

# SENATE BILL No. 766

February 26, 1992, Introduced by Senators CISKY, SCHWARZ and WARTNER and referred to the Committee on State Affairs and Military/Veteran Affairs.

A bill to amend section 40 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," as amended by Act No. 130 of the Public Acts of 1989, being section 436.40 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 40 of Act No. 8 of the Public Acts of  
2 the Extra Session of 1933, as amended by Act No. 130 of the  
3 Public Acts of 1989, being section 436.40 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5       Sec. 40. (1) Except as provided in this section, the com-  
6 mission shall levy and collect a tax on all beer manufactured or  
7 sold in this state at the rate of \$6.30 per barrel if the beer is  
8 sold in bulk or in different quantities. The tax shall be paid  
9 by the brewer if manufactured in this state or by the wholesaler

1 or the person from whom purchased if manufactured outside this  
2 state, whichever is designated by the commission. The commission  
3 shall establish by rule a method for the collection of the tax  
4 levied in this subsection. The rules shall be promulgated pursu-  
5 ant to the administrative procedures act of 1969, Act No. 306 of  
6 the Public Acts of 1969, as amended, being sections 24.201 to  
7 24.328 of the Michigan Compiled Laws.

8       (2) The tax levied in subsection (1) shall not be collected  
9 with respect to beer that is consumed on the premises of the man-  
10 ufacturer or is damaged in the process of brewing, packaging, and  
11 storage and is not offered for sale.

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

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

18       (5) The commission may promulgate a rule that designates the  
19 states, the laws, or the rules of other states that require a  
20 licensed wholesaler of beer to pay an additional fee for the  
21 right to purchase, import, or sell beer manufactured in this  
22 state; that denies the issuance of a license authorizing the  
23 importation of beer to any licensed wholesaler of beer in that  
24 state who may make application for the license; that prohibits  
25 licensed wholesalers of beer in that state from possessing or  
26 selling beer purchased in this state, unless the person from whom  
27 purchased has secured a license and paid a fee in that state, if

1 the seller neither transports the beer into the state nor sells  
2 the beer in the state; or that imposes any higher taxes or  
3 inspection fees upon beer manufactured in this state when trans-  
4 porting into or sold in that state, than is imposed upon beer  
5 manufactured and sold within that state. The rule shall prohibit  
6 all licensees from purchasing, receiving, possessing, or selling  
7 any beer manufactured in any state designated in the rule. The  
8 rule shall become effective as provided in section 47 of ~~the~~  
9 ~~administrative procedures act of 1969,~~ Act No. 306 of the Public  
10 Acts of 1969, being section 24.247 of the Michigan Compiled  
11 Laws. Any licensee or person adversely affected by the rule is  
12 entitled to review by ~~certiorari~~ LEAVE to ~~the proper~~ A court  
13 OF COMPETENT JURISDICTION ON the question as to whether the com-  
14 mission acted illegally or in excess of authority in making its  
15 finding with respect to any state.

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