

Act No. 421
Public Acts of 1994
Approved by the Governor
January 05, 1996
Filed with the Secretary of State
January 06, 1996

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

**Introduced by Reps Galloway Llewellyn Pitoniak Rhead Gustafson Vorva Profit Varga McNutt
Crissman DeMars Byrum Whyman Rocca Bullard Dobb Porreca Middleton Stille Kaza Johnson
Curtis Anthony Hammerstrom Price Olshove Bobier Bodem Shugars Martin Griffin Freeman
Gagliardi Brackenridge and Middaugh**

ENROLLED HOUSE BILL No. 5616

AN ACT to amend section 40 of Act No. 8 of the Public Acts of the Extra Session of 1933 entitled as amended An act to create a liquor control commission for the control of the alcoholic beverage traffic within the state of Michigan and to prescribe its powers duties and limitations to provide for the control of the alcoholic liquor traffic within the state of Michigan and the establishment of state liquor stores to provide for the care and treatment of alcoholics to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges thereto to provide for the licensing and taxation thereof and the disposition of the moneys received under this act to prescribe liability for retail licensees under certain circumstances to require security for that liability to provide procedures defenses and remedies regarding violations of this act to provide for the enforcement and to prescribe penalties for violations of this act to provide for the confiscation and disposition of property seized under the provisions of this act to provide a referendum in certain cases to repeal certain acts and parts of acts and to repeal certain parts of this act on a specific date as amended by Act No. 300 of the Public Acts of 1992 being section 436 40 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Section 40 of Act No. 8 of the Public Acts of the Extra Session of 1933 as amended by Act No. 300 of the Public Acts of 1992 being section 436 40 of the Michigan Compiled Laws is amended to read as follows

Sec. 40 (1) Except as provided in this section the commission shall levy and collect a tax on all beer manufactured or sold in this state at the rate of \$6.30 per barrel if the beer is sold in bulk or in different quantities. The tax shall be paid by the brewer or brewpub if manufactured in this state or by the wholesaler or the person from whom purchased if manufactured outside this state whichever is designated by the commission. The commission shall establish by rule a method for the collection of the tax levied in this subsection. The rules shall be promulgated pursuant to the administrative procedures act of 1969 Act No. 306 of the Public Acts of 1969 as amended being sections 24 201 to 24 328 of the Michigan Compiled Laws.

(2) The tax levied in subsection (1) shall not be collected with respect to beer that is consumed on the premises of the manufacturer or is damaged in the process of brewing packaging and storage and is not offered for sale except that beer sold by a brewpub for consumption on the premises or beer produced and consumed on the premises of a micro brewer shall be subject to the tax levied under subsection (1).

(3) The tax collected under subsection (1) shall be rebated to the person who paid the tax if that person provides satisfactory proof to the commission that the beer was shipped outside of this state for sale and consumption outside this state

(4) For the purposes of taxation a barrel shall be construed to contain 31 gallons

(5) The commission may promulgate a rule that designates the states the laws or the rules of other states that require a licensed wholesaler of beer to pay an additional fee for the right to purchase import or sell beer manufactured in this state that denies the issuance of a license authorizing the importation of beer to any licensed wholesaler of beer in that state who may make application for the license that prohibits licensed wholesalers of beer in that state from possessing or selling beer purchased in this state unless the person from whom purchased has secured a license and paid a fee in that state if the seller neither transports the beer into the state nor sells the beer in the state or that imposes any higher taxes or inspection fees upon beer manufactured in this state when transporting into or sold in that state than is imposed upon beer manufactured and sold within that state The rule shall prohibit all licensees from purchasing receiving possessing or selling any beer manufactured in any state designated in the rule The rule shall become effective as provided in section 47 of Act No 306 of the Public Acts of 1969 being section 24 247 of the Michigan Compiled Laws Any licensee or person adversely affected by the rule is entitled to review by leave to the proper court the question as to whether the commission acted illegally or in excess of authority in making its finding with respect to any state

(6) An eligible brewer may claim a credit against the tax levied in subsection (1) in the amount of \$2 00 per barrel As used in this subsection eligible brewer means a brewer whether or not located in this state or brewpub that manufactures less than 20 000 barrels of beer during the tax year for which the credit is claimed In determining the number of barrels for purposes of the credit all brands and labels of a brewer shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor