excess of 20, \$1.00 for each
23 additional bedroom, but not to exceed \$500.00.

24 (m) Hotels of class B selling beer, wine, mixed spirit
25 drink, and spirits, a minimum fee of \$600.00 and for all bedrooms
26 in excess of 20, \$3.00 for each additional bedroom. If a hotel
27 of class B sells beer, wine, mixed spirit drink, and spirits in

1 more than 1 public bar, the fee shall entitle the hotel to sell
2 in only 1 public bar, other than a bedroom, and a license shall
3 be secured for each additional public bar, other than a bedroom,
4 the fee for which shall be \$350.00.

5 (n) Taverns, selling beer and wine, \$250.00.

6 (o) Class C license selling beer, wine, mixed spirit drink,
7 and spirits, \$600.00. If a class C licensee sells beer, wine,
8 mixed spirit drink, and spirits in more than 1 bar, a fee of
9 \$350.00 shall be paid for each additional bar. In municipally
10 owned or supported facilities in which nonprofit organizations
11 operate concession stands, a fee of \$100.00 shall be paid for
12 each additional bar.

13 (p) Clubs selling beer, wine, mixed spirit drink, and spir-
14 its, \$300.00 for clubs having 150 or less duly accredited members
15 and \$1.00 for each additional member. The membership list for
16 the purpose only of determining the license fees to be paid under
17 this section shall be the accredited list of members as deter-
18 mined by a sworn affidavit 30 days before the closing of the
19 license year. This section shall not prevent the commission from
20 checking a membership list and making its own determination from
21 the list or otherwise. The list of members and additional mem-
22 bers shall not be required of a club paying the maximum fee. The
23 maximum fee shall not exceed \$750.00 for any 1 club.

24 (q) Warehouses, to be fixed by the commission with a minimum
25 fee for each warehouse of \$50.00.

26 (r) Special licenses, a fee of \$50.00 per day, except that
27 the fee for that license or permit issued to any bona fide

1 nonprofit association, duly organized and in continuous existence
2 for 1 year before the filing of its application, shall be
3 \$25.00. Not more than 5 special licenses may be granted to any
4 organization, including an auxiliary of the organization, in a
5 calendar year.

6 (s) Airlines licensed to carry passengers in this state,
7 which sell, offer for sale, provide, or transport alcoholic
8 liquor, \$600.00.

9 (t) Brandy manufacturer, \$100.00.

10 (u) Mixed spirit drink manufacturer, \$100.00.

11 (V) BREWPUB, \$100.00.

12 (2) The fees provided in this act for the various types of
13 licenses shall not be prorated for a portion of the effective
14 period of the license.

15 Sec. 24. The following classes of vendors may sell alco-
16 holic liquors at retail as provided in this section:

17 (a) Taverns where beer and wine may be sold for consumption
18 on the premises only.

19 (b) Class C license where beer, wine, mixed spirit drink,
20 and spirits may be sold for consumption on the premises.

21 (c) Clubs where beer, wine, mixed spirit drink, and spirits
22 may be sold for consumption on the premises only to bona fide
23 members, who have attained the age of 21 years.

24 (d) Hotels of class A where beer and wine may be sold for
25 consumption on the premises and in the rooms of bona fide regis-
26 tered guests. Hotels of class B where beer, wine, mixed spirit

1 drink, and spirits may be sold for consumption on the premises
2 and in the rooms of bona fide registered guests.

3 (e) Specially designated merchants, where beer and wine may
4 be sold for consumption off the premises only.

5 (f) Specially designated distributors where spirits and
6 mixed spirit drink may be sold for consumption off the premises
7 only.

8 (g) Special licenses where beer and wine or beer, wine,
9 mixed spirit drink, and spirits may be sold for consumption on
10 the premises only.

11 (h) Dining cars or other railroad or pullman cars, water-
12 craft, or aircraft, where alcoholic liquor may be sold for con-
13 sumption on the premises only, subject to rules promulgated by
14 the commission.

15 (I) BREWPUBS WHERE, NOTWITHSTANDING SECTION 31, BEER MANU-
16 FACTURED ON THE PREMISES BY THE LICENSEE MAY BE SOLD ONLY FOR
17 CONSUMPTION ON THE PREMISES BY ANY OF THE FOLLOWING LICENSEES:

18 (i) CLASS "C".

19 (ii) TAVERN.

20 (iii) CLASS "A" HOTEL.

21 (iv) CLASS "B" HOTEL.

22 SEC. 31B. (1) SUBJECT TO SECTION 31C, THE COMMISSION SHALL
23 ISSUE A BREWPUB LICENSE TO A PERSON WHO IS LICENSED AS A FOOD
24 SERVICE ESTABLISHMENT UNDER PART 129 OF THE PUBLIC HEALTH CODE,
25 ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.12901
26 TO 333.12922 OF THE MICHIGAN COMPILED LAWS, AND AT THE TIME OF

1 APPLICATION FOR THE BREWPUB LICENSE IS LICENSED AS 1 OR MORE OF
2 THE FOLLOWING:

3 (A) CLASS "C".

4 (B) TAVERN.

5 (C) CLASS "A" HOTEL.

6 (D) CLASS "B" HOTEL.

7 (2) A PERSON SHALL NOT, DIRECTLY OR INDIRECTLY, HAVE AN
8 INTEREST IN MORE THAN 1 BREWPUB.

9 (3) A BREWPUB SHALL POSSESS THE NECESSARY EQUIPMENT FOR A
10 SATISFACTORY OPERATION WHICH SHALL BE MAINTAINED IN GOOD WORKING
11 ORDER AND IN A SANITARY CONDITION.

12 (4) AGRICULTURAL PRODUCTS PROCESSED BY A MANUFACTURER SHALL
13 COMPLY WITH LAWS AND RULES OF THE DEPARTMENT OF AGRICULTURE.

14 (5) A BREWPUB SHALL NOT SELL BEER IN THIS STATE UNLESS IT
15 DOES ALL OF THE FOLLOWING:

16 (A) PROVIDES A LABEL THAT TRUTHFULLY DESCRIBES THE CONTENT
17 OF THE CONTAINER WHICH DESCRIPTION COMPLIES WITH THE FEDERAL MALT
18 BEVERAGES REGULATIONS.

19 (B) RECEIVES A REGISTRATION NUMBER FROM THE COMMISSION WHICH
20 INDICATES THE COMMISSION'S APPROVAL OF THE SALE OF THAT BEER.

21 (C) USES A REMOVABLE TAP MARKER OR SIGN WHICH SHALL BE
22 PLACED ON THE DRAFT BEER DISPENSER AND COMPLIES WITH THE COMMIS-
23 SION ORDERS RELATING TO ITS COST.

24 SEC. 31C. (1) THE COMMISSION SHALL GRANT A BREWPUB LICENSE
25 TO A PERSON WHO, IN ADDITION TO COMPLYING WITH SECTION 31B, DOES
26 ALL OF THE FOLLOWING:

1 (A) PAYS THE FEE AS PRESCRIBED IN SECTION 19.

2 (B) PROVIDES EVIDENCE TO THE COMMISSION THAT NOT LESS THAN
3 25% OF THE GROSS SALES OF THE RESTAURANT DURING THE 1-YEAR LICEN-
4 SURE PERIOD ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC
5 BEVERAGES PREPARED FOR CONSUMPTION ON THE PREMISES.

6 (C) COMPLIES WITH SECTION 31B(3), (4), AND (5).

7 (2) THE COMMISSION SHALL RENEW A BREWPUB LICENSE OF A PERSON
8 WHO DOES ALL OF THE FOLLOWING:

9 (A) PAYS THE FEE AS PRESCRIBED IN SECTION 19.

10 (B) PROVIDES EVIDENCE TO THE COMMISSION THAT NOT LESS THAN
11 25% OF THE GROSS SALES OF THE RESTAURANT DURING THE 1-YEAR LICEN-
12 SURE PERIOD ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC
13 BEVERAGES PREPARED FOR CONSUMPTION ON THE PREMISES.

14 (C) COMPLIES WITH SECTION 31B(3), (4), AND (5).

15 (3) THE COMMISSION SHALL REVOKE A BREWPUB LICENSE IF, DURING
16 THE 1-YEAR LICENSURE PERIOD, LESS THAN 25% OF THE GROSS SALES OF
17 THE RESTAURANT ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC
18 BEVERAGES PREPARED FOR CONSUMPTION ON THE PREMISES.

19 Sec. 40. (1) Except as provided in this section, the com-
20 mission shall levy and collect a tax on all beer manufactured or
21 sold in this state at the rate of \$6.30 per barrel if the beer is
22 sold in bulk or in different quantities. The tax shall be paid
23 by the brewer OR BREWPUB if manufactured in this state or by the
24 wholesaler or the person from whom purchased if manufactured out-
25 side this state, whichever is designated by the commission. The
26 commission shall establish by rule a method for the collection of
27 the tax levied in this subsection. The rules shall be

1 promulgated pursuant to the administrative procedures act of
2 1969, Act No. 306 of the Public Acts of 1969, as amended, being
3 sections 24.201 to 24.328 of the Michigan Compiled Laws.

4 (2) The tax levied in subsection (1) shall not be collected
5 with respect to beer that is consumed on the premises of the man-
6 ufacturer or is damaged in the process of brewing, packaging, and
7 storage and is not offered for sale EXCEPT THAT BEER SOLD BY A
8 BREWPUB FOR CONSUMPTION ON THE PREMISES SHALL BE SUBJECT TO THE
9 TAX LEVIED UNDER SUBSECTION (1).

10 (3) The tax collected under subsection (1) shall be rebated
11 to the person who paid the tax if that person provides satisfac-
12 tory proof to the commission that the beer was shipped outside of
13 this state for sale and consumption outside this state.

14 (4) For the purposes of taxation, a barrel shall be con-
15 strued to contain 31 gallons.

16 (5) The commission may promulgate a rule that designates the
17 states, the laws, or the rules of other states that require a
18 licensed wholesaler of beer to pay an additional fee for the
19 right to purchase, import, or sell beer manufactured in this
20 state; that denies the issuance of a license authorizing the
21 importation of beer to any licensed wholesaler of beer in that
22 state who may make application for the license; that prohibits
23 licensed wholesalers of beer in that state from possessing or
24 selling beer purchased in this state, unless the person from whom
25 purchased has secured a license and paid a fee in that state, if
26 the seller neither transports the beer into the state nor sells
27 the beer in the state; or that imposes any higher taxes or

1 inspection fees upon beer manufactured in this state when
2 transporting into or sold in that state, than is imposed upon
3 beer manufactured and sold within that state. The rule shall
4 prohibit all licensees from purchasing, receiving, possessing, or
5 selling any beer manufactured in any state designated in the
6 rule. The rule shall become effective as provided in section 47
7 of ~~the administrative procedures act of 1969,~~ Act No. 306 of
8 the Public Acts of 1969, being section 24.247 of the Michigan
9 Compiled Laws. Any licensee or person adversely affected by the
10 rule is entitled to review by ~~certiorari~~ LEAVE to the proper
11 court the question as to whether the commission acted illegally
12 or in excess of authority in making its finding with respect to
13 any state.

14 (6) For tax years 1989 through 1991, an eligible brewer may
15 claim a credit against the tax levied in subsection (1) in the
16 amount of \$2.00 per barrel. As used in this subsection,
17 "eligible brewer" means a brewer, whether or not located in this
18 state, that manufactures less than 5,000 barrels of beer during
19 the tax year for which the credit is claimed. In determining the
20 number of barrels for purposes of the credit, all brands and
21 labels of a brewer shall be combined and all facilities for the
22 production of beer that are owned or controlled by the same
23 person shall be treated as a single facility.