

Act No. 440
Public Acts of 1996
Approved by the Governor
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**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Bullard, Schuette, Stille, Cisky, Bouchard, Shugars, Koivisto, Byrum, North, Hoffman, Gast, Steil, Schwarz, McManus, Dunaskiss, Miller, Gougeon, Bennett, Carl, Geake, DeGrow and Conroy

ENROLLED SENATE BILL No. 1171

AN ACT to amend sections 2aa, 2bb, 3, 19c, 24, 31, 31a, and 31b 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," sections 2aa and 31b as added by Act No. 300 of the Public Acts of 1992, section 3 as amended by Act No. 153 of the Public Acts of 1981, sections 19c and 24 as amended by Act No. 379 of the Public Acts of 1996, section 31 as amended by Act No. 343 of the Public Acts of 1996, and section 31a as added by Act No. 170 of the Public Acts of 1981, being sections 436.2aa, 436.2bb, 436.3, 436.19c, 436.24, 436.31, 436.31a, and 436.31b of the Michigan Compiled Laws; and to add sections 2ee, 2ff, 2gg, 3a, and 17k.

The People of the State of Michigan enact:

Section 1. Sections 2aa, 2bb, 3, 19c, 24, 31, 31a, and 31b of Act No. 8 of the Public Acts of the Extra Session of 1933, sections 2aa and 31b as added by Act No. 300 of the Public Acts of 1992, section 3 as amended by Act No. 153 of the Public Acts of 1981, sections 19c and 24 as amended by Act No. 379 of the Public Acts of 1996, section 31 as amended by Act No. 343 of the Public Acts of 1996, and section 31a as added by Act No. 170 of the Public Acts of 1981, being sections 436.2aa, 436.2bb, 436.3, 436.19c, 436.24, 436.31, 436.31a, and 436.31b of the Michigan Compiled Laws, are amended and sections 2ee, 2ff, 2gg, 3a, and 17k are added to read as follows:

Sec. 2aa. "Brewpub" means a license issued in conjunction with a class "C", tavern, class "A" hotel, or class "B" hotel license which authorizes the person licensed with the class "C", tavern, class "A" hotel, or class "B" hotel to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell at that licensed brewery premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 31b and 31c.

Sec. 2bb. "Micro brewer" means a brewer which produces in total less than 30,000 barrels of beer per year and who may sell at the licensed brewery premises the beer produced to consumers for consumption on or off the licensed

brewery premises. In determining the 30,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, 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.

Sec. 2ee. "Authorized distribution agent" means a person approved by the commission to do 1 or more of the following:

(a) To store spirits owned by a supplier of spirits or the commission.

(b) To deliver spirits sold by the commission to retail licensees.

(c) To perform any function needed to store spirits owned by a supplier of spirits or by the commission or to deliver spirits sold by the commission to retail licensees.

Sec. 2ff. "Primary source of supply" means, in the case of domestic spirits, the distiller, producer, owner of the commodity at the time it becomes a marketable product, or bottler, or the exclusive agent of any such person and, in the case of spirits imported into the United States, either the foreign distiller, producer, owner of the bottler, or the prime importer for, or the exclusive agent in the United States of, the foreign distiller, producer, owner, or the bottler.

Sec. 2gg. "Supplier of spirits" means a vendor of spirits, a manufacturer of spirits, or a primary source of supply.

Sec. 3. (1) Except as provided in this section and section 16a, a sale, delivery, or importation of alcoholic liquor, including alcoholic liquor for personal use, shall not be made in this state unless the sale, delivery, or importation is made by the commission, the commission's authorized agent or distributor, an authorized distribution agent approved by order of the commission, a person licensed by the commission, or by prior written order of the commission. All spirits for sale, use, storage, or distribution in this state, shall originally be purchased by and imported into the state by the commission, or by prior written authority of the commission. This section shall not apply in the case of an alcoholic liquor brought into this state personally by a person of legal age to purchase alcoholic liquor at the time of reentry into this state from without the territorial limits of the United States for personal or household use in an amount permitted by federal law if the person has been outside the territorial limits of the United States for more than 48 hours and has not brought alcoholic liquor into the United States during the preceding 30 days.

(2) Notwithstanding the provision of subsection (1) a person who is of legal age to purchase alcoholic liquor may import from another state for that person's personal use not more than 312 ounces of alcoholic liquor which contains less than 21% alcohol by volume.

Sec. 3a. (1) If the commission privatizes any portion of the system existing on the effective date of the amendatory act that added this section under which spirits are warehoused or distributed, the commission shall, as provided in section 3(1), by order appoint authorized distribution agents to engage in the warehousing and delivery of spirits in this state so as to ensure that all retail licensees continue to be properly serviced with spirits. An authorized distribution agent is subject to uniform requirements, including business operating procedures, which the commission may prescribe by rule, subject to this section.

(2) A person is eligible for appointment by the commission as an authorized distribution agent if the following circumstances exist:

(a) The person satisfies all applicable commission rules prescribing qualifications for licensure promulgated under section 7.

(b) The person has entered into a written agreement or contract with a supplier of spirits for the purposes of warehousing and delivering a brand or brands of spirits of that supplier of spirits.

(c) The person has an adequate warehousing facility located in this state for the storing of spirits from which all delivery of spirits to retail licensees shall be made.

(3) An authorized distribution agent shall not have a direct or indirect interest in a supplier of spirits or in a retailer. A supplier of spirits or a retailer shall not have a direct or indirect interest in an authorized distribution agent. An authorized distribution agent shall not hold title to spirits. After September 24, 1996, an authorized distribution agent or an applicant to become an authorized distribution agent who directly or indirectly becomes licensed subsequently as a wholesaler shall not be appointed or authorized to sell or distribute a brand of wine in an area for which a wholesaler has been assigned or authorized to sell or distribute that brand under an agreement required by this act. A wholesaler who directly or indirectly becomes an authorized distribution agent shall not be appointed or authorized to sell or distribute a brand of wine to a retailer in an area for which another wholesaler has been assigned or authorized to sell or distribute that brand under an agreement required by this act, if the wholesaler was not selling or distributing that brand to retailers in that area on or before September 24, 1996.

(4) An authorized distribution agent shall deliver to each retailer located in its assigned distribution area on at least a weekly basis if the order meets the minimum requirements. The minimum requirements shall be set by the

commission and shall be a sufficient number of bottles to comprise not more than 2 cases and not less than 1 case. A retailer may pick up the product at the authorized distribution agent's warehouse. To avoid occasional emergency outages of spirits, a retail licensee may make up to 12 special emergency orders to an authorized distribution agent per calendar year which order shall be made available to the retail licensee within 18 hours of the placing of the order. A special emergency order placed on Saturday or Sunday shall be made available to the retail licensee before noon on the following Monday. An authorized distribution agent may impose a fee of up to \$20.00 to deliver a special emergency order to a retail licensee.

(5) Except as otherwise provided in subsection (4), an authorized distribution agent shall not charge a delivery fee or a split-case fee for delivery of spirits sold by the commission to a retailer.

(6) An authorized distribution agent or prospective authorized distribution agent shall maintain and make available to the commission or its representatives, upon notice, any contract or written agreement it may have with a supplier of spirits or other authorized distribution agent for the warehousing and delivery of spirits in this state.

(7) For any violation of this act, rules promulgated under this act, or the terms of an order appointing an authorized distribution agent, an authorized distribution agent shall be subject to the suspension, revocation, forfeiture, and penalty provisions of sections 20(1) and 21 in the same manner in which a licensee would be subject to those provisions. An authorized distribution agent aggrieved by a penalty imposed by the commission may invoke the hearing and appeal procedures of section 20(2) and rules promulgated under that section.

(8) A specially designated distributor may sell to an on-premises licensee up to 9 liters of spirits during any 1-month period and an on-premises licensee may purchase up to that amount during any 1-month period. Notwithstanding any other provision of this act or rule promulgated under this act, a specially designated distributor is only liable for knowingly violating this section. Records verifying these purchases shall be maintained by the on-premises licensee and be available to the commission upon request.

(9) An authorized distribution agent shall demonstrate that it has made a good faith effort to provide employment to those former state employees who were terminated due to the privatization of the liquor distribution system. A good faith effort is demonstrated by the authorized distribution agent performing at least the following actions:

(a) Seeking from the commission a list of names and resumes of all such former state employees who have indicated a desire for continued employment in the distribution of liquor in Michigan.

(b) Providing a list of employment opportunities created by the authorized distribution agent in the distribution of liquor in Michigan to each individual whose name and resume is transmitted from the commission.

(c) Providing an opportunity for application and interview to any terminated state worker who indicates an interest in pursuing a job opportunity with the authorized distribution agent.

(d) Providing a priority in hiring for those individuals who apply and interview under this process.

(10) Any former state employees terminated due to privatization who have reason to believe that an authorized distribution agent has not made a good faith effort to provide him or her with employment opportunities as described in subsection (9) may file a complaint with the commission who shall hear the complaint and make a determination on its validity. If the commission determines that the complaint is valid, the violation may be treated as a violation of this act and the authorized distribution agent may be subject to the suspension, revocation, forfeiture, and penalty provisions of sections 20(1) and 21.

(11) In addition to paying a vendor of spirits the acquisition price for purchasing spirits, the commission may pay a vendor of spirits an additional amount of not less than \$4.50 and not more than \$7.50 for each case of spirits purchased as an offset to the costs being incurred by that vendor of spirits in contracting with an authorized distribution agent for the warehousing and delivery of spirits to retailers. The payment described in this subsection shall not be included in the cost of purchasing spirits by the commission and shall not be subject to the commission's markup, special taxes, or state sales tax. The per-case offset established by this subsection may be increased by the state administrative board each January to reflect reasonable increases in the authorized distribution agent's cost of warehousing and delivery. As used in this subsection, "case" means a container holding twelve 750 ml bottles of spirits or other containers containing spirits which are standard to the industry.

Sec. 17k. (1) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under section 19c(1), and the resort licenses authorized in section 19c(2), (3), and (4), the commission may issue not more than 50 tavern or class "C" licenses to persons who operate businesses that meet all of the following conditions:

(a) The business is a full service restaurant, is open to the public, and prepares food on the premises.

(b) The business is open for food service not less than 10 hours per day, 5 days a week.

(c) At least 50% of the gross receipts of the business are derived from the sale of food for consumption on the premises. For purposes of this subdivision, food does not include beer and wine.

(d) The business has dining facilities to seat not less than 25 persons.

(e) The business is located in a development district with a population of not more than 50,000, in which the authority, after a public hearing, has found that the issuance of the license would prevent further deterioration within the development district and promote economic growth within the development district. The commission shall not issue the license unless the local unit of government within which the authority is located, after holding a public hearing, passes a resolution concurring in the findings of the authority.

(f) The business demonstrates to the commission that an escrowed license is not readily available in any local unit of government in which the development district is located.

(2) If in any licensing year the sale of food for consumption on the premises of the business represents less than 50% of the gross receipts for the business, the commission, after due notice and proper hearing, shall revoke the license issued under subsection (1).

(3) Not more than 1 license shall be issued under subsection (1) to any individual, partnership, limited partnership, limited liability company, corporation, or any combination of any of the above, including stockholders, general partners, or limited partners.

(4) The commission shall not issue a specially designated merchant license, specially designated distributor license, or any other license that allows the sale of alcoholic liquor for consumption off the premises in conjunction with a license issued under subsection (1) or at the premises for which a license has been issued under subsection (1).

(5) The commission may issue the licenses under this section without regard to the order in which the applications for the licenses are received.

(6) As used in this section:

(a) "Development district" means any of the following:

(i) An authority district established under the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1830 of the Michigan Compiled Laws.

(ii) An authority district established under the local development financing act, Act No. 281 of the Public Acts of 1986, being sections 125.2151 to 125.2174 of the Michigan Compiled Laws.

(iii) A downtown district established under Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1681 of the Michigan Compiled Laws.

(iv) A principal shopping district established under Act No. 120 of the Public Acts of 1961, being sections 125.981 to 125.987 of the Michigan Compiled Laws, before January 1, 1996.

(b) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(c) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes but is not limited to the following:

(i) The fair market value of the license, if determinable.

(ii) The size and scope of the proposed operation.

(iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

Sec. 19c. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. On-premise escrowed licenses issued under this subsection are available subject to section 17(3) to an applicant whose proposed operation is located within any local governmental unit in a county with a population of under 500,000 in which the escrowed license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license is available subject to section 17(3) to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of a tavern or class A hotel from requesting reclassification of a license to class C, unless local option laws prevent the sale of spirits and mixed spirit drinks by those licensed premises, subject to the consent of the commission. The upgrading of a license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue 1 or more licenses for a period not to exceed 12 months without regard to a limitation because of population, but not in excess of 550, and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 10 additional licenses per year for the years 1996 and 1997 to establishments whose business and operation, as determined

by the commission, is designed to attract and accommodate tourists and visitors to the resort area, and whose primary purpose is not for the sale of alcoholic liquor. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined pursuant to subsection (11) and subject to subsection (17) in the case of a class A hotel or a class B hotel, the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to the number of applications received under this subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 25 additional resort licenses per year for the years 1996 and 1997 if all of the following conditions are met:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

(b) The establishment's primary business is not the sale of alcoholic liquor.

(c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of \$1,000,000.00.

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection (11), in which the quota of specially designated distributor licenses, as provided by commission rule, has been exhausted, the commission may issue not more than 10 additional specially designated distributor licenses per year for the years 1996 and 1997 to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort licenses authorized in subsections (2), (3), and (4), and notwithstanding section 17(4), the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be \$50.00. A special purpose license may be issued only to a corporation which is all of the following:

(a) Is a nonprofit corporation organized pursuant to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

(b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.

(c) Has been in continuous existence for not less than 6 years.

(7) Notwithstanding the local legislative body approval provision of section 17(3) and notwithstanding the provisions of section 17(5), the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. A license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events.

(8) In issuing a resort license under subsection (3), (4), or (5) the commission shall consider economic development factors of the area in the issuance of licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort license issued under subsection (3), (4), or (5) to another location, and if the licensee goes out of business the license shall be surrendered to the commission.

(9) The limitations and quotas of this section shall not be applicable to the issuance of a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service

if the application for a new license is made for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.

(10) The limitations and quotas of this section shall not be applicable to the issuance of a new license or the renewal of an existing license where the property or establishment to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.

(11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.6 of the Michigan Compiled Laws. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(12) The limitations and quotas of this section shall not be applicable to the issuance of a new license to the governing board of a college or university pursuant to section 17h.

(13) The limitations and quotas of this section shall not be applicable to the issuance of a national sporting event license pursuant to section 17b.

(14) Before granting an approval as required in section 17(3) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. Public notice of the meeting to consider the granting of the license by the local governmental unit shall be made 2 weeks before the meeting.

(15) The person signing the application for an on-premise resort license shall state and verify that he or she attempted to secure an on-premise escrowed or quota license and that, to the best of his or her knowledge, an on-premise escrowed or quota license is not readily available within the local governmental unit in which the applicant for the on-premise resort license proposes to operate.

(16) The commission shall not issue an on-premise resort license if the local governmental unit within which the resort license applicant proposes to operate has not issued all on-premise licenses available under subsection (1) or if an on-premise escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premise resort license proposes to operate. The commission may waive the provisions of this subsection upon a showing of good cause.

(17) The commission shall not require a class A hotel or a class B hotel licensed pursuant to subsection (2), (3), or (4) to provide food service to registered guests or to the public.

(18) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes but is not limited to the following:

(i) The fair market value of the license, if determinable.

(ii) The size and scope of the proposed operation.

(iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

Sec. 24. The following classes of vendors may sell alcoholic liquors at retail as provided in this section:

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

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

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

(d) Class A hotels where beer and wine may be sold for consumption on the premises and in the rooms of bona fide registered guests. Class B hotels where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

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

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

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

(h) Dining cars or other railroad or pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.

(i) Brewpubs where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:

(i) Class "C".

(ii) Tavern.

(iii) Class "A" hotel.

(iv) Class "B" hotel.

(j) Micro brewers where beer produced by the micro brewer may be sold to a consumer for consumption on or off the brewery premises.

Sec. 31. (1) Except as provided in subsection (8) and section 31a, a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have any financial interest, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(2) Except as provided in subsection (8) and section 31a, a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits or a stockholder of a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest by ownership in fee, leasehold, mortgage, or otherwise, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(3) Except as provided in subsection (8) and section 31a, a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest directly or indirectly by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(4) Except as provided in subsection (8) and section 31a, a person shall not buy the stocks of a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits and place the stock in any portfolio under an arrangement, written trust agreement, or form of investment trust agreement and issue participating shares based upon the portfolio, trust agreement, or investment trust agreement, and sell the participating shares within this state.

(5) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and is located on the premises where the wine maker is licensed.

(6) The commission may approve a brandy manufacturer to sell brandy made by that brandy manufacturer in a restaurant for consumption on or off the premises if the restaurant is owned by the brandy manufacturer or operated by another person under an agreement approved by the commission and is located on the premises where the brandy manufacturer is licensed. Brandy sold for consumption off the premises under this subsection shall be sold at the uniform price established by the commission.

(7) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:

(a) The premises upon which the wine tasting occurs conforms to local and state sanitation requirements.

(b) Payment of a \$100.00 fee per location is made to the commission.

(c) The wine tasting locations are considered licensed premises.

(d) The wine tasting does not take place between the hours of 2 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and 12 noon on Sunday.

(e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.

(8) A brewpub may have an interest in up to 2 other brewpubs so long as the combined production of all the locations in which the brewpub has an interest does not exceed 5,000 barrels of beer per calendar year.

Sec. 31a. (1) A brewer, or the parent company, a subsidiary or an affiliate of a brewer which parent company, subsidiary, or affiliate is located in this state may acquire, develop, sell, lease, finance, maintain, operate, or promote real property occupied or to be occupied by another vendor, except a wholesaler, if all of the following exist:

(a) The brewer has received written approval of the commission before entering into any arrangement or contract between the parties regarding the real property.

(b) The legislative body of the city, village, or township where the property is located certifies to the commission that the real property is in an urban, commercial, or community redevelopment area and is designated as such by a state or federal agency.

(c) Any arrangement or contract entered into between the brewer, its parent company, subsidiary, or affiliate and another vendor shall not directly or indirectly influence or control the brand of alcoholic liquor sold or to be sold by the vendor and shall only be concerned with real property.

(2) The commission may deny or approve an arrangement or contract to be entered into under this section. In denying or approving an arrangement or contract, the commission shall consider all of the following:

- (a) That the arrangement or contract to be entered into is concerned only with real property.
- (b) That the certification required under subsection (1)(b) has been received by the commission.
- (c) That the arrangement or contract does not violate this act or the rules promulgated under this act.

(3) The commission may review any arrangement or contract under this section at the time that 1 of the parties to the arrangement or contract applies for or renews a license. The commission may deny, revoke, or suspend the license of a party to the arrangement or contract if the commission finds that the party to the arrangement or contract has violated this act or the rules promulgated under this act.

(4) Except as otherwise provided in subsection (5), a wholesaler shall not be a party to, directly or indirectly, an arrangement or contract under this section.

(5) A manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, authorized distribution agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may acquire, develop, sell, lease, finance, maintain, operate, or promote a condominium project or own a condominium unit as its sole property, under the condominium act, Act No. 59 of the Public Acts of 1978, being sections 559.101 to 559.275 of the Michigan Compiled Laws, if that condominium unit is not the licensed premises owned separately by a retailer and if all of the following apply:

(a) Condominium assessments in the condominium project are based on the proportional area each condominium unit has to the total area.

(b) A condominium unit operating as a licensed premises operates under a separate name from the condominium project except that cooperative advertising shall be permitted among owners of condominium units for the purpose of promoting the condominium project if the name of a brand or brands of an alcoholic liquor is not mentioned in the advertising.

(c) Ownership of a condominium unit and participation in a condominium association under this section is not considered a financial interest, interest by ownership, or interest by interlocking directors on stock ownership prohibited by section 31.

(d) A retailer separately owning a separate condominium unit as sole property does not directly purchase alcoholic liquor from the manufacturer, warehouseman, wholesaler, outstate seller of mixed spirit drink, or vendor of spirits who owns, leases, maintains, finances, or operates the condominium project.

(e) A wholesaler who has a direct or indirect interest in a condominium unit in which a retailer is located does not sell alcoholic liquor to any licensed retail business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest; and, a retail licensed business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest does not purchase alcoholic liquor from a wholesaler who has a direct or indirect interest in a condominium or condominium unit in which that retailer is located.

(f) A retailer acquiring a separate condominium unit as sole property pays the fair market value for the unit.

(6) Subsection (5) does not apply to a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, authorized distribution agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits with a direct or indirect interest in a license under the Michigan gaming control and revenue act, Initiated Law of 1996, being sections 432.201 to 432.211 of the Michigan Compiled Laws. Subsection (5) does not prohibit a direct physical connection between a condominium unit which is the licensed premises and a condominium unit which is not the licensed premises.

Sec. 31b. (1) Subject to section 31c, the commission shall issue a brewpub license to a person who is licensed as a food service establishment under part 129 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12901 to 333.12922 of the Michigan Compiled Laws, and at the time of application for the brewpub license is licensed and continues to be licensed as 1 or more of the following:

- (a) Class "C".
- (b) Tavern.
- (c) Class "A" hotel.
- (d) Class "B" hotel.

(2) A brewpub shall possess the necessary equipment for a satisfactory operation which shall be maintained in good working order and in a sanitary condition.

(3) Agricultural products processed by a manufacturer shall comply with laws and rules of the department of agriculture.

(4) A brewpub shall not sell beer in this state unless it provides for each brand or type of beer sold a label that truthfully describes the content of each container and provides proof that a valid "application for and certification/exemption of label/bottle approval" has been obtained and is unrevoked under the federal malt beverage labeling requirements as published in title 27, part 7, subpart C, C.F.R. 1935 which are hereby adopted by reference.

(5) Each location of a brewpub shall have a manufacturing operation on the licensed premises that complies with subsection (6). A brewpub shall apply for and obtain a license for each location of that brewpub. In determining the 5,000-barrel threshold, all brands and labels of the brewpub produced in this state shall be combined.

(6) Beer shall be manufactured pursuant to federal malt beverage regulations published in title 27, part 25, C.F.R. 1935 which are adopted by reference.

(7) Each brewpub shall submit to the commission, on forms acceptable to the commission and postmarked not later than January 15, April 15, July 15, and October 15 of each year, a beer tax report of all beer sold under their brewpub license during the preceding quarter and shall also submit, with the beer tax report, the payment of the required beer excise tax due pursuant to section 40.

(8) A brewpub shall be the holder of a "brewers notice" as issued by the United States department of treasury, bureau of alcohol, tobacco and firearms in accordance with title 27, part 25, subpart G, C.F.R. 1935.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved _____

Governor.