



# HOUSE BILL No. 5840

May 1, 1996, Introduced by Rep. Munsell and referred to the Committee on Regulatory Affairs.

A bill to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish 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 to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and 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 allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide a referendum under certain circumstances; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

## 1 CHAPTER 1

2       Sec. 1001. This act shall be known and may be cited as the  
3 "Michigan liquor control code of 1996".

4       Sec. 1003. For the purposes of this act, the words and  
5 phrases defined in this chapter have the meanings ascribed to  
6 them in this chapter, unless the context requires otherwise.

7        Sec. 1005. (1) "Alcohol" means the product of distillation  
8 of fermented liquid, whether or not rectified or diluted with  
9 water, but does not mean ethyl or industrial alcohol, diluted or  
10 not, that has been denatured or otherwise rendered unfit for bev-  
11 erage purposes.

(2) "Alcoholic liquor" means any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume which are fit for use for beverage purposes as defined and classified by the commission according to alcoholic content as belonging to 1 of the varieties defined in this chapter.

19 (3) "Bar" means a barrier or counter at which alcoholic  
20 liquor is sold to, served to, or consumed by customers.

1 (4) "Beer" means any beverage obtained by alcoholic  
2 fermentation of an infusion or decoction of barley, malt, hops,  
3 or other cereal in potable water.

4 (5) "Brand" means any word, name, group of letters, symbol,  
5 trademark, or combination thereof adopted and used by a supplier  
6 to identify a specific beer, malt beverage, wine, mixed wine  
7 drink, or mixed spirit drink product and to distinguish that pro-  
8 duct from another beer, malt beverage, wine, mixed wine drink, or  
9 mixed spirit drink product that is produced or marketed by that  
10 or another supplier. As used in this section and notwithstanding  
11 sections 4003(2)(j) and 3005(2)(j), "supplier" means a brewer, an  
12 outstate seller of beer, a wine maker, a small wine maker, an  
13 outstate seller of wine, a manufacturer of mixed wine drink, an  
14 outstate seller of a mixed wine drink, a mixed spirit drink manu-  
15 facturer, or an outstate seller of mixed spirit drink.

16 (6) "Brand extension" means any brand which incorporates all  
17 or a substantial part of the unique features of a preexisting  
18 brand of the same supplier. As used in this section and notwith-  
19 standing sections 4003(2)(j) and 3005(2)(j), "supplier" means a  
20 brewer, an outstate seller of beer, a wine maker, a small wine  
21 maker, an outstate seller of wine, a manufacturer of mixed wine  
22 drink, an outstate seller of a mixed wine drink, a mixed spirit  
23 drink manufacturer, or an outstate seller of mixed spirit drink.

24 (7) "Brandy" means an alcoholic liquor as defined in  
25 27 C.F.R. 5.22(d) (1980).

26 (8) "Brandy manufacturer" means a person licensed under this  
27 act to engage in the manufacturing, rectifying or blending, or

1 both, of brandy only and no other distilled spirit. Only a  
2 licensed wine maker or a small wine maker is eligible to be a  
3 brandy manufacturer.

4 (9) "Brewer" means a person located in this state that is  
5 licensed to manufacture and sell to licensed wholesalers beer  
6 produced by it.

7 (10) "Brewpub" means a license issued in conjunction with a  
8 class "C", tavern, class "A" hotel, or class "B" hotel license  
9 that authorizes the person licensed with the class "C", tavern,  
10 class "A" hotel, or class "B" hotel to manufacture and sell at  
11 those licensed premises not more than 2,000 barrels of beer per  
12 year for consumption on those premises only.

13 Sec. 1007. (1) "Cash" means money in hand, bank notes,  
14 demand deposits at a bank, or legal tender, which a creditor must  
15 accept according to law. Cash does not include call loans, post-  
16 dated checks, or promissory notes.

17 (2) "Class C license" means a place licensed to sell at  
18 retail beer, wine, mixed spirit drink, and spirits for consump-  
19 tion on the premises.

20 (3) "Club" means an association, whether incorporated or  
21 unincorporated, the majority of whose members are citizens for  
22 the promotion of some common object not including associations  
23 organized for a commercial or business purpose, the object of  
24 which is money profit, owning, hiring, or leasing a building, or  
25 space in a building, of an extent and character as in the judg-  
26 ment of the commission may be suitable and adequate for the  
27 reasonable and comfortable use and accommodation of its members

1 and their guests, and which shall have been in existence for a  
2 period of not less than 2 years before application for license  
3 under this act. A club that is a chapter of a national organiza-  
4 tion which has had a license for 10 years may apply for a license  
5 without a waiting period. Public notice of the intent of the  
6 commission to issue the club license shall be given by publica-  
7 tion in some newspaper published or in general circulation within  
8 the municipality at least 10 days before the license shall  
9 issue. Public notice of the commission's intent to renew the  
10 license of a club is not required. The club shall file with the  
11 commission annually, within 10 days after February 1, a list of  
12 the names and residences of its members, and similarly file,  
13 within 10 days after the election of an additional member, his or  
14 her name and address, and that its aggregate annual membership  
15 fees or dues and other income, exclusive of the proceeds from the  
16 sale of alcoholic liquor, are sufficient to defray the annual  
17 rental of its leased or rented premises or, if the premises are  
18 owned by the club, are sufficient to meet the taxes, insurance,  
19 repairs, and the interest on a mortgage on the premises. The  
20 list of members and additional members is not required of a club  
21 paying the maximum fee. The affairs and management of the club  
22 shall be conducted by a board of directors, executive committee,  
23 or similar body chosen by the members. A member, officer, agent,  
24 or employee of the club shall not be paid, or directly or indi-  
25 rectly receive in the form of salary or other compensation, prof-  
26 its from the disposition or sale of alcoholic liquor to the club  
27 or to the members of the club, beyond the amount of salary fixed

1 and voted at meetings by the members or by its directors or other  
2 governing body and as reported by the club to the commission,  
3 within 3 months after the meeting.

4 (4) "Commission" means the liquor control commission pro-  
5 vided for and created in section 2007.

6 (5) "Church" means an entire house or structure set apart  
7 primarily for use for purposes of public worship, and which is  
8 tax exempt under the laws of this state, and in which religious  
9 services are held and with which a clergyman is associated, and  
10 the entire structure of which is kept for that use and not put to  
11 any other use inconsistent with that use.

12 (6) "Distiller" means any person licensed to manufacture and  
13 sell spirits or alcohol, or both, of any kind.

14 (7) "Hotel" means a building which in the judgment of the  
15 commission has been regularly used and kept open as such in a  
16 bona fide manner for the feeding and lodging of guests, where all  
17 who conduct themselves properly and who are able and ready to pay  
18 for those services are received if there are accommodations for  
19 them. A hotel must be prepared to show that the major portion of  
20 its receipts are derived from the renting of rooms and the sale  
21 of food. The commission may require that a hotel shall have been  
22 maintained as such for a period of 1 year prior to the issuance  
23 of the license. For license purposes, hotels in cities with a  
24 population of 50,000 but less than 175,000 shall contain not less  
25 than 25 permanent bedrooms and hotels in cities with a population  
26 of 175,000 or more shall contain not less than 50 permanent  
27 bedrooms within 1 structure for lease to persons and shall be

1 adequately equipped to serve meals to not less than 100 persons  
2 at 1 time, in a cafeteria or dining room provided for that  
3 purpose. A hotel in a city, village, or township with a popula-  
4 tion of less than 100,000 that does not contain at least 25 per-  
5 manent bedrooms, but is adequately equipped to serve meals to not  
6 less than 25 persons at 1 time in a public cafeteria or dining  
7 room provided for that purpose, may apply to the commission set-  
8 ting forth the special facts and circumstances, and the commis-  
9 sion may make an exception and grant the petitioner a hotel  
10 license. Class "A" hotels are those hotels licensed under this  
11 act to sell beer and wine. Class "B" hotels are those hotels  
12 licensed under this act to sell beer, wine, spirits, and mixed  
13 spirit drink.

14 (8) "License" means a contract between the commission and  
15 the licensee granting authority to that licensee to manufacture  
16 and sell, or sell, or warehouse alcoholic liquor in the manner  
17 provided by this act.

18 Sec. 1009. (1) "Manufacturer" means a person engaged in the  
19 manufacture of alcoholic liquor, including, but not limited to, a  
20 distiller, a rectifier, a wine maker, and a brewer.

21 (2) "Micro brewer" means a brewer that produces in total  
22 less than 20,000 barrels of beer per year and that may sell the  
23 beer produced to consumers at the licensed brewery premises for  
24 consumption on or off the licensed brewery premises. In deter-  
25 mining the 20,000-barrel threshold, all brands and labels of a  
26 brewer, whether brewed in this state or outside this state, shall  
27 be combined and all facilities for the production of beer that

1 are owned or controlled by the same person shall be treated as a  
2 single facility.

3 (3) "Minor" means a person less than 21 years of age.

4 (4) "Mixed spirit drink" means a drink produced and packaged  
5 or sold by a mixed spirit drink manufacturer or an outstate  
6 seller of mixed spirit drink which contains 10% or less alcohol  
7 by volume consisting of distilled spirits mixed with nonalcoholic  
8 beverages or flavoring or coloring materials and which may also  
9 contain 1 or more of the following:

10 (a) Water.

11 (b) Fruit juices.

12 (c) Fruit adjuncts.

13 (d) Sugar.

14 (e) Carbon dioxide.

15 (f) Preservatives.

16 (5) "Mixed spirit drink manufacturer" means any person  
17 licensed under this act to manufacture mixed spirit drink in this  
18 state and to sell mixed spirit drink to a wholesaler. For pur-  
19 poses of rules promulgated by the commission, a mixed spirit  
20 drink manufacturer shall be treated as a wine manufacturer but is  
21 subject to the rules applicable to spirits for purposes of manu-  
22 facturing and labeling.

23 (6) "Mixed wine drink" means a drink or similar product  
24 marketed as a wine cooler and containing less than 7% alcohol by  
25 volume, consisting of wine and plain, sparkling, or carbonated  
26 water, and containing any 1 or more of the following:



1 (a) Nonalcoholic beverages.

2 (b) Flavoring.

3 (c) Coloring materials.

4 (d) Fruit juices.

5 (e) Fruit adjuncts.

6 (f) Sugar.

7 (g) Carbon dioxide.

8 (h) Preservatives.

9 (7) "Outstate seller of beer" means a person licensed by the  
10 commission to sell beer which has not been manufactured in this  
11 state to a wholesaler in this state in accordance with rules  
12 promulgated by the commission.

13 (8) "Outstate seller of mixed spirit drink" means a person  
14 licensed by the commission to sell mixed spirit drink which has  
15 not been manufactured in this state to a wholesaler in this state  
16 in accordance with rules promulgated by the commission. For pur-  
17 poses of rules promulgated by the commission, an outstate seller  
18 of mixed spirit drink shall be treated as an outstate seller of  
19 wine but is subject to the rules applicable to spirits for pur-  
20 poses of manufacturing and labeling.

21 (9) "Outstate seller of wine" means a person licensed by the  
22 commission to sell wine which has not been manufactured in this  
23 state to a wholesaler in this state in accordance with rules  
24 promulgated by the commission and to sell sacramental wine as  
25 provided in section 3001.

1       Sec. 1011. (1) "Person" means an individual, firm,  
2 partnership, limited partnership, association, limited liability  
3 company, or corporation.

4       (2) "Professional account" means an account established for  
5 a person by a class C licensee or tavern licensee whose major  
6 business is the sale of food, by which the licensee extends  
7 credit to the person for not more than 30 days.

8       (3) "Residence" means the premises in which a person resides  
9 permanently.

10       (4) "Retailer" means a person licensed by the commission who  
11 sells to the consumer in accordance with rules promulgated by the  
12 commission.

13       (5) "Sacramental wine" means wine containing not more than  
14 24% of alcohol by volume which is used for sacramental purposes.

15       (6) "Sale" includes the exchange, barter, traffic, furnish-  
16 ing, or giving away of alcoholic liquor. In the case of a sale  
17 in which a shipment or delivery of alcoholic liquor is made by a  
18 common or other carrier, the sale of the alcoholic liquor is con-  
19 sidered to be made in the county within which the delivery of the  
20 alcoholic liquor is made by that carrier to the consignee or his  
21 or her agent or employee, and venue for the prosecution for that  
22 sale may be in the county or city where the seller resides or  
23 from which the shipment is made or at the place of delivery.

24       (7) "School" includes buildings used for school purposes to  
25 provide instruction to children in grades kindergarten through  
26 12, when that instruction is provided by a public, private,  
27 denominational, or parochial school, except those buildings used

1 primarily for adult education or college extension courses.  
2 School does not include a proprietary trade or occupational  
3 school, including, but not limited to, a barber school, beauty  
4 school, music school, or electronics school.

5 (8) "Small wine maker" means a wine maker manufacturing or  
6 bottling not more than 50,000 gallons of wine in 1 calendar  
7 year.

8 (9) "Special license" means a contract between the commis-  
9 sion and the special licensee granting authority to that licensee  
10 to sell beer, wine, mixed spirit drink, or spirits. The license  
11 shall be granted only to such persons and such organization and  
12 for such period of time as the commission shall determine.

13 (10) "Specially designated distributor" means a person  
14 engaged in an established business licensed by the commission to  
15 distribute spirits and mixed spirit drink in the original package  
16 for the commission for consumption off the premises.

17 (11) "Specially designated merchant" means a person to whom  
18 the commission grants a license to sell beer or wine, or both, at  
19 retail for consumption off the licensed premises.

20 (12) "Spirits" means a beverage that contains alcohol  
21 obtained by distillation, mixed with potable water or other sub-  
22 stances, or both, in solution, and includes wine containing an  
23 alcoholic content of more than 21% by volume, except sacramental  
24 wine and mixed spirit drink.

25 (13) "State liquor store" means a store established by the  
26 commission under this act for the sale of spirits in the original  
27 package for consumption off the premises.

1       Sec. 1013. (1) "Tavern" means any place licensed to sell at  
2 retail beer and wine for consumption on the premises only.

3       (2) "Vehicle" means any means of transportation by land, by  
4 water, or by air.

5       (3) "Vendor" means a person licensed by the commission to  
6 sell alcoholic liquor.

7       (4) "Vendor of spirits" means a person selling spirits to  
8 the commission.

9       (5) "Warehouse" means a premises or place primarily con-  
10 structed, used, or provided with facilities for the storage in  
11 transit or other temporary storage of perishable goods or for the  
12 conduct of a warehousing business, or for both.

13       (6) "Warehouseman" means a licensee authorized by the com-  
14 mission to store alcoholic beverages, but prohibited from making  
15 sales or deliveries to retailers unless the licensee is also the  
16 holder of a wholesaler or manufacturer license issued by the  
17 commission.

18       (7) "Wholesaler" means a person who sells beer, wine, or  
19 mixed spirit drink only to retailers or other licensees, and who  
20 sells sacramental wine as provided in section 3001.

21       (8) "Wine" means the product made by the normal alcoholic  
22 fermentation of the juice of sound, ripe grapes, or any other  
23 fruit with the usual cellar treatment, and containing not more  
24 than 21% of alcohol by volume, including fermented fruit juices  
25 other than grapes and mixed wine drinks.

1 (9) "Wine maker" means any person licensed by the commission  
2 to manufacture wine and sell, at wholesale or retail, wine  
3 manufactured by that person.

4 CHAPTER 2

5 Sec. 2001. (1) On and after December 15, 1933, it shall be  
6 lawful to manufacture for sale, sell, offer for sale, keep for  
7 sale, possess, or transport alcoholic liquor, as defined in this  
8 act, including alcoholic liquor used for medicinal, mechanical,  
9 chemical, or scientific purposes and wine used for sacramental  
10 purposes, subject to the terms, conditions, limitations, and  
11 restrictions contained in this act, and only as provided for in  
12 this act.

13 (2) Except as otherwise provided in this act, the commission  
14 shall have the sole right, power, and duty to control the alco-  
15 holic beverage traffic and traffic in other alcoholic liquor  
16 within this state, including the manufacture, importation, pos-  
17 session, transportation and sale thereof.

18 (3) A rule, regulation, or order made by the commission  
19 shall not unreasonably discriminate against Michigan manufactur-  
20 ers of alcoholic liquor.

21 (4) County sheriffs and their deputies; village or township  
22 marshals; constables, officers, or members of the village, city,  
23 or township police; members of the department of state police;  
24 and inspectors of the commission are empowered, and it is their  
25 duty, to see that the provisions of this act and the rules and  
26 regulations made or authorized by the commission are enforced  
27 within their respective jurisdictions. It is their special duty

1 to use their utmost efforts to repress and prevent crime and the  
2 violation of any of the provisions of this act. An officer enu-  
3 merated in this section who willfully neglects or refuses to per-  
4 form the duties imposed upon him or her by this section is guilty  
5 of a misdemeanor and upon conviction shall be fined not more than  
6 \$500.00 or imprisoned for not more than 90 days, or both.

7       Sec. 2003. (1) Except as provided in this section and sec-  
8 tion 3001, a sale, delivery, or importation of alcoholic liquor,  
9 including alcoholic liquor for personal use, shall not be made in  
10 this state unless the sale, delivery, or importation is made by  
11 the commission, the commission's authorized agent or distributor,  
12 a person licensed by the commission, or by prior written order of  
13 the commission. All spirits for sale, use, storage, or distribu-  
14 tion in this state, shall originally be purchased by and imported  
15 into the state by the commission, or by prior written authority  
16 of the commission. This section shall not apply in the case of  
17 an alcoholic liquor brought into this state for personal or  
18 household use in an amount permitted by federal law by a person  
19 of legal age to purchase alcoholic liquor at the time of reentry  
20 into this state from without the territorial limits of the United  
21 States if the person has been outside the territorial limits of  
22 the United States for more than 48 hours and has not brought  
23 alcoholic liquor into the United States during the preceding 30  
24 days.

25       (2) Notwithstanding subsection (1), a person who is of legal  
26 age to purchase alcoholic liquor may import from another state

1 for that person's personal use not more than 288 ounces of  
2 alcoholic liquor that contains less than 21% alcohol by volume.

3       Sec. 2005. The provisions of this act shall not be con-  
4 strued to prevent the manufacture of cider from fruit, for the  
5 purpose of making vinegar, and non-intoxicating cider and fruit  
6 juice for use and sale, and cider and fruit juice shall be deemed  
7 non-intoxicating within the meaning of this act when used and/or  
8 sold within 30 days after the manufacture thereof; and this act  
9 shall not apply to wine or cider of any alcoholic content made on  
10 the premises by the owner or lessee of such premises provided  
11 such premises are used and occupied by such owner or lessee as a  
12 dwelling and such wine or cider is made for family use and home  
13 consumption; or to prevent the sale or gift, or keeping and stor-  
14 ing for sale by druggists and general merchants and others of any  
15 of the medicinal preparations manufactured in accordance with the  
16 formulas prescribed by the United States pharmacopoeia and  
17 national formulary, patent or proprietary preparations, and other  
18 bona fide medicinal and technical preparations, which contain no  
19 more alcohol than is necessary to extract the medicinal proper-  
20 ties of the drugs contained in such preparations; and no more  
21 alcohol than is necessary to hold the medicinal agents in solu-  
22 tion and to preserve the same, which are manufactured and sold as  
23 medicine and not as beverages, are unfit for use for beverage  
24 purposes, and the sale of which does not now require the payment  
25 of a United States liquor dealer's tax; or to prevent the manu-  
26 facture and sale of tinctures or of toilet, medicinal and  
27 antiseptic preparations and solutions not intended for internal

1 human use nor to be sold as beverages, and which are unfit for  
2 beverage purposes, and upon the outside of each bottle, box or  
3 package of which is printed in the English language, conspicu-  
4 ously and legibly, the quantity by volume of alcohol in such  
5 preparations; or to prevent the manufacture and keeping for sale  
6 of the food product known as flavoring extracts which shall be so  
7 manufactured and sold for cooking, culinary or flavoring pur-  
8 poses, and are unfit for use as a beverage or for beverage  
9 purposes: Provided, That it shall not be lawful to manufacture  
10 or sell any toilet, medicinal or antiseptic preparations or solu-  
11 tions, or any flavoring extracts or patent or proprietary medi-  
12 cines or preparations, the manufacture and sale of which now  
13 requires the payment of a United States liquor dealer's tax,  
14 except as herein provided: Provided further, That nothing in  
15 this act shall apply to the manufacture and/or sale of ethyl,  
16 mechanical or industrial alcohol, not used for or made unfit for  
17 beverage purposes: And provided further, That this act shall not  
18 apply to the purchase of alcoholic liquor as defined in this act,  
19 for use in the manufacture of toilet, medicinal or antiseptic  
20 preparations or solutions, or any flavoring extract or patent or  
21 proprietary medicines or preparations, by a manufacturer using  
22 such alcoholic liquor exclusively for such manufacturing purposes  
23 and duly licensed therefor by the commission; said license to  
24 expire on May first following the date of issuance, issued on the  
25 payment of an annual fee of \$10.00 and the furnishing of such  
26 bond or bonds as the commission may require running to the people  
27 of the state of Michigan, for the faithful performance of the



1 conditions of the license and compliance with the provisions of  
2 this act.

3       Sec. 2007. (1) A commission to be known as the liquor con-  
4 trol commission is created.

5       (2) The commission shall consist of 5 members, not more than  
6 3 of whom shall be members of the same political party, to be  
7 appointed by the governor with the advice and consent of the  
8 senate. Two of these members, 1 from each political party, shall  
9 be designated by the chairperson as hearing commissioners to hear  
10 violation cases and to perform such other functions and duties as  
11 are assigned to them by the chairperson. The remaining 3 commis-  
12 sioners shall be designated as administrative commissioners and  
13 shall have the responsibility for administering the provisions of  
14 this act relating to licensing, purchasing, enforcement, merchan-  
15 dising, and distribution. The administrative commissioners shall  
16 also act as an appeal board to the decisions rendered by the  
17 hearing commissioners.

18       (3) The responsibilities of the 5-member commission shall be  
19 the administration of the provisions of this act that have not  
20 been specifically delegated to either the hearing commissioners  
21 or the administrative commissioners in this section.

22       (4) Each member of the commission shall devote that member's  
23 entire time to the performance of the duties of that office.

24       (5) The terms of the commissioners shall be 4 years each.  
25 Each member of the commission shall qualify by taking and filing  
26 the constitutional oath of office and shall hold office until the  
27 appointment and qualification of a successor. The members of the

1 commission shall not be removed from office by the governor  
2 except for malfeasance, misfeasance, or neglect in office.

3 (6) In the event of a vacancy or vacancies in the membership  
4 of the commission the governor shall appoint in like manner a  
5 successor or successors to fill the unexpired term.

6 (7) A quorum for the transaction of business of the adminis-  
7 trative commissioners shall consist of 2 administrative  
8 commissioners. A quorum for the transaction of business of the  
9 5-member commission shall be 3 members.

10 (8) Each member of the commission shall receive an annual  
11 salary as appropriated by the legislature, shall be entitled to  
12 actual and necessary expenses while on the business of the com-  
13 mission, and shall have a work station designated by the  
14 chairperson.

15 (9) The commission shall annually designate 1 of its members  
16 to act as chairperson of the commission.

17 Sec. 2009. (1) The powers of the commission, enumerated in  
18 this act, which are not specifically and exclusively reserved to  
19 the commission by the act, shall be vested in, and exercised and  
20 administered by a liquor control business manager, who shall be  
21 selected by and responsible to the commission, and whose position  
22 shall be in the state classified civil service. The powers of  
23 the commission enumerated in, and provided for by this act, shall  
24 be exercised in conformity with the provisions of the act per-  
25 taining to the duties of the liquor control manager, except that  
26 the commission shall exclusively exercise the power to make rules  
27 and regulations under the act to regulate the control of the

1 alcoholic beverage traffic within the state; to hear and decide  
2 all cases of violation of the provisions of the act and regula-  
3 tions thereunder; to employ a liquor control business manager as  
4 provided for by the act; and to hear and decide all public  
5 appeals from the administrative decisions of the liquor control  
6 business manager.

7       (2) The liquor control business manager shall be and shall  
8 serve as the business manager of the commission, and, as such, it  
9 shall be his or her duty and responsibility to manage the busi-  
10 ness affairs of the commission relative to purchasing, merchan-  
11 dising, warehousing, rationing, distributing, inspecting, inves-  
12 tigating, licensing, and accounting, in accordance with policies  
13 established by the commission and in compliance with the provi-  
14 sions of this act and with the rules and regulations adopted  
15 thereunder. In addition to the foregoing, the business manager  
16 shall be exclusively responsible for the assigning, training, and  
17 supervision of all commission classified employees.

18       Sec. 2011. (1) The commission may employ assistants,  
19 clerks, stenographers, employees, and experts as it considers  
20 necessary, and fix their compensation, and incur such other  
21 expenses as are necessary to carry out the provisions of this  
22 act, subject to appropriations provided by the legislature.  
23 Assistants and employees of the commission are entitled to actual  
24 and necessary travel and other expenses while on the business of  
25 the commission, if those expenses are authorized and approved by  
26 the commission.

1       (2) The commission shall secure from all members and  
2 employees of the commission who handle money a bond or bonds  
3 executed by any surety company or companies authorized to do  
4 business in this state or, in the discretion of the commission,  
5 by approved personal surety adequate to guarantee to the state  
6 the proper handling and accounting of that money.

7       Sec. 2013. (1) The commission shall adopt rules and regula-  
8 tions governing the carrying out of this act and the duties and  
9 responsibilities of licensees in the proper conduct and manage-  
10 ment of their licensed places. Rules shall be promulgated under  
11 the administrative procedures act of 1969, Act No. 306 of the  
12 Public Acts of 1969, being sections 24.201 to 24.328 of the  
13 Michigan Compiled Laws.

14       (2) The commission shall hold public hearings twice each  
15 calendar year for the purpose of hearing complaints and receiving  
16 the views of the public with respect to the administration of  
17 this act.

18       (3) The hearings shall be kept and transcribed as a part of  
19 the records of the commission.

20       Sec. 2015. (1) The commission may make investigations that  
21 it considers proper in the administration of this act and the  
22 rules promulgated under this act concerning alcoholic liquor, or  
23 the manufacture, distribution, or sale of alcoholic liquor, or  
24 the collection of taxes on alcoholic liquor.

25       (2) A licensee shall make the licensed premises available  
26 for inspection and search by a commission investigator or law  
27 enforcement officer empowered to enforce the commission's rules

1 and this act during regular business hours or when the licensed  
2 premises are occupied by the licensee or a clerk, servant, agent,  
3 or employee of the licensee. Evidence of a violation of this act  
4 or rules promulgated under this act discovered under this subsec-  
5 tion may be seized and used in an administrative or court  
6 proceeding.

7       (3) The commission or a duly authorized agent of the commis-  
8 sion may examine or copy the books, records, or papers of a  
9 person relative to a requirement pertaining to this act access to  
10 which has been obtained pursuant to this section.

11       (4) A member of the commission or a duly authorized agent of  
12 the commission may issue a subpoena requiring a person to appear  
13 before the commission or its duly authorized agent at any reason-  
14 able time and place, to be examined with reference to any matter  
15 within the scope of the inquiry or investigation being conducted  
16 by the commission, and to produce any books, records, or papers  
17 pertaining to the question involved.

18       (5) A member of the commission or a duly authorized agent of  
19 the commission may administer an oath or affirmation to a witness  
20 in any matter before the commission, certify to official acts,  
21 and take depositions.

22       (6) In case of disobedience of a subpoena, the commission or  
23 its duly authorized agent may invoke the aid of any circuit court  
24 of the state to compel the attendance and testimony of witnesses  
25 and the production of books, records, and papers pertaining to  
26 the question involved. A circuit court of this state within the  
27 jurisdiction of which the inquiry is conducted may, in case of

1 contumacy or refusal to obey a subpoena, issue an order requiring  
2 the person to appear before the commission or its duly authorized  
3 agent, to produce books, records, and papers if so ordered, and  
4 to give evidence regarding the matter in question. Failure to  
5 obey the order of the court may be punished by the court as a  
6 contempt of court.

7       (7) The fees of witnesses required to appear before the com-  
8 mission shall be the same as those allowed to witnesses in the  
9 circuit courts and shall be paid by the commission.

10       (8) A sheriff's department or police department shall, upon  
11 request of the commission, cause to be served a subpoena that is  
12 directed to a person located within the jurisdiction of the  
13 sheriff's department or police department. A fee shall not be  
14 charged for this service by the sheriff's department or police  
15 department. Subpoenas may also be served by an investigator of  
16 the commission.

17       (9) The commission shall adopt a suitable seal, of which all  
18 courts of the state shall take judicial notice, and all proceed-  
19 ings, orders, licenses, and official acts of the commission shall  
20 be authenticated by that seal. Certified copies of the orders  
21 and records of the commission shall be prima facie evidence of  
22 the acts of the commission in any court of this state.

23       Sec. 2017. The commission shall be authorized to establish  
24 throughout the state of Michigan 4 branch offices. The expense  
25 of the branch offices shall be paid by the commission in the  
26 manner provided in this act.

1       Sec. 2019. (1) The commission is authorized to maintain a  
2 revolving fund, which fund is to be derived from the money  
3 deposited to the credit of the commission with the state  
4 treasurer. From time to time, amounts shall be transferred from  
5 the revolving fund to the general fund in accordance with Act  
6 No. 259 of the Public Acts of 1941, being sections 21.121 to  
7 21.130 of the Michigan Compiled Laws. The fund provided for in  
8 this section is to be exclusively used for replenishing, main-  
9 taining, warehousing, and transporting the liquor stock into the  
10 various state liquor stores throughout the state. A monthly  
11 report of the fund shall be made to the state treasurer and to  
12 the budget director and shall contain an itemized account of all  
13 money received and all expenditures made by the commission during  
14 the month covered in the report.

15       (2) All money received by the commission under this act  
16 shall be turned over monthly to the state treasurer.

17       (3) All money deposited by the commission with the state  
18 treasurer shall be credited to the general fund and shall be  
19 available for the purposes for which the general fund is  
20 available.

21       Sec. 2021. A member or employee of the commission shall not  
22 be pecuniarily interested, directly or indirectly, in the manu-  
23 facture, warehousing, sale, distribution or transportation, or  
24 selling or furnishing of any equipment, furnishings, or refriger-  
25 ation used in the manufacture or sale of alcoholic liquor within  
26 this state.

1       Sec. 2023. The commission or a member of the commission  
2 shall not be personally liable for any action at law for damages  
3 sustained by a person because of an action performed or done by  
4 the commission or a member of the commission in the performance  
5 of their respective duties in the administration and implementa-  
6 tion of this act.

7       Sec. 2025. The commission may establish state liquor stores  
8 throughout this state. In counties with a population of less  
9 than 40,000 according to the most recent federal census, there  
10 shall not be more than 1 store in that county, and in counties  
11 with a population of 40,000 or more according to the most recent  
12 federal census, there shall not be more than 1 store located in  
13 that county for each 40,000 population or major fraction thereof  
14 according to the most recent federal census. However, the com-  
15 mission may in its discretion establish a state liquor store in  
16 any village or city with a population of 3,000 or more according  
17 to the most recent federal census.

18       Sec. 2027. The commission may license a hotel or merchant,  
19 in places that the commission may designate, to sell spirits for  
20 consumption off the premises. If alcoholic liquor is sold by a  
21 specially designated distributor pursuant to a license issued  
22 under this section it shall be sold at a price fixed by the com-  
23 mission and pursuant to rules promulgated by the commission.

24       Sec. 2029. The commission may buy, possess, and sell in its  
25 own name all alcoholic liquor for distribution as provided in  
26 sections 2025 and 2027. The commission shall supply such types  
27 of alcoholic liquor as are demanded by the public. However, if a



1 brand so demanded is not manufactured within the United States or  
2 is not readily obtainable within the United States, then an order  
3 for that brand shall be filled by the commission at the entire  
4 expense of the person placing that order, plus not less than 46%  
5 gross profit, subject to any discounts provided for in section  
6 2031. The commission may lease or occupy any building or land  
7 required for its operation, and may purchase any warehouse  
8 required for its operation, subject to the approval of the state  
9 administrative board.

10       Sec. 2031. (1) The commission shall establish uniform  
11 prices for the sale of alcoholic liquor in state liquor stores  
12 and by specially designated distributors. The prices shall  
13 return a gross profit to the commission of not less than 51% and  
14 not greater than 65%. If alcoholic liquor purchased by the com-  
15 mission has not met sales standards established by the commission  
16 for a period of 6 months, the commission may sell the alcoholic  
17 liquor at a price to be approved by the state administrative  
18 board.

19       (2) Notwithstanding subsection (1), the commission may  
20 establish by rule prices for the sale of alcoholic liquor to hos-  
21 pitals, charitable institutions, and military establishments  
22 located in this state.

23       (3) There shall be allowed a discount of 17% deducted from  
24 the sale price established by the commission on the sale of alco-  
25 holic liquor made by the state liquor stores to specially desig-  
26 nated distributors and establishments licensed to sell for  
27 consumption on the premises.

## CHAPTER 3

1

2       Sec. 3001. (1) The commission shall levy and collect on all  
3 wines containing 16% or less of alcohol by volume sold in this  
4 state a tax at the rate of 13.5 cents per liter if sold in bulk  
5 and in a like ratio if sold in smaller quantities.

6       (2) The commission shall levy and collect on all wines con-  
7 taining more than 16% of alcohol by volume sold in this state a  
8 tax at the rate of 20 cents per liter if sold in bulk and in a  
9 like ratio if sold in smaller quantities.

10       (3) All sacramental wines are nontaxable when used by  
11 churches. Sacramental wines may be imported. The commission  
12 shall not impose restrictions on importations of wine for sacra-  
13 mental purposes but may promulgate rules as will prevent any  
14 abuses which result from the importations. A wholesaler or an  
15 outstate seller of wine may sell sacramental wine directly to a  
16 church for sacramental purposes.

17       (4) The commission shall levy and collect on all mixed  
18 spirit drink sold in this state a tax at the rate of 48 cents per  
19 liter if sold in bulk or a like ratio if sold in smaller  
20 quantities.

21       (5) On approval by the commission, the corporation and  
22 securities bureau shall incorporate a limited number of farm  
23 mutual cooperative wineries as the commission determines to be  
24 beneficial to the Michigan grape and fruit industry. These win-  
25 eries shall be licensed under this act and the payment of 1  
26 license fee annually by the corporation shall authorize wine  
27 making on the premises of the corporation and also on the

1 premises of the grape and fruit growing farmers who are members  
2 of or stockholders in the corporation. Upon incorporation of a  
3 farmers' cooperative corporation as provided for in this section,  
4 the members of or the stockholders in the corporation shall be  
5 certified to be Michigan grape and fruit growing farmers. Wine  
6 making by cooperative corporations on farm premises is allowed,  
7 but all sales of the wine shall be made by the corporation and  
8 from the corporation premises.

9       Sec. 3003. (1) The grape and wine industry council is cre-  
10 ated in the department of agriculture. The council shall consist  
11 of all of the following:

12       (a) Three wine makers.

13       (b) A wine grape grower.

14       (c) The director of commerce or his or her designee.

15       (d) The director of the department of agriculture or his or  
16 her designee.

17       (e) A staff member of Michigan state university appointed  
18 by, and serving at the pleasure of, the dean of the college of  
19 agriculture and natural resources of Michigan state university.

20       (f) The chairperson of the commission or his or her desig-  
21 nee, as an ex officio member.

22       (g) A person who operates a retail food establishment that  
23 holds a specially designated merchant license and sells Michigan  
24 wines or a person who operates a restaurant that holds a class C  
25 license and serves Michigan wines.

26       (h) A beer and wine wholesaler who markets Michigan wine.

1 (i) Not more than 2 additional members appointed as  
2 prescribed in subsection (3).

3 (2) The members of the council described in subsection  
4 (1)(a), (b), (g), and (h) shall be appointed by the governor.  
5 The council members appointed under subsection (1)(g) and (h)  
6 shall be appointed for 2-year terms beginning on October 1,  
7 1991. Of the council members appointed for terms beginning  
8 October 1, 1991, 1 shall be appointed for a 1-year term, and 3  
9 shall be appointed for terms of 2 years each. All appointments,  
10 for terms beginning on or after October 1, 1992 shall be for 2  
11 years each. A member shall continue to serve until a qualified  
12 successor has been appointed. A member shall not serve more than  
13 2 consecutive terms. A vacancy on the board shall be filled in  
14 the same manner as the original appointment. The director of the  
15 department of agriculture shall act as chairperson of the  
16 council.

17 (3) The governor may appoint not more than 2 additional mem-  
18 bers to the council who shall assist the council in performing  
19 its duties, but who shall not have the power to vote. The per-  
20 sons appointed under this subsection shall not be members of the  
21 classified state civil service, shall serve at the pleasure of  
22 the governor, and shall receive salaries and benefits determined  
23 and paid by the department of agriculture.

24 (4) The council may employ personnel and incur such expenses  
25 as are necessary to carry out the purposes of the council under  
26 this act. All such expenses shall be paid from fees credited to  
27 the wine industry council under section 5041(2). A member of the

1 council or an employee or agent of the council shall not be  
2 personally liable on the contracts of the council.

3 (5) A nongovernmental member of the council shall receive  
4 \$50.00 per day for each day spent in actual attendance at meet-  
5 ings of the council and traveling expenses while on council busi-  
6 ness in accordance with standard travel regulations of the  
7 department of management and budget.

8 (6) The council shall maintain accurate books and records,  
9 and all funds received by the council shall be used to implement  
10 and enforce this section.

11 (7) The council shall do all of the following:

12 (a) Provide for research on wine grapes and wines, includ-  
13 ing, but not limited to, methods of planting, growing, control-  
14 ling insects and diseases, charting microclimates and locations  
15 for growing desirable varieties of wine grapes, marketing, pro-  
16 cessing, distribution, advertising, sales production, and product  
17 development.

18 (b) Provide the wine industry, including growers, wineries,  
19 distributors, and retailers, with information relative to proper  
20 methods of handling and selling wine grapes and wines.

21 (c) Provide for market surveys and analyses for purposes of  
22 expanding existing markets and creating new and larger markets  
23 for wine grapes and wines.

24 (d) Provide for the promotion of the sale of Michigan wine  
25 grapes and wines for the purpose of maintaining or expanding  
26 present markets and creating new and larger domestic and foreign  
27 markets.

1 (e) Develop and administer financial aid programs to wine  
2 grape growers to encourage the increased planting in this state  
3 of desirable grape varieties in microclimates determined to pro-  
4 vide the best conditions for producing quality wines.

5 (8) The council may promulgate rules pursuant to the admin-  
6 istrative procedures act of 1969, Act No. 306 of the Public Acts  
7 of 1969, being sections 24.201 to 24.328 of the Michigan Compiled  
8 Laws, for the purposes of implementing and enforcing this  
9 section. However, a rule shall not be promulgated that conflicts  
10 with a rule promulgated by the commission pursuant to  
11 section 2013.

12 (9) As used in this section, "council" means the grape and  
13 wine industry council created in subsection (1).

14 Sec. 3005. (1) The purpose of this section is to provide a  
15 structure for the business relations between a wholesaler of wine  
16 and a supplier of wine. Regulation in this area is considered  
17 necessary for the following reasons:

18 (a) To maintain stability and healthy competition in the  
19 wine industry in this state.

20 (b) To promote and maintain a sound, stable, and viable  
21 3-tier distribution system of wine to the public.

22 (c) To recognize the marketing distinctions between beer and  
23 wine.

24 (d) To promote the public health, safety, and welfare.

25 (2) As used in this section, unless the context requires  
26 otherwise:

1 (a) "Agreement" means any agreement between a wholesaler and  
2 a supplier, whether oral or written, whereby a wholesaler is  
3 granted the right to offer and sell a brand or brands of wine  
4 sold by a supplier.

5 (b) "Ancillary business" means a business owned by a whole-  
6 saler, a stockholder of a wholesaler, or a partner of a whole-  
7 saler the primary purpose of which is directly related to the  
8 transporting, storing, or marketing of the brand or brands of  
9 wine of a supplier with whom the wholesaler has an agreement; or  
10 a business owned by a wholesaler, a stockholder of a wholesaler,  
11 or a partner of a wholesaler which recycles empty returnable bev-  
12 erage containers.

13 (c) "Designated member" means the spouse, child, grandchild,  
14 parent, brother, or sister of a deceased individual who owned an  
15 interest in a wholesaler, who is entitled to inherit the deceased  
16 individual's ownership interest in the wholesaler under the terms  
17 of the deceased individual's will, or who has otherwise been des-  
18 igned in writing by the deceased individual to succeed the  
19 deceased individual in the wholesaler's business, or is entitled  
20 to inherit such ownership interest under the laws of intestate  
21 succession of this state. With respect to an incapacitated indi-  
22 vidual owning an ownership interest in a wholesaler, the term  
23 means the person appointed by a court as the conservator of such  
24 individual's property. The term also includes the appointed and  
25 qualified personal representative and the testamentary trustee of  
26 a deceased individual owning an ownership interest in a  
27 wholesaler.

1 (d) "Good faith" means honesty in fact and the observance of  
2 reasonable commercial standards of fair dealing in the trade, as  
3 defined and interpreted under section 2103 of the uniform commer-  
4 cial code, Act No. 174 of the Public Acts of 1962, being section  
5 440.2103 of the Michigan Compiled Laws.

6 (e) "Master distributor" means a wholesaler who acts in the  
7 same or similar capacity as a wine maker or an outstate seller of  
8 wine for a brand or brands of wine to other wholesalers on a reg-  
9 ular basis in the normal course of business.

10 (f) "Reasonable qualifications" means the average standard  
11 of the criteria used by the respective supplier for wholesalers  
12 that entered into or renewed an agreement with the suppliers  
13 during a period of 24 months prior to the proposed transfer of  
14 the wholesaler's business.

15 (g) "Retaliatory action" means action which includes, but is  
16 not limited to, the refusal to continue an agreement, or a mate-  
17 rial reduction in the quality of service or quantity of products  
18 available to a wholesaler under an agreement, which refusal or  
19 reduction is not made in good faith.

20 (h) "Sales territory" means an area of sales responsibility  
21 for the brand or brands of wine sold by a supplier as designated  
22 by an agreement.

23 (i) "Successor" means a supplier who obtains, in any manner  
24 from any person, including a person who is not a supplier, the  
25 distribution rights of 1 or more brands of wine which a licensed  
26 Michigan wholesaler has distributed in this state pursuant to an



1 agreement with another supplier, who previously had the  
2 distribution rights for the brand or brands.

3 (j) "Supplier" means a wine maker or an outstate seller of  
4 wine, or a master distributor.

5 (k) "Transfer of a wholesaler's business" means the volun-  
6 tary sale, assignment, or other transfer of the business or con-  
7 trol of the business of the wholesaler, including the sale or  
8 other transfer of stock or assets by merger, consolidation, or  
9 dissolution.

10 (3) A supplier shall not do any of the following:

11 (a) Coerce, or attempt to coerce, any wholesaler to accept  
12 delivery of any wine or other commodity which has not been  
13 ordered by the wholesaler. However, a supplier may impose rea-  
14 sonable inventory requirements upon a wholesaler if the require-  
15 ments are made in good faith and are generally applied to other  
16 wholesalers having an agreement with the supplier.

17 (b) Coerce, or attempt to coerce, any wholesaler to accept  
18 delivery of any wine or other commodity ordered by a wholesaler  
19 if the order was properly canceled by the wholesaler in accord-  
20 ance with the procedures agreed upon by the supplier and  
21 wholesaler.

22 (c) Coerce, or attempt to coerce, any wholesaler to do any  
23 illegal act by threatening to amend, cancel, terminate, or refuse  
24 to renew any agreement existing between the supplier and  
25 wholesaler.

26 (d) Require a wholesaler to assent to any condition,  
27 stipulation, or provision limiting the wholesaler's right to sell

1 the brand or brands of wine of any other supplier anywhere in  
2 this state unless the acquisition of the brand or brands of  
3 another supplier would materially impair the quality of service  
4 of the brand or brands of the supplier presently being sold by  
5 the wholesaler.

6 (e) Require a wholesaler to purchase 1 or more brands of  
7 wine in order for the wholesaler to purchase another brand or  
8 brands of wine for any reason. However, a wholesaler that has  
9 agreed to distribute a brand or brands before June 26, 1984 shall  
10 continue to distribute the brand or brands in conformance with  
11 this section.

12 (f) Request a wholesaler to submit profit and loss state-  
13 ments, balance sheets, or financial records as a requirement for  
14 renewing or retaining an agreement.

15 (g) Withhold delivery of wine ordered by a wholesaler, or  
16 change a wholesaler's quota of a brand or brands if the withhold-  
17 ing or change is not made in good faith.

18 (h) Require a wholesaler by any means to participate in or  
19 contribute to any local or national advertising fund controlled  
20 directly or indirectly by a supplier.

21 (i) Fail to provide each wholesaler of the supplier's brand  
22 or brands with a written agreement which contains in total the  
23 supplier's agreement with each wholesaler, and designates a spe-  
24 cific sales territory.

25 (j) Fix, maintain, or establish the price at which a whole-  
26 saler shall sell any wine.

1 (k) Take any retaliatory action against a wholesaler that  
2 files a complaint regarding an alleged violation by the supplier  
3 of state or federal law or an administrative rule.

4 (l) Require or prohibit any change in the manager or succes-  
5 sor manager of any wholesaler who has been approved by the sup-  
6 plier as of June 26, 1984. Should, after June 26, 1984, a sup-  
7 plier require that a manager or successor manager be appointed,  
8 or should a wholesaler change an approved manager or successor  
9 manager, a supplier shall not interfere with or prohibit the  
10 appointment unless the person fails to meet the reasonable writ-  
11 ten standards for Michigan wholesalers of the supplier which  
12 standards have been provided to the wholesaler.

13 (m) Require by a provision of any agreement or other instru-  
14 ment in connection with the agreement that any dispute arising  
15 out of or in connection with that agreement be determined through  
16 the application of any other state's laws. Any supplier or  
17 wholesaler aggrieved by any dispute arising out of or in connec-  
18 tion with an agreement governed by this act shall have the right  
19 to file an appropriate action consistent with this act in any  
20 court in this state having venue.

21 (4) A wholesaler shall not sell or deliver wine to a retail  
22 licensee located outside the sales territory designated by the  
23 supplier of a particular brand or brands of wine. However,  
24 during periods of temporary service interruptions impacting a  
25 particular sales territory, a wholesaler who normally services  
26 the impacted sales territory shall file with the commission a  
27 written notice designating the specific wholesaler or wholesalers

1 who will service the sales territory during the period of  
2 temporary service interruption and the approximate length of time  
3 of the service interruption. When the temporary service inter-  
4 ruption is over, the wholesaler who normally services the sales  
5 territory shall notify in writing the commission and the whole-  
6 saler, or wholesalers, which is servicing the sales territory on  
7 a temporary basis of this fact and any wholesaler servicing the  
8 sales territory on a temporary basis shall cease servicing the  
9 sales territory upon receipt of the notice.

10 A wholesaler who is designated to service the impacted sales  
11 territory during the period of temporary service shall not be in  
12 violation of this subsection.

13 A wholesaler who has been designated to service the impacted  
14 sales territory during the period of temporary service interrup-  
15 tion shall not have any of the rights provided under subsections  
16 (6) to (12).

17 (5) A supplier or wholesaler shall not restrict or inhibit,  
18 directly or indirectly, the right of free association among sup-  
19 pliers or wholesalers for any lawful purpose.

20 (6) Notwithstanding the terms, provisions, or conditions of  
21 any agreement, a supplier shall not amend any agreement unless  
22 the supplier is acting in good faith in making the amendment.

23 (7) Notwithstanding any agreement and except as otherwise  
24 provided for in this section, a supplier shall not cause a whole-  
25 saler to resign from an agreement; or cancel, terminate, fail to  
26 renew, or refuse to continue under an agreement unless the  
27 supplier has complied with all of the following:

1 (a) Has satisfied the applicable notice requirements of  
2 subsection (10).

3 (b) Has acted in good faith.

4 (c) Has good cause for the cancellation, termination, nonre-  
5 newal, discontinuance, or forced resignation.

6 (8) Notwithstanding any agreement, good cause shall exist  
7 for the purposes of a termination, cancellation, nonrenewal, or  
8 discontinuance under subsection (7)(c) when all of the following  
9 occur:

10 (a) There is a failure by the wholesaler to comply with a  
11 provision of the agreement which is both reasonable and of mate-  
12 rial significance to the business relationship between the whole-  
13 saler and the supplier.

14 (b) The supplier first acquired knowledge of the failure  
15 described in subdivision (a) not more than 2 years before the  
16 date notification was given pursuant to subsection (7).

17 (c) The wholesaler was given written notice by the supplier  
18 of failure to comply with the agreement.

19 (d) The wholesaler was afforded a reasonable opportunity to  
20 assert good faith efforts to comply with the agreement within the  
21 time limits as provided for in subdivision (e).

22 (e) The wholesaler has been afforded 25 days in which to  
23 submit a plan of corrective action to comply with the agreement  
24 and an additional 75 days to cure such noncompliance in accord-  
25 ance with the plan.

26 (9) A supplier or wholesaler who terminates, cancels,  
27 nonrenews, or discontinues an agreement shall have the burden of

1 showing that it has acted in good faith, complied with the  
2 applicable notice requirements under this section, and that there  
3 was good cause for the termination, cancellation, nonrenewal, or  
4 discontinuance.

5       (10) Notwithstanding any agreement and except as otherwise  
6 provided in this section, the supplier shall furnish written  
7 notice of the termination, cancellation, nonrenewal, or discon-  
8 tinuance of an agreement to the wholesaler not less than 15 days  
9 before the effective date of the termination, cancellation, non-  
10 renewal, or discontinuance. The notice shall be by certified  
11 mail and shall contain all of the following:

12       (a) A statement of intention to terminate, cancel, not  
13 renew, or discontinue the agreement.

14       (b) A statement of the reason for the termination, cancella-  
15 tion, nonrenewal, or discontinuance.

16       (c) The date on which the termination, cancellation, nonre-  
17 newal, or discontinuance takes effect.

18       (11) Notwithstanding subsections (7) and (10), a supplier  
19 may immediately terminate, cancel, fail to renew, or discontinue  
20 an agreement upon written notice given in the manner and contain-  
21 ing the information required by subsection (10) if any of the  
22 following occur:

23       (a) Insolvency of the wholesaler, the filing of any petition  
24 by or against the wholesaler under any bankruptcy or receivership  
25 law, or the dissolution or liquidation of the wholesaler which  
26 materially affects the wholesaler's ability to remain in  
27 business.

1 (b) Revocation of the wholesaler's license by the commission  
2 whereby the wholesaler cannot service the wholesaler's sales ter-  
3 ritory for more than 60 days.

4 (c) The wholesaler, or an individual who owns more than 10%  
5 of the stock of a corporate wholesaler, has been convicted of a  
6 felony. As used in this subdivision, "felony" means a felony  
7 under the United States code or the Michigan Compiled Laws.  
8 However, an existing approved stockholder or stockholders shall  
9 have the right to purchase the stock of the offending stockholder  
10 prior to the conviction of the offending stockholder, and if the  
11 sale is completed prior to conviction, the provisions of this  
12 subdivision shall not apply.

13 (12) Notwithstanding subsections (7), (10), and (11), upon  
14 not less than 15 days' prior written notice given in the manner  
15 and containing the information required by subsection (10), a  
16 supplier may terminate, cancel, fail to renew, or discontinue an  
17 agreement if any of the following events occur:

18 (a) There was fraudulent conduct on the part of the whole-  
19 saler in dealings with the supplier.

20 (b) The wholesaler failed to confine its sales of a brand or  
21 brands to the assigned sales territory. This subdivision does  
22 not apply if there is a dispute between 2 or more wholesalers as  
23 to the boundaries of the assigned territory, and the boundaries  
24 cannot be determined by a reading of the description contained in  
25 the agreements between the supplier and the wholesalers.

26 (c) The sale by the wholesaler of any brand or brands sold  
27 by the supplier to the wholesaler and known by the wholesaler to

1 be ineligible for sale prior to the actual sale to the retailer.  
2 The supplier shall repurchase the ineligible product from the  
3 wholesaler when the ineligibility is caused by the supplier. The  
4 supplier must give the wholesaler written notice specifying the  
5 ineligible product.

6 (13) Notwithstanding subsections (7), (10), (11), and (12),  
7 a supplier may terminate, cancel, not renew, or discontinue an  
8 agreement upon not less than 30 days' prior written notice if the  
9 supplier discontinues production or discontinues distribution in  
10 this state of all the brands sold by the supplier to the  
11 wholesaler. Nothing in this section shall prohibit a supplier  
12 upon not less than 30 days' notice to discontinue the distribu-  
13 tion of any particular brand or package of wine. This subsection  
14 does not prohibit a supplier from conducting test marketing of a  
15 new brand of wine or from conducting the test marketing of a  
16 brand of wine which is not currently being sold in this state  
17 provided that the supplier has notified the commission in writing  
18 of its plans to test market. The notice shall describe the  
19 market area in which the test shall be conducted; the name or  
20 names of the wholesaler or wholesalers who will be selling the  
21 wine; the name or names of the brand of wine being tested; and  
22 the period of time during which the testing will take place. A  
23 market testing period shall not exceed 18 months.

24 (14) The wholesaler shall devote reasonable efforts and  
25 resources to sales and distribution of all the supplier's pro-  
26 ducts which the wholesaler has been granted the right to sell and  
27 distribute and shall maintain reasonable sales levels.



1       (15) A supplier shall not withhold consent to any transfer  
2 of a wholesaler's business if the proposed transferee meets the  
3 material and reasonable qualifications and standards required by  
4 the supplier. A wholesaler shall give the supplier written  
5 notice of intent to transfer the wholesaler's business. A sup-  
6 plier shall not unreasonably delay a response to a request for a  
7 proposed transfer of a wholesaler's business. However, a trans-  
8 fer of a wholesaler's business which is not approved by the sup-  
9 plier shall be null and void. A supplier shall not interfere  
10 with, or prevent, the transfer of the wholesaler's business if  
11 the proposed transferee is a designated member.

12       (16) A supplier as part of the written agreement required by  
13 this section may, subject to the provisions of subsection (3)(4),  
14 require a wholesaler to designate a successor manager who shall  
15 be subject to prior approval by the supplier. In the event the  
16 designated successor manager fails to assume the role of approved  
17 manager or for any reason does not continue to manage the  
18 wholesaler's business, after assuming that responsibility, then  
19 any successor shall be subject to the prior approval of the sup-  
20 plier, subject to the provisions of subsection (3)(4), notwith-  
21 standing the transferee's interest as a designated member.

22       (17) A supplier that has amended, canceled, terminated, or  
23 refused to renew any agreement; has caused a wholesaler to resign  
24 from an agreement; or has withheld consent to any assignment or  
25 transfer of a wholesaler's business, except as provided for in  
26 this section, shall pay the wholesaler reasonable compensation  
27 for the diminished value of the wholesaler's business or of any

1 ancillary business which has been negatively affected by the act  
2 of the supplier, or both. The value of the wholesaler's business  
3 or ancillary business shall include, but not be limited to, its  
4 goodwill.

5 (18) Either party may, at any time, determine that mutual  
6 agreement on the amount of reasonable compensation cannot be  
7 reached. Should such a determination be made, the supplier or  
8 the wholesaler shall send written notice to the other party  
9 declaring their intention to proceed with arbitration.  
10 Arbitration shall proceed only by mutual agreement of both  
11 parties.

12 (19) The matter of determining the amount of compensation  
13 under arbitration may, by agreement of the parties, be submitted  
14 to a 5-member arbitration panel consisting of 2 representatives  
15 selected by the supplier but unassociated with the affected sup-  
16 plier, 2 wholesaler representatives selected by the wholesaler  
17 but unassociated with the wholesaler, and an impartial  
18 arbitrator.

19 (20) Not more than 10 days after the notice to enter into  
20 arbitration has been sent, each party shall request, in writing,  
21 a list of 5 arbitrators from the American arbitration  
22 association. Not more than 10 days after the receipt of the list  
23 of 5 choices, the wholesaler arbitrators and the supplier arbi-  
24 trators may strike and disqualify up to 2 names each from the  
25 list. Should either party fail to respond within the 10 days or  
26 should more than 1 name remain, the American arbitration

1 association shall make the selection of the impartial  
2 arbitrator.

3 (21) Not more than 30 days after the list of arbitrators is  
4 received, the wholesaler and supplier shall exchange in writing  
5 the names of their respective arbitration panel representatives.

6 (22) Not more than 30 days after the final selection of the  
7 arbitration panel is made, the arbitration panel shall convene to  
8 decide the dispute. The panel shall render a decision by major-  
9 ity vote of the participants within 20 days from the conclusion  
10 of the arbitration.

11 (23) The cost of the impartial arbitrator, the stenographer,  
12 and the meeting site shall be equally divided between the whole-  
13 saler and the supplier. All other costs shall be paid by the  
14 party incurring them. The award of the arbitration panel shall  
15 be final and binding on the parties.

16 (24) Should either party fail to abide by the time limita-  
17 tions as prescribed in subsections (20), (21), and (22), or fail  
18 or refuse to make the selection of any arbitrators, or fail to  
19 participate in the arbitration hearings, the other party shall  
20 make the selection of their arbitrators and proceed to  
21 arbitration. The party who has failed or refused to comply as  
22 prescribed in this subsection shall be considered to be in  
23 default. Any party considered to be in default pursuant to this  
24 subsection shall have waived any and all rights the party would  
25 have had in the arbitration and shall be considered to have con-  
26 sented to the determination of the arbitration panel.

1       (25) A wholesaler shall not waive any of the rights granted  
2 in any provision of this section. Nothing in this section shall  
3 be construed to limit or prohibit good faith dispute settlements  
4 voluntarily entered into by the parties.

5       (26) A successor to a supplier that continues in business as  
6 a wine maker, an outstate seller of wine, or master distributor  
7 shall be bound by all terms and conditions of each agreement of  
8 the supplier with a wholesaler licensed in this state that were  
9 in effect on the date on which the successor received the distri-  
10 bution rights of the previous supplier.

11       (27) This section shall apply to agreements in existence on  
12 June 26, 1984, as well as agreements entered into or renewed  
13 after that date.

14       (28) If a supplier engages in conduct prohibited under this  
15 section, a wholesaler with which the supplier has an agreement  
16 may maintain a civil action against the supplier to recover  
17 actual damages reasonably incurred as the result of the prohib-  
18 ited conduct. If a wholesaler engages in conduct prohibited  
19 under this section, a supplier with which the wholesaler has an  
20 agreement may maintain a civil action against the wholesaler to  
21 recover actual damages reasonably incurred as the result of the  
22 prohibited conduct.

23       (29) A supplier that violates any provision of this section  
24 is liable for all actual damages and all court costs and reason-  
25 able attorney fees incurred by a wholesaler as a result of that  
26 violation. A wholesaler that violates any provision of this  
27 section is liable for all actual damages and all court costs and

1 reasonable attorney fees incurred by the supplier as a result of  
2 that violation.

3 (30) A supplier or wholesaler may bring an action for  
4 declaratory judgment for determination of any controversy arising  
5 pursuant to this section.

6 (31) Except as otherwise provided in this section, if a  
7 court finds that a supplier has not acted in good faith in  
8 effecting the amendment, termination, cancellation, or nonrenewal  
9 of any agreement; or has unreasonably withheld its consent to any  
10 assignment, transfer, or sale of a wholesaler's business, it may  
11 award exemplary damages, as well as actual damages, court costs,  
12 and reasonable attorney fees to the wholesaler who has been dam-  
13 aged by the action of the supplier.

14 (32) Upon proper application to the court, a supplier or  
15 wholesaler may obtain injunctive relief against any violation of  
16 this section. If the court grants injunctive relief or issues a  
17 temporary restraining order, bond shall not be required to be  
18 posted.

19 (33) The procedure for resolving any violation of subsection  
20 (3)(a), (b), (c), (e), (f), (h), (i), (j), (k), (l), or (4) shall  
21 be the procedure prescribed by this act and the administrative  
22 procedures act of 1969, Act No. 306 of the Public Acts of 1969,  
23 being sections 24.201 to 24.328 of the Michigan Compiled Laws.  
24 Any other violation of or dispute regarding this section, unless  
25 the dispute is resolved pursuant to subsections (18) to (24),  
26 shall only be resolved by a civil action in court as provided in  
27 this section and not by the commission.

1       Sec. 3007. (1) A manufacturer and outstate seller of wine  
2 shall grant to each of its wholesalers a sales territory within  
3 which the wholesaler shall be a distributor of the specified  
4 brand or brands of the manufacturer or outstate seller of wine.  
5 The territory shall be the territory agreed upon between the  
6 wholesaler and manufacturer or outstate seller of wine. A manu-  
7 facturer or outstate seller of wine may grant the right to sell a  
8 specified brand or brands in a sales territory to more than 1  
9 wholesaler.

10       (2) Notwithstanding subsection (1), a brand extension is not  
11 considered a new or different brand. A manufacturer or outstate  
12 seller of wine shall assign a brand extension to the wholesaler  
13 that was granted the sales territory for the brand from which the  
14 brand extension resulted.

15       (3) Subsection (2) does not apply where, before January 1,  
16 1994, a manufacturer or outstate seller of wine had assigned a  
17 brand extension to a wholesaler that was not the appointed whole-  
18 saler for the brand from which the brand extension was made.

19       (4) Until July 1, 1995, a manufacturer or outstate seller of  
20 wine who acquired or otherwise obtained the right to assign  
21 brands of another manufacturer or outstate seller of wine between  
22 January 1, 1994 and July 1, 1995 shall assign a brand extension  
23 to the wholesaler that was granted the sales territory for the  
24 brand from which the brand extension resulted. Beginning July 1,  
25 1995, a manufacturer or outstate seller of wine who acquires or  
26 otherwise obtains the right to assign brands of another  
27 manufacturer or outstate seller of wine is not required to assign

1 a new brand extension to the wholesaler that is granted the  
2 exclusive sales territory to the brand from which the new brand  
3 extension results. Any brand extension assigned between  
4 January 1, 1994 and July 1, 1995 shall remain assigned to the  
5 assigned wholesaler.

6 (5) A manufacturer of a mixed wine drink, mixed spirit drink  
7 manufacturer, outstate seller of a mixed wine drink, or outstate  
8 seller of mixed spirit drink shall grant to each of its wholesal-  
9 ers an exclusive sales territory in which the wholesaler shall be  
10 a distributor of the specified brand or brands of the manufac-  
11 turer or outstate seller. The territory shall be the territory  
12 agreed upon between the wholesaler and the manufacturer of a  
13 mixed wine drink, mixed spirit drink manufacturer, outstate  
14 seller of mixed wine drinks, or outstate seller of mixed spirit  
15 drink.

16 (6) Notwithstanding subsection (5), a brand extension is not  
17 considered a new or different brand. A manufacturer of a mixed  
18 wine drink, mixed spirit drink manufacturer, outstate seller of a  
19 mixed wine drink, or outstate seller of mixed spirit drink shall  
20 assign a brand extension to the wholesaler that was granted the  
21 exclusive sales territory for the brand from which the brand  
22 extension resulted.

23 (7) Subsection (6) does not apply where, before January 1,  
24 1994, a manufacturer of a mixed wine drink, mixed spirit drink  
25 manufacturer, outstate seller of a mixed wine drink, or outstate  
26 seller of mixed spirit drink had assigned a brand extension to a

(8) Until July 1, 1995, a manufacturer of a mixed wine drink, mixed spirit drink manufacturer, outstate seller of mixed wine drink, or outstate seller of mixed spirit drink who acquired or otherwise obtained the right to assign brands of another manufacturer of a mixed wine drink, mixed spirit drink manufacturer, outstate seller of a mixed wine drink, or outstate seller of mixed spirit drink between January 1, 1994 and July 1, 1995 shall assign a brand extension to the wholesaler that was granted the exclusive sales territory for the brand from which the brand extension resulted. Beginning July 1, 1995, a manufacturer of mixed wine drink, mixed spirit drink manufacturer, outstate seller of mixed wine drink, or outstate seller of mixed spirit drink who acquires or otherwise obtains the right to assign brands of another manufacturer of mixed wine drink, mixed spirit drink manufacturer, outstate seller of mixed wine drink, or outstate seller of mixed spirit drink is not required to assign a new brand extension to the wholesaler that is granted the exclusive sales territory to the brand from which the new brand extension results. Any brand extension assigned between January 1, 1994 and July 1, 1995 shall remain assigned to the assigned wholesaler.

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25



1 and manufacturer or outstate seller of beer, within which the  
2 wholesaler shall be the exclusive distributor of the specified  
3 brand or brands of the manufacturer or outstate seller of beer.

4 (2) If the manufacturer or outstate seller manufactures or  
5 supplies more than 1 brand of beer or malt beverage, the manufac-  
6 turer or outstate seller may grant exclusive sales territories to  
7 different wholesalers for the sale of the different brand or  
8 brands.

9 (3) Notwithstanding subsection (2), a brand extension is not  
10 considered a new or different brand. A manufacturer or outstate  
11 seller of beer or malt beverages shall assign a brand extension  
12 to the wholesaler that was granted the exclusive sales territory  
13 to the brand from which the brand extension resulted.

14 (4) Subsection (3) does not apply where, before January 1,  
15 1994, a manufacturer or outstate seller of beer or malt beverages  
16 had assigned a brand extension to a wholesaler that was not the  
17 appointed wholesaler for the brand from which the brand extension  
18 was made.

19 (5) Until July 1, 1995, a manufacturer or outstate seller of  
20 beer or malt beverages who acquired or otherwise obtained the  
21 right to assign brands of another manufacturer or outstate seller  
22 of beer or malt beverages between January 1, 1994 and July 1,  
23 1995 shall assign a brand extension to the wholesaler that was  
24 granted the exclusive sales territory to the brand from which the  
25 brand extension resulted. Beginning July 1, 1995, a manufacturer  
26 or outstate seller of beer or malt beverages who acquires or  
27 otherwise obtains the right to assign brands of another

1 manufacturer or outstate seller of beer or malt beverages is not  
2 required to assign a new brand extension to the wholesaler that  
3 is granted the exclusive sales territory to the brand from which  
4 the new brand extension results. Any brand extension assigned  
5 between January 1, 1994 and July 1, 1995 shall remain assigned to  
6 the assigned wholesaler.

7 (6) The sales territory shall be the territory agreed upon  
8 between the wholesaler and manufacturer or outstate seller.

9 Sec. 4003. (1) The purpose of this section is to provide a  
10 structure for the business relations between a wholesaler of beer  
11 and a supplier of beer. Regulation in this area is considered  
12 necessary for the following reasons:

13 (a) To maintain stability and healthy competition in the  
14 beer industry in this state.

15 (b) To promote and maintain a sound, stable, and viable  
16 3-tier system of distribution of beer to the public.

17 (c) To promote the public health, safety, and welfare.

18 (2) As used in this section, unless the context requires  
19 otherwise:

20 (a) "Agreement" means any agreement between a wholesaler and  
21 a supplier, whether oral or written, whereby a wholesaler is  
22 granted the right to offer and sell a brand or brands of beer  
23 sold by a supplier.

24 (b) "Ancillary business" means a business owned by a whole-  
25 saler, a stockholder of a wholesaler, or a partner of a whole-  
26 saler the primary purpose of which is directly related to the  
27 transporting, storing, or marketing of the brand or brands of

1 beer of a supplier with whom the wholesaler has an agreement; or  
2 a business owned by a wholesaler, a stockholder of a wholesaler,  
3 or a partner of a wholesaler which recycles empty returnable bev-  
4 erage containers.

5 (c) "Designated member" means the spouse, child, grandchild,  
6 parent, brother, or sister of a deceased individual who owned an  
7 interest in a wholesaler, who is entitled to inherit the deceased  
8 individual's ownership interest in the wholesaler under the terms  
9 of the deceased individual's will, or who has otherwise been des-  
10 ignated in writing by the deceased individual to succeed the  
11 deceased individual in the wholesaler's business, or is entitled  
12 to inherit such ownership interest under the laws of intestate  
13 succession of this state. With respect to an incapacitated indi-  
14 vidual owning an ownership interest in a wholesaler, the term  
15 means the person appointed by a court as the conservator of such  
16 individual's property. The term also includes the appointed and  
17 qualified personal representative and the testamentary trustee of  
18 a deceased individual owning an ownership interest in a  
19 wholesaler.

20 (d) "Good faith" means honesty in fact and the observance of  
21 reasonable commercial standards of fair dealing in the trade, as  
22 defined and interpreted under section 2103 of the uniform commer-  
23 cial code, Act No. 174 of the Public Acts of 1962, being section  
24 440.2103 of the Michigan Compiled Laws.

25 (e) "Master distributor" means a wholesaler who acts in the  
26 same or similar capacity as a brewer or outstate seller of beer

1 for a brand or brands of beer to other wholesalers on a regular  
2 basis in the normal course of business.

3 (f) "Reasonable qualifications" means the average standard  
4 of the criteria used by the respective supplier for wholesalers  
5 that entered into or renewed an agreement with the supplier  
6 during a period of 24 months prior to the proposed transfer of  
7 the wholesaler's business.

8 (g) "Retaliatory action" means action which includes, but is  
9 not limited to, the refusal to continue an agreement, or a mate-  
10 rial reduction in the quality of service or quantity of products  
11 available to a wholesaler under an agreement, which refusal or  
12 reduction is not made in good faith.

13 (h) "Sales territory" means an area of exclusive sales  
14 responsibility for the brand or brands of beer sold by a supplier  
15 as designated by an agreement.

16 (i) "Successor" means a supplier who obtains, in any manner  
17 from any person, including a person who is not a supplier, the  
18 distribution rights of 1 or more brands of beer which a licensed  
19 Michigan wholesaler has distributed in this state pursuant to an  
20 agreement with another supplier who previously had the distribu-  
21 tion rights for the brand or brands.

22 (j) "Supplier" means a brewer, an outstate seller of beer,  
23 or a master distributor.

24 (k) "Transfer of a wholesaler's business" means the volun-  
25 tary sale, assignment, or other transfer of the business or con-  
26 trol of the business of the wholesaler, including the sale or

1 other transfer of stock or assets by merger, consolidation, or  
2 dissolution.

3 (3) A supplier shall not do any of the following:

4 (a) Coerce, or attempt to coerce, any wholesaler to accept  
5 delivery of any beer or other commodity which has not been  
6 ordered by the wholesaler. However, a supplier may impose rea-  
7 sonable inventory requirements upon a wholesaler if the require-  
8 ments are made in good faith and are generally applied to other  
9 wholesalers having an agreement with the supplier.

10 (b) Coerce, or attempt to coerce, any wholesaler to accept  
11 delivery of any beer or other commodity ordered by a wholesaler  
12 if the order was properly canceled by the wholesaler in accord-  
13 ance with the procedures agreed upon by the supplier and  
14 wholesaler.

15 (c) Coerce, or attempt to coerce, any wholesaler to do any  
16 illegal act by threatening to amend, cancel, terminate, or refuse  
17 to renew any agreement existing between the supplier and  
18 wholesaler.

19 (d) Require a wholesaler to assent to any condition, stipu-  
20 lation, or provision limiting the wholesaler's right to sell the  
21 brand or brands of beer of any other supplier anywhere in this  
22 state unless the acquisition of the brand or brands of another  
23 supplier would materially impair the quality of service of the  
24 brand or brands of the supplier presently being sold by the  
25 wholesaler.

26 (e) Require a wholesaler to purchase 1 or more brands of  
27 beer in order for the wholesaler to purchase another brand or

1 brands of beer for any reason. However, a wholesaler that has  
2 agreed to distribute a brand or brands before June 26, 1984 shall  
3 continue to distribute the brand or brands in conformance with  
4 this section.

5 (f) Request a wholesaler to submit profit and loss state-  
6 ments, balance sheets, or financial records as a requirement for  
7 renewing or retaining an agreement.

8 (g) Withhold delivery of beer ordered by a wholesaler, or  
9 change a wholesaler's quota of a brand or brands if the withhold-  
10 ing or change is not made in good faith.

11 (h) Require a wholesaler by any means to participate in or  
12 contribute to any local or national advertising fund controlled  
13 directly or indirectly by a supplier.

14 (i) Fail to provide each wholesaler of the supplier's brand  
15 or brands with a written agreement which contains, in total, the  
16 supplier's agreement with each wholesaler and which designates a  
17 specific sales territory. Any agreement which is in existence on  
18 June 26, 1984 shall be renewed consistent with this section,  
19 except that this section may be incorporated by reference in the  
20 agreement.

21 (j) Fix, maintain, or establish the price at which a whole-  
22 saler shall sell any beer.

23 (k) Take any retaliatory action against a wholesaler that  
24 files a complaint regarding an alleged violation by the supplier  
25 of state or federal law or an administrative rule.

26 (l) Require or prohibit any change in the manager or  
27 successor manager of any wholesaler who has been approved by the

1 supplier as of June 26, 1984. Should a wholesaler change an  
2 approved manager or successor manager, a supplier shall not  
3 require or prohibit the change unless the person fails to meet  
4 the reasonable written standards for Michigan wholesalers of the  
5 supplier which standards have been provided to the wholesaler.

6 (m) Require by a provision of any agreement or other instru-  
7 ment in connection with the agreement that any dispute arising  
8 out of or in connection with that agreement be determined through  
9 the application of any other state's laws, be determined in fed-  
10 eral court sitting in a state other than Michigan, or be deter-  
11 mined in a state court of a state other than the state of  
12 Michigan. A provision contained in any agreement or other  
13 instrument in connection with the agreement which contravenes  
14 this subdivision shall be null and void.

15 (4) A wholesaler shall not sell or deliver beer to a retail  
16 licensee located outside the sales territory designated by the  
17 supplier of a particular brand or brands of beer. However,  
18 during periods of temporary service interruptions impacting a  
19 particular sales territory, a wholesaler who normally services  
20 the impacted sales territory shall file with the commission a  
21 written notice designating the specific wholesaler or wholesalers  
22 who will service the sales territory during the period of tempo-  
23 rary service interruption and the approximate length of time of  
24 the service interruption. When the temporary service interrup-  
25 tion is over, the wholesaler who normally services the sales ter-  
26 ritory shall notify in writing the commission and the wholesaler,  
27 or wholesalers, which is servicing the sales territory on a

1 temporary basis of this fact and any wholesaler servicing the  
2 sales territory on a temporary basis shall cease servicing the  
3 sales territory upon receipt of the notice.

4 A wholesaler who is designated to service the impacted sales  
5 territory during the period of temporary service shall not be in  
6 violation of this subsection.

7 A wholesaler who has been designated to service the impacted  
8 sales territory during the period of temporary service interrup-  
9 tion shall not have any of the rights provided under subsections  
10 (6) to (12).

11 (5) A supplier or wholesaler shall not restrict or inhibit,  
12 directly or indirectly, the right of free association among sup-  
13 pliers or wholesalers for any lawful purpose.

14 (6) Notwithstanding the terms, provisions, or conditions of  
15 any agreement, a supplier shall not amend any agreement unless  
16 the supplier is acting in good faith in making the amendment.

17 (7) Notwithstanding any agreement and except as otherwise  
18 provided for in this section, a supplier shall not cause a whole-  
19 saler to resign from an agreement; or cancel, terminate, fail to  
20 renew, or refuse to continue under an agreement unless the sup-  
21 plier has complied with all of the following:

22 (a) Has satisfied the applicable notice requirements of  
23 subsection (10).

24 (b) Has acted in good faith.

25 (c) Has good cause for the cancellation, termination, nonre-  
26 newal, discontinuance, or forced resignation.



1       (8) Notwithstanding any agreement, good cause shall exist  
2 for the purposes of a termination, cancellation, nonrenewal, or  
3 discontinuance under subsection (7)(c) when all of the following  
4 occur:

5       (a) There is a failure by the wholesaler to comply with a  
6 provision of the agreement which is both reasonable and of mate-  
7 rial significance to the business relationship between the whole-  
8 saler and the supplier.

9       (b) The supplier first acquired knowledge of the failure  
10 described in subdivision (a) not more than 2 years before the  
11 date notification was given pursuant to subsection (7).

12       (c) The wholesaler was given written notice by the supplier  
13 of failure to comply with the agreement.

14       (d) The wholesaler was afforded a reasonable opportunity to  
15 assert good faith efforts to comply with the agreement within the  
16 time limits as provided for in subdivision (e).

17       (e) The wholesaler has been afforded 30 days in which to  
18 submit a plan of corrective action to comply with the agreement  
19 and an additional 90 days to cure such noncompliance in accord-  
20 ance with the plan.

21       (9) For each termination, cancellation, nonrenewal, or dis-  
22 continuance, the supplier shall have the burden of showing that  
23 it has acted in good faith, that the notice requirements under  
24 this section have been complied with, and that there was good  
25 cause for the termination, cancellation, nonrenewal, or  
26 discontinuance.

1       (10) Notwithstanding any agreement and except as otherwise  
2 provided in this section, the supplier shall furnish written  
3 notice of the termination, cancellation, nonrenewal, or discon-  
4 tinuance of an agreement to the wholesaler not less than 15 days  
5 before the effective date of the termination, cancellation, non-  
6 renewal, or discontinuance. The notice shall be by certified  
7 mail and shall contain all of the following:

8       (a) A statement of intention to terminate, cancel, not  
9 renew, or discontinue the agreement.

10       (b) A statement of the reason for the termination, cancella-  
11 tion, nonrenewal, or discontinuance.

12       (c) The date on which the termination, cancellation, nonre-  
13 newal, or discontinuance takes effect.

14       (11) Notwithstanding subsections (7) and (10), a supplier  
15 may terminate, cancel, fail to renew, or discontinue an agreement  
16 upon written notice given in the manner and containing the infor-  
17 mation required by subsection (10) if any of the following  
18 occur:

19       (a) Insolvency of the wholesaler, the filing of any petition  
20 by or against the wholesaler under any bankruptcy or receivership  
21 law, or the dissolution or liquidation of the wholesaler which  
22 materially affects the wholesaler's ability to remain in  
23 business.

24       (b) Revocation of the wholesaler's license by the commission  
25 whereby the wholesaler cannot service the wholesaler's sales ter-  
26 ritory for more than 60 days.

1 (c) The wholesaler, or an individual who owns more than 10%  
2 of the stock of a corporate wholesaler, has been convicted of a  
3 felony. As used in this subdivision, "felony" means a felony  
4 under the United States code or the Michigan Compiled Laws.  
5 However, an existing approved stockholder or stockholders shall  
6 have the right to purchase the stock of the offending stockholder  
7 prior to the conviction of the offending stockholder and, if the  
8 sale is completed prior to conviction, the provisions of this  
9 subdivision shall not apply.

10 (12) Notwithstanding subsections (7), (10), and (11), upon  
11 not less than 15 days' prior written notice given in the manner  
12 and containing the information required by subsection (10), a  
13 supplier may terminate, cancel, fail to renew, or discontinue an  
14 agreement if any of the following events occur:

15 (a) There was fraudulent conduct on the part of the whole-  
16 saler in dealings with the supplier.

17 (b) The wholesaler failed to confine its sales of a brand or  
18 brands to the assigned sales territory. This subdivision does  
19 not apply if there is a dispute between 2 or more wholesalers as  
20 to the boundaries of the assigned territory, and the boundaries  
21 cannot be determined by a reading of the description contained in  
22 the agreements between the supplier and the wholesalers.

23 (c) The sale by the wholesaler of any brand or brands sold  
24 by the supplier to the wholesaler and known by the wholesaler to  
25 be ineligible for sale prior to the actual sale to the retailer.  
26 The supplier shall repurchase the ineligible product from the  
27 wholesaler when the ineligibility is caused by the supplier. The

1 supplier must give the wholesaler written notice specifying the  
2 ineligible product. This subdivision does not apply when a sup-  
3 plier ships a brand or brands to a wholesaler that must be  
4 removed within 60 days of the deadline for retail sale of the  
5 product. This 60-day period shall commence upon receipt of the  
6 product by the wholesaler.

7       (13) Notwithstanding subsections (7), (10), (11), and (12),  
8 a supplier may terminate, cancel, not renew, or discontinue an  
9 agreement upon not less than 30 days' prior written notice if the  
10 supplier discontinues production or discontinues distribution in  
11 this state of all the brands sold by the supplier to the  
12 wholesaler. Nothing in this section shall prohibit a supplier  
13 upon not less than 30 days' notice to discontinue the distribu-  
14 tion of any particular brand or package of beer. This subsection  
15 does not prohibit a supplier from conducting test marketing of a  
16 new brand of beer or from conducting the test marketing of a  
17 brand of beer which is not currently being sold in this state  
18 provided that the supplier has notified the commission in writing  
19 of its plans to test market. The notice shall describe the  
20 market area in which the test shall be conducted; the name or  
21 names of the wholesaler or wholesalers who will be selling the  
22 beer; the name or names of the brand of beer being tested; and  
23 the period of time during which the testing will take place. A  
24 market testing period shall not exceed 18 months.

25       (14) The wholesaler shall devote reasonable efforts and  
26 resources to sales and distribution of all the supplier's

1 products which the wholesaler has been granted the right to sell  
2 and distribute and shall maintain reasonable sales levels.

3 (15) A brewer, an outstate seller of beer, or a master dis-  
4 tributor that has designated a sales territory for a wholesaler  
5 shall not enter into an additional agreement with any other  
6 wholesaler for the same brand or brands of beer in the same ter-  
7 ritory or any portion of that territory.

8 (16) A supplier shall not withhold consent to any transfer  
9 of a wholesaler's business if the proposed transferee meets the  
10 material and reasonable qualifications and standards required by  
11 the supplier. A wholesaler shall give the supplier written  
12 notice of intent to transfer the wholesaler's business. A sup-  
13 plier shall not unreasonably delay a response to a request for a  
14 proposed transfer of a wholesaler's business. However, a trans-  
15 fer of a wholesaler's business which is not approved by the sup-  
16 plier shall be null and void. A supplier shall not interfere  
17 with, or prevent, the transfer of the wholesaler's business if  
18 the proposed transferee is a designated member.

19 (17) A supplier that has amended, canceled, terminated, or  
20 refused to renew any agreement; has caused a wholesaler to resign  
21 from an agreement; or has withheld consent to any assignment or  
22 transfer of a wholesaler's business, except as provided for in  
23 this section, shall pay the wholesaler reasonable compensation  
24 for the diminished value of the wholesaler's business or of any  
25 ancillary business which has been negatively affected by the act  
26 of the supplier, or both. The value of the wholesaler's business

1 or ancillary business shall include, but not be limited to, its  
2 good will.

3 (18) Either party may, at any time, determine that mutual  
4 agreement on the amount of reasonable compensation cannot be  
5 reached. Should such a determination be made, the supplier or  
6 the wholesaler shall send written notice to the other party  
7 declaring their intention to proceed with arbitration.  
8 Arbitration shall proceed only by mutual agreement of both  
9 parties.

10 (19) The matter of determining the amount of compensation  
11 under arbitration may, by agreement of the parties, be submitted  
12 to a 5-member arbitration panel consisting of 2 representatives  
13 selected by the supplier but unassociated with the affected sup-  
14 plier, 2 wholesaler representatives selected by the wholesaler  
15 but unassociated with the wholesaler, and an impartial  
16 arbitrator.

17 (20) Not more than 10 days after the notice to enter into  
18 arbitration has been sent, each party shall request, in writing,  
19 a list of 5 arbitrators from the American arbitration  
20 association. Not more than 10 days after the receipt of the list  
21 of 5 choices, the wholesaler arbitrators and the supplier arbi-  
22 trators may strike and disqualify up to 2 names each from the  
23 list. Should either party fail to respond within the 10 days or  
24 should more than 1 name remain, the American arbitration associa-  
25 tion shall make the selection of the impartial arbitrator.

1 (21) Not more than 30 days after the list of arbitrators is  
2 received, the wholesaler and supplier shall exchange in writing  
3 the names of their respective arbitration panel representatives.

4 (22) Not more than 30 days after the final selection of the  
5 arbitration panel is made, the arbitration panel shall convene to  
6 decide the dispute. The panel shall render a decision by major-  
7 ity vote of the participants within 20 days from the conclusion  
8 of the arbitration.

9 (23) The cost of the impartial arbitrator, the stenographer,  
10 and the meeting site shall be equally divided between the whole-  
11 saler and the supplier. All other costs shall be paid by the  
12 party incurring them. The award of the arbitration panel shall  
13 be final and binding on the parties.

14 (24) After both parties have agreed to arbitrate should  
15 either party fail to abide by the time limitations as prescribed  
16 in subsections (20), (21), and (22), or fail or refuse to make  
17 the selection of any arbitrators, or fail to participate in the  
18 arbitration hearings, the other party shall make the selection of  
19 their arbitrators and proceed to arbitration. The party who has  
20 failed or refused to comply as prescribed in this subsection  
21 shall be considered to be in default. Any party considered to be  
22 in default pursuant to this subsection shall have waived any and  
23 all rights the party would have had in the arbitration and shall  
24 be considered to have consented to the determination of the arbi-  
25 tration panel.

26 (25) A wholesaler shall not waive any of the rights granted  
27 in any provision of this section. Nothing in this section shall

1 be construed to limit or prohibit good faith dispute settlements  
2 voluntarily entered into by the parties.

3       (26) A successor to a supplier that continues in business as  
4 a brewer, an outstate seller of beer, or a master distributor  
5 shall be bound by all terms and conditions of each agreement of  
6 the supplier with a wholesaler licensed in this state that were  
7 in effect on the date on which the successor received the distri-  
8 bution rights of the previous supplier.

9       (27) This section shall apply to agreements in existence on  
10 June 26, 1984, as well as agreements entered into or renewed  
11 after that date.

12       (28) If a supplier engages in conduct prohibited under this  
13 section, a wholesaler with which the supplier has an agreement  
14 may maintain a civil action against the supplier to recover  
15 actual damages reasonably incurred as the result of the prohib-  
16 ited conduct. If a wholesaler engages in conduct prohibited  
17 under this section, a supplier with which the wholesaler has an  
18 agreement may maintain a civil action against the wholesaler to  
19 recover actual damages reasonably incurred as the result of the  
20 prohibited conduct.

21       (29) A supplier that violates any provision of this section  
22 is liable for all actual damages and all court costs and reason-  
23 able attorney fees incurred by a wholesaler as a result of that  
24 violation. A wholesaler that violates any provision of this sec-  
25 tion is liable for all actual damages and all court costs and  
26 reasonable attorney fees incurred by the supplier as a result of  
27 that violation.



1 (30) A supplier or wholesaler may bring an action for  
2 declaratory judgment for determination of any controversy arising  
3 pursuant to this section.

4 (31) Except as otherwise provided in this section, if a  
5 court finds that a supplier has not acted in good faith in  
6 effecting an amendment, termination, cancellation, or nonrenewal  
7 of any agreement; or has unreasonably withheld its consent to any  
8 assignment, transfer, or sale of a wholesaler's business, it may  
9 award exemplary damages, as well as actual damages, court costs,  
10 and reasonable attorney fees to the wholesaler who has been dam-  
11 aged by the action of the supplier.

12 (32) Upon proper application to the court, a supplier or  
13 wholesaler may obtain injunctive relief against any violation of  
14 this section. If the court grants injunctive relief or issues a  
15 temporary restraining order, bond shall not be required to be  
16 posted.

17 (33) The procedure for resolving any violation of subsection  
18 (3)(a), (b), (c), (e), (f), (h), (i), (j), (k), (l), or (4) shall  
19 be the procedure prescribed by this act and the administrative  
20 procedures act of 1969, Act No. 306 of the Public Acts of 1969,  
21 being sections 24.201 to 24.328 of the Michigan Compiled Laws.  
22 Any other violation of or dispute regarding this section, unless  
23 the dispute is resolved pursuant to subsections (18) to (24),  
24 shall only be resolved by a civil action in court as provided in  
25 this section and not by the commission.

26 Sec. 4005. (1) Subject to section 4007, the commission  
27 shall issue a brewpub license to a person who is licensed as a

1 food service establishment under part 129 of the public health  
2 code, Act No. 368 of the Public Acts of 1978, being sections  
3 333.12901 to 333.12922 of the Michigan Compiled Laws, and who at  
4 the time of application for the brewpub license is licensed and  
5 continues to be licensed as 1 or more of the following:

6 (a) Class "C".

7 (b) Tavern.

8 (c) Class "A" hotel.

9 (d) Class "B" hotel.

10 (2) A person shall not, directly or indirectly, have an  
11 interest in more than 1 brewpub.

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

15 (4) Agricultural products processed by a manufacturer shall  
16 comply with state law and with rules of the department of  
17 agriculture.

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

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

4 (7) Each brewpub shall submit to the commission, on forms  
5 acceptable to the commission and postmarked not later than  
6 January 15, April 15, July 15, and October 15 of each year, a  
7 beer tax report of all beer sold under their brewpub license  
8 during the preceding quarter. Each brewpub shall also submit,  
9 with the beer tax report, the payment of the required beer excise  
10 tax due pursuant to section 4009.

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

15 Sec. 4007. (1) The commission shall grant a brewpub license  
16 to a person who, in addition to complying with section 4005, does  
17 all of the following:

18 (a) Pays the fee as prescribed in section 5023.

19 (b) Provides evidence to the commission that not less than  
20 25% of the gross sales of the restaurant during the 1-year licen-  
21 sure period are derived from the sale of food and nonalcoholic  
22 beverages prepared for consumption on the premises.

23 (c) Complies with section 4005(3) through (8).

24 (2) The commission shall renew a brewpub license of a person  
25 who does all of the following:

26 (a) Pays the fee as prescribed in section 5023.

1 (b) Provides evidence to the commission that not less than  
2 25% of the gross sales of the restaurant during the 1-year  
3 licensure period are derived from the sale of food and nonalco-  
4 holic beverages prepared for consumption on the premises.

5 (c) Complies with section 4005(3) through (8).

6 (3) The commission shall revoke a brewpub license if, during  
7 the 1-year licensure period, less than 25% of the gross sales of  
8 the restaurant are derived from the sale of food and nonalcoholic  
9 beverages prepared for consumption on the premises.

10 Sec. 4009. (1) Except as provided in this section, the com-  
11 mission shall levy and collect a tax on all beer manufactured or  
12 sold in this state at the rate of \$6.30 per barrel if the beer is  
13 sold in bulk or in different quantities. The tax shall be paid  
14 by the brewer or brewpub if manufactured in this state or by the  
15 wholesaler or the person from whom purchased if manufactured out-  
16 side this state, whichever is designated by the commission. The  
17 commission shall establish by rule a method for the collection of  
18 the tax levied in this subsection. The rules shall be promul-  
19 gated pursuant to the administrative procedures act of 1969, Act  
20 No. 306 of the Public Acts of 1969, being sections 24.201 to  
21 24.328 of the Michigan Compiled Laws.

22 (2) The tax levied in subsection (1) shall not be collected  
23 with respect to beer that is consumed on the premises of the man-  
24 ufacturer or is damaged in the process of brewing, packaging, and  
25 storage and is not offered for sale, except that beer sold by a  
26 brewpub for consumption on the premises or beer produced and

1 consumed on the premises of a micro brewer shall be subject to  
2 the tax levied under subsection (1).

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

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

9 (5) An eligible brewer may claim a credit against the tax  
10 levied in subsection (1) in the amount of \$2.00 per barrel. As  
11 used in this subsection, "eligible brewer" means a brewer,  
12 whether or not located in this state, or brewpub that manufac-  
13 tures less than 20,000 barrels of beer during the tax year for  
14 which the credit is claimed. In determining the number of bar-  
15 rels for purposes of the credit, all brands and labels of a  
16 brewer shall be combined and all facilities for the production of  
17 beer that are owned or controlled by the same person shall be  
18 treated as a single facility.

19 CHAPTER 5

20 Sec. 5001. (1) The commission may issue licenses as pro-  
21 vided in this act upon the payment of the fees provided in  
22 section 5023 and the filing of the bonds required in section 8001  
23 or liability insurance as provided in section 8003.

24 (2) A full-year license issued by the commission shall  
25 expire on April 30 following the date of issuance or the date  
26 fixed by the commission. A license issued under this act shall  
27 be construed as a contract between the commission and the

1 licensee and shall be signed by both parties. If a licensee  
2 dies, the commission may approve the operation of the establish-  
3 ment by a personal representative or independent personal repre-  
4 sentative duly appointed by a court of competent jurisdiction,  
5 pending the settlement of the estate of the deceased licensee.  
6 The commission may approve a receiver or trustee appointed by a  
7 court of competent jurisdiction to operate the licensed estab-  
8 lishment of a licensee. The commission may grant a part-year  
9 license for a proportionate part of the license fee specified in  
10 section 5023. In a resort area the commission shall grant a  
11 license for a period of time as short as 3 months. A license may  
12 be transferred with the consent of the commission. A class C or  
13 specially designated distributor license obtained in a manner  
14 other than by transfer shall not be transferred within 3 years  
15 after its issuance except under circumstances where the licensee  
16 clearly and convincingly demonstrates that unusual hardship will  
17 result if the transfer does not receive the consent of the  
18 commission. An application for a license to sell alcoholic  
19 liquor for consumption on the premises, except in a city having a  
20 population of 750,000 or more, shall be approved by the local  
21 legislative body in which the applicant's place of business is  
22 located before the license is granted by the commission, except  
23 that in the case of an application for renewal of an existing  
24 license, if an objection to a renewal has not been filed with the  
25 commission by the local legislative body not less than 30 days  
26 before the date of expiration of the license, the approval of the  
27 local legislative body shall not be required. The commission

1 shall provide the local legislative body and the local chief of  
2 police with the name, home and business addresses, and home and  
3 business phone numbers to accomplish the local legislative  
4 reviews of new and transferred license applications required by  
5 this subsection. Upon request of the local legislative body  
6 after due notice and proper hearing by the local legislative body  
7 and the commission, the commission shall revoke the license of a  
8 licensee granted a license to sell alcoholic liquor for consump-  
9 tion on the premises or any permit held in conjunction with that  
10 license.

11 (3) A local legislative body, by resolution, may request  
12 that the commission revoke the license of a licensee granted a  
13 license to sell alcoholic liquor for consumption off the premises  
14 whose place of business is located within the local legislative  
15 body's jurisdiction and who has been determined pursuant to com-  
16 mission violation hearings to have sold or furnished alcoholic  
17 liquor, on at least 3 separate occasions in a single calendar  
18 year, to a person who is less than 21 years of age if those vio-  
19 lations did not involve the use of falsified or fraudulent iden-  
20 tification by the person who is less than 21 years of age. If  
21 the commission verifies that the licensee who is the subject of  
22 the resolution has been found to have committed the violations as  
23 prescribed in this subsection, the commission may suspend or  
24 revoke the licensee's license and any permit held in conjunction  
25 with that license.

26 (4) This act does not prohibit a hotel which is or was the  
27 holder of a license authorizing the retail sale of alcoholic

1 liquor for consumption on the premises from applying for and  
2 receiving under this act any other and different type of license  
3 authorizing the retail sale of alcoholic liquor for consumption  
4 on the premises, and the application for the license shall not be  
5 considered a new application for a license so long as the total  
6 number of public licenses for consumption on the premises does  
7 not exceed the authorized total established in this act and the  
8 sale of alcoholic liquor is approved by the electors. The com-  
9 mission may divide the state into 3 zones and establish for each  
10 zone an anniversary date for renewal of full-year retail licenses  
11 in the licensing year. The commission shall promulgate rules  
12 pursuant to the administrative procedures act of 1969, Act  
13 No. 306 of the Public Acts of 1969, being sections 24.201 to  
14 24.328 of the Michigan Compiled Laws, for the effective adminis-  
15 tration of the renewal of licenses.

16 (5) The commission, with the written approval of the depart-  
17 ment of commerce in the case of the Michigan state fairgrounds  
18 and the department of agriculture in the case of the Upper  
19 Peninsula state fairgrounds may issue without regard to the quota  
20 provision of section 5029 a tavern license to a person as conces-  
21 sionaire leasing or renting a portion of either the Upper  
22 Peninsula state fairgrounds or the state fairgrounds, or both, to  
23 service the licensed area in use for recreational or exhibition  
24 purposes other than at the time of the annual Upper Peninsula  
25 state fair under section 2 of Act No. 89 of the Public Acts of  
26 1927, being section 285.142 of the Michigan Compiled Laws. A  
27 license issued under this subsection is not transferable.



1       Sec. 5003. (1) A new application for a license to sell  
2 alcoholic beverages at retail, or a request to transfer location  
3 of an existing license, shall be denied if the contemplated loca-  
4 tion is within 500 feet of a church or a school building. The  
5 distance between the church or school building and the contem-  
6 plated location shall be measured along the center line of the  
7 street or streets of address between 2 fixed points on the center  
8 line determined by projecting straight lines, at right angles to  
9 the center line, from the part of the church or school building  
10 nearest to the contemplated location and from the part of the  
11 contemplated location nearest to the church or school building.

12       (2) This section does not apply to specially designated mer-  
13 chants not in conjunction with on the premise licenses.

14       (3) This section does not apply to an outstanding license  
15 issued before March 1, 1949, for a location within the aforesaid  
16 distance or to the renewal or transfer of the outstanding license  
17 at that location, or to a resort license in effect during the  
18 1948-1949 licensing year, or to the renewal or transfer of the  
19 resort at that location or to an application for a license at  
20 that location which has been approved by the commission before  
21 March 1, 1949, and licenses so issued, renewed, transferred, or  
22 approved shall be conclusively presumed to be valid for purposes  
23 of this section only.

24       (4) The commission may waive this section in the case of  
25 other classes of licenses. If an objection is not filed by the  
26 church or school, the commission may issue the license pursuant  
27 to this act. If an objection is filed, the commission shall hold

1 a hearing pursuant to rules established by the commission before  
2 making a decision on the issuance of the license.

3 (5) This section shall not be construed to prevent the  
4 transfer of a license to a location farther from a church or  
5 school, if the license to be transferred is within the 500-foot  
6 radius.

7 Sec. 5005. Notwithstanding section 5001, the commission,  
8 with the approval of the state department of aeronautics, may  
9 issue without regard to the quota provision of section 5029, not  
10 more than 1 class "C" or class "B" hotel license for each  
11 state-owned airport serviced by scheduled commercial passenger  
12 airlines. Such license shall not be transferable.

13 Sec. 5007. The commission may issue, without regard to the  
14 quota provisions of section 5029, licenses to the owner or  
15 lessee, or both, to sell alcoholic beverages for consumption on  
16 the premises of buildings in the passenger terminal complex of  
17 each publicly owned airport that is served by scheduled commer-  
18 cial passenger airlines certificated to enplane and deplane pas-  
19 sengers on a scheduled basis by the federal aviation agency or  
20 the civil aeronautics board. A license issued under this section  
21 is not transferable.

22 Sec. 5009. The commission may issue, without regard to the  
23 quota provisions of section 5029, licenses to a commission,  
24 board, or authority, governing or operating any municipal civic  
25 center or civic auditorium or to 1 or more of its concession-  
26 aires, or to both, if the center or auditorium is within a city  
27 or township having a population of not less than 9,500, if the

1 center or auditorium is owned and operated as a municipal  
2 enterprise and if the legislative body of the municipality first  
3 authorizes the operating authority of the civic center or civic  
4 auditorium or its concessionaire to apply to the commission for a  
5 license. Licenses issued under this section shall not be trans-  
6 ferable, shall not be issued to an educational institution or for  
7 a facility operated in connection with an educational institu-  
8 tion, and shall authorize the sale of alcoholic liquor only in  
9 connection with a scheduled event at the licensed premises.

10       Sec. 5011. (1) Notwithstanding section 5001, the commission  
11 may issue the following licenses without regard to the quota pro-  
12 visions of section 5029:

13       (a) With the approval of the Mackinac Island state park com-  
14 mission, not more than 1 class "C" or class "B" hotel license for  
15 each hotel which is located within the Mackinac Island state park  
16 and is owned by the Mackinac Island state park commission and not  
17 more than 1 class "C" license to a concessionaire of the Mackinac  
18 Island state park commission who operates a restaurant located  
19 within Fort Mackinac.

20       (b) A license for the sale of alcoholic liquor for consump-  
21 tion on or off the premises at the Presque Isle harbor marina.

22       (2) A license issued under this section is not transferable  
23 as to ownership or location.

24       Sec. 5013. (1) The commission may issue to the governing  
25 board of a college or university, without regard to the quota  
26 provisions of section 5029, a license to sell alcoholic liquor  
27 for consumption on the premises of a conference center operated

1 by the governing board. Licenses granted under this subsection  
2 may be used only for the sale of alcoholic liquor at regularly  
3 scheduled conference center activities. The sale of alcoholic  
4 liquor to unscheduled patrons or at unscheduled events is prohib-  
5 ited under this subsection.

6 (2) Subject to the provisions of section 5029, the commis-  
7 sion may issue a license to a private entity for the sale of  
8 alcoholic liquor for consumption on the premises of a hotel  
9 located on land owned by central Michigan university if both of  
10 the following circumstances exist:

11 (a) The land is leased or subleased at fair market value to  
12 a private entity that owns, leases, or subleases the hotel build-  
13 ing and its fixtures.

14 (b) The hotel and land are located within an industrial,  
15 research, or commercial development park established by the gov-  
16 erning board of central Michigan university.

17 (3) Licenses issued pursuant to this section are nontrans-  
18 ferable, and the licensee shall pay the fee required under sec-  
19 tion 5023.

20 (4) As used in this section:

21 (a) "College" or "university" means a 2-year or 4-year state  
22 supported institution of higher education.

23 (b) "Conference center" means a building or portion of a  
24 building, other than a student residence hall or student center,  
25 which has meeting rooms, banquet areas, social halls, overnight  
26 accommodations, and related facilities for special activities  
27 scheduled by the college or university, which in the judgment of

1 the commission, has been regularly used for conferences and  
2 lodging of guests. The Hoyt conference center and the corporate  
3 education center at eastern Michigan university, the Kirkhof and  
4 Eberhard centers at Grand Valley state university, the Bernhard  
5 center at western Michigan university, the Wadsworth center at  
6 Michigan technological university, the Doan center at Saginaw  
7 valley state university, the conference center at Big Rapids and  
8 the applied technology center at Grand Rapids of Ferris state  
9 university, Grand Rapids junior college, the Waterman campus  
10 center at Schoolcraft college, the Mendel center at Lake Michigan  
11 community college, the McGregor memorial conference center at  
12 Wayne state university, and the Michigan state university manage-  
13 ment educational center shall be considered conference centers  
14 for the purposes of this act. The license issued for the  
15 Michigan state university management education center is not  
16 subject to the limitation and quota provisions of section 5029.

17       Sec. 5015. (1) The commission may issue in a county with a  
18 population of 750,000 or more, without regard to the quota provi-  
19 sions of section 5029, a class "C" license for a golf course that  
20 is owned by a county, city, village, or township and is open to  
21 the public.

22       (2) The commission shall not transfer a license issued under  
23 this section to another location. If a licensee who receives a  
24 license under this section goes out of business, the license  
25 issued under this section shall be surrendered to the  
26 commission.

1       Sec. 5017. (1) The commission may issue national or  
2 international sporting event licenses for the sale of alcoholic  
3 liquor for consumption on the premises if all of the following  
4 circumstances are found by the commission to exist:

5       (a) The premises to be licensed are located in the central  
6 business district of a city having a population of 70,000 or more  
7 and the city is an official host of a national or international  
8 sporting event.

9       (b) The premises to be licensed are located in a theme area  
10 or theme areas designated by the governing body of the city in  
11 connection with the national or international sporting event.

12       (c) It is reasonably expected that the national or interna-  
13 tional sporting event will attract a substantial number of tour-  
14 ists from outside this state to the city.

15       (d) The applicant holds a valid Michigan license for the  
16 sale of alcoholic liquor for consumption on the premises or is  
17 the promoter of the event.

18       (2) Licenses issued under this section shall be for a period  
19 of not more than 30 consecutive days and are not transferable as  
20 to ownership or location. The license shall be for specific des-  
21 ignated time periods that include the sporting event and activi-  
22 ties associated with the sporting event.

23       (3) Not more than 40 licenses shall be issued under this  
24 section for use at the same time in a theme area or theme areas.

25       (4) The governing body of a city described in subsection (1)  
26 shall supply to the commission for the commission's review a list  
27 containing the names of applicants and the locations of the

1 premises to be licensed under this section. The governing body  
2 of the city shall recommend the number of licenses to be issued  
3 pursuant to this section in the theme area or theme areas. The  
4 commission shall not issue any licenses pursuant to this section  
5 that are not recommended by the governing body of the city.

6 (5) The governing body of the city shall provide, in con-  
7 junction with the list described in subsection (4), written cer-  
8 tification to the commission that all premises to be licensed  
9 under this section comply with applicable state and local build-  
10 ing, safety, and health laws, rules, and regulations.

11 (6) An applicant for a license under this section shall pay  
12 to the commission a license fee of \$100.00 at the time of  
13 application.

14 Sec. 5019. (1) Except as otherwise provided in this act,  
15 the commission shall not issue a license to sell alcoholic  
16 liquor, either on or off the premises, if the property or estab-  
17 lishment to be covered by the license is situated in or on state  
18 owned land.

19 (2) Subsection (1) does not apply to a special license which  
20 has been approved by the governing authority of that state owned  
21 land.

22 (3) Subsection (1) does not apply to the following land:

23 (a) The Michigan state fairgrounds.

24 (b) The Upper Peninsula state fairgrounds.

25 (c) Armories, air bases, and naval installations owned or  
26 leased by the state or provided by the federal government by

1 either lease, license, or use permit and used by outside parties  
2 of a nonmilitary or nonstate governmental nature.

3 (d) Land which was under lease to a person licensed in the  
4 calendar year 1954 and on which a licensed establishment is pres-  
5 ently located.

6 (e) Land located in the Upper Peninsula which was owned or  
7 leased by the federal government, used as a military installa-  
8 tion, and transferred to this state before December 31, 2000 pur-  
9 suant to Act No. 151 of the Public Acts of 1978, being  
10 sections 3.551 to 3.561 of the Michigan Compiled Laws, or Act  
11 No. 159 of the Public Acts of 1993, being sections 3.571 to 3.580  
12 of the Michigan Compiled Laws. The commission may issue 2 addi-  
13 tional licenses pursuant to this subdivision for establishments  
14 located on this state land without regard to or without the  
15 effect upon the quota provisions of section 5029 in the local  
16 governmental unit in which the license will be issued subject to  
17 the recommendation of the authority established pursuant to Act  
18 No. 151 of the Public Acts of 1978 or Act No. 159 of the Public  
19 Acts of 1993. A person issued a license pursuant to this subdi-  
20 vision may renew the license and transfer ownership of the  
21 license, without regard to or without the effect upon the quota  
22 provisions of section 5029, if title to the property covered by  
23 the license is transferred from the state to another person or to  
24 another governmental unit. The commission shall not transfer a  
25 license issued under this subdivision to another location.  
26 Before the issuance of a license, and annually thereafter before  
27 the issuance of a license for a new licensing period, the



1 applicant for a license shall submit to the commission a  
2 certificate from the department or agency charged with control of  
3 the land setting forth that the issuance of a license is not  
4 incompatible with the objects and purposes entrusted to that  
5 department or agency under the law establishing control of the  
6 land in the department or agency. This subsection does not pro-  
7 hibit the issuance of a license pursuant to section 5013.

8       (f) Property owned by the Michigan state waterways commis-  
9 sion and leased to persons under part 791 (harbor development) of  
10 the natural resources and environmental protection act, Act  
11 No. 451 of the Public Acts of 1994, being sections 324.79101 to  
12 324.79118 of the Michigan Compiled Laws. A license may be issued  
13 under this subdivision to a lessee without regard to the quota  
14 provisions of section 5029, but the license shall not be issued  
15 without the written approval of the Michigan state waterways com-  
16 mission or its designee. A license issued under this subdivision  
17 shall not be transferable as to ownership or location, and, if  
18 the licensee goes out of business, the license shall be surren-  
19 dered to the commission.

20       (g) Property owned by the state treasurer of this state when  
21 acting in the capacity of custodian of the assets of the state  
22 retirement systems created by the public school employees retire-  
23 ment act of 1979, Act No. 300 of the Public Acts of 1980, being  
24 sections 38.1301 to 38.1408 of the Michigan Compiled Laws; the  
25 state employees' retirement act, Act No. 240 of the Public Acts  
26 of 1943, being sections 38.1 to 38.49 of the Michigan Compiled  
27 Laws; the state police retirement act of 1986, Act No. 182 of the

1 Public Acts of 1986, being sections 38.1601 to 38.1648 of the  
2 Michigan Compiled Laws; and the judges retirement act of 1992,  
3 Act No. 234 of the Public Acts of 1992, being sections 38.2101 to  
4 38.2608 of the Michigan Compiled Laws.

5       Sec. 5021. (1) A person who holds or whose spouse holds,  
6 either by appointment or election, a public office that involves  
7 the duty to enforce any of the penal laws of the United States,  
8 the penal laws of this state, or a penal ordinance or resolution  
9 of any municipal subdivision of the state, except civil defense  
10 volunteer police, mayors or council members of cities, village  
11 presidents, mayors of home rule cities whose law enforcement  
12 authority under the city charter is restricted to emergency situ-  
13 ations, or the state treasurer of this state when acting in the  
14 capacity of custodian of the assets of the state retirement sys-  
15 tems created by the public school employees retirement act of  
16 1979, Act No. 300 of the Public Acts of 1980, being sections  
17 38.1301 to 38.1408 of the Michigan Compiled Laws; the state  
18 employees' retirement act, Act No. 240 of the Public Acts of  
19 1943, being sections 38.1 to 38.49 of the Michigan Compiled Laws;  
20 the state police retirement act of 1986, Act No. 182 of the  
21 Public Acts of 1986, being sections 38.1601 to 38.1648 of the  
22 Michigan Compiled Laws; and the judges retirement act of 1992,  
23 Act No. 234 of the Public Acts of 1992, being sections 38.2101 to  
24 38.2608 of the Michigan Compiled Laws, and members of these state  
25 retirement systems only if the state treasurer makes an invest-  
26 ment in the name of the respective retirement system to which  
27 such members belong, shall not be issued a license or have an

1 interest, directly or indirectly, in a license. However, a  
2 nonprofit fraternal organization incorporated under the laws of  
3 this state, whose membership is not totally composed of law  
4 enforcement personnel or public officeholders charged with the  
5 duty of enforcing any penal laws or ordinances of a governmental  
6 body, may be issued a club liquor license if the organization is  
7 otherwise qualified.

8 (2) As used in this section, "law enforcement personnel"  
9 does not include the mayor of a city or the state treasurer of  
10 this state when acting in the capacity of custodian of the assets  
11 of the state retirement systems created by Act No. 300 of the  
12 Public Acts of 1980, Act No. 240 of the Public Acts of 1943, Act  
13 No. 182 of the Public Acts of 1986, and Act No. 234 of the Public  
14 Acts of 1992, and members of these state retirement systems only  
15 if the state treasurer makes an investment in the name of the  
16 respective retirement system to which such members belong.

17 Sec. 5023. (1) The following license fees shall be paid at  
18 the time of filing applications or as otherwise provided in this  
19 act:

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

23 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or  
24 fraction of a barrel, production annually with a maximum fee of  
25 \$1,000.00, and in addition \$50.00 for each motor vehicle used in  
26 delivery to retail licensees. A fee increase shall not apply to  
27 a manufacturer of less than 15,000 barrels production per year.

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

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

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

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

11 (g) Dining cars or other railroad or Pullman cars selling  
12 alcoholic liquor, \$100.00 per train.

13 (h) Wholesale vendors other than manufacturers of beer,  
14 \$300.00 for the first motor vehicle used in delivery to retail  
15 licensees and \$50.00 for each additional motor vehicle used in  
16 delivery to retail licensees.

17 (i) Watercraft, licensed to carry passengers, selling alco-  
18 holic liquor, a minimum fee of \$100.00 and a maximum fee of  
19 \$500.00 per year computed on the basis of \$1.00 per person per  
20 passenger capacity.

21 (j) Specially designated merchants, for selling beer or wine  
22 for consumption off the premises only but not at wholesale,  
23 \$100.00 for each location regardless of the fact that the loca-  
24 tion may be a part of a system or chain of merchandising.

25 (k) Specially designated distributors licensed by the com-  
26 mission to distribute spirits and mixed spirit drink in the  
27 original package for the commission for consumption off the

1 premises, \$150.00 per year, and an additional fee of \$3.00 for  
2 each \$1,000.00 or major fraction of that amount in excess of  
3 \$25,000.00 of the total retail value of merchandise purchased  
4 under each license from the commission during the previous calen-  
5 dar year.

6 (l) Hotels of class A selling beer and wine, a minimum fee  
7 of \$250.00 and, for all bedrooms in excess of 20, \$1.00 for each  
8 additional bedroom, but not more than \$500.00.

9 (m) Hotels of class B selling beer, wine, mixed spirit  
10 drink, and spirits, a minimum fee of \$600.00 and, for all bed-  
11 rooms in excess of 20, \$3.00 for each additional bedroom. If a  
12 hotel of class B sells beer, wine, mixed spirit drink, and spir-  
13 its in more than 1 public bar, the fee shall entitle the hotel to  
14 sell in only 1 public bar, other than a bedroom, and a license  
15 shall be secured for each additional public bar, other than a  
16 bedroom, the fee for which shall be \$350.00.

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

18 (o) Class C license selling beer, wine, mixed spirit drink,  
19 and spirits, \$600.00. If a class C licensee sells beer, wine,  
20 mixed spirit drink, and spirits in more than 1 bar, a fee of  
21 \$350.00 shall be paid for each additional bar. In municipally  
22 owned or supported facilities in which nonprofit organizations  
23 operate concession stands, a fee of \$100.00 shall be paid for  
24 each additional bar.

25 (p) Clubs selling beer, wine, mixed spirit drink, and spir-  
26 its, \$300.00 for clubs having 150 or fewer duly accredited  
27 members and \$1.00 for each additional member. The membership

1 list for the purpose only of determining the license fees to be  
2 paid under this section shall be the accredited list of members  
3 as determined by a sworn affidavit 30 days before the closing of  
4 the license year. This section shall not prevent the commission  
5 from checking a membership list and making its own determination  
6 from the list or otherwise. The list of members and additional  
7 members shall not be required of a club paying the maximum fee.  
8 The maximum fee shall not exceed \$750.00 for any 1 club.

9 (q) Warehousemen, to be fixed by the commission with a mini-  
10 mum fee for each warehouse of \$50.00.

11 (r) Special licenses, a fee of \$50.00 per day, except that  
12 the fee for that license or permit issued to any bona fide non-  
13 profit association, duly organized and in continuous existence  
14 for 1 year before the filing of its application, shall be  
15 \$25.00. Not more than 5 special licenses may be granted to any  
16 organization, including an auxiliary of the organization, in a  
17 calendar year.

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

21 (t) Brandy manufacturer, \$100.00.

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

23 (v) Brewpub, \$100.00.

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

1       Sec. 5025. (1) The commission may issue a special license  
2 to a nonprofit charitable organization that is exempt from the  
3 payment of taxes under the internal revenue code for the purpose  
4 of allowing the organization to sell, at auction, wine donated to  
5 the organization.

6       (2) A special license issued pursuant to subsection (1) is  
7 not transferable. The organization applying for the special  
8 license shall pay the fee required under section 5023(1)(r).

9       (3) An auction permitted under subsection (1) may occur upon  
10 premises which are otherwise licensed under this act to allow the  
11 sale of alcoholic liquor for consumption on the licensed  
12 premises.

13       Sec. 5027. (1) A license or an interest in a license shall  
14 not be transferred from 1 person to another without the prior  
15 approval of the commission. For purposes of this section, the  
16 transfer in the aggregate to another person during any single  
17 licensing year of more than 10% of the outstanding stock of a  
18 licensed corporation or more than 10% of the total interest in a  
19 licensed limited partnership shall be considered to be a transfer  
20 requiring the prior approval of the commission.

21       (2) Not later than July 1 of each year, each privately held  
22 licensed corporation and each licensed limited partnership shall  
23 notify the commission as to whether any of the shares of stock in  
24 the corporation, or interest in the limited partnership, have  
25 been transferred during the preceding licensing year. The com-  
26 mission may investigate the transfer of any number of shares of  
27 stock in a licensed corporation, or any amount of interest in a

1 licensed limited partnership, for the purpose of ensuring  
2 compliance with this act and the rules promulgated under this  
3 act.

4       (3) Except as otherwise provided in subdivision (a) through  
5 (f), upon approval by the commission of a transfer subject to  
6 subsection (1), there shall be paid to the commission a transfer  
7 fee equal to the fee provided in this act for the class of  
8 license being transferred. A transfer fee shall not be prorated  
9 for a portion of the effective period of the license. If a  
10 person holding more than 1 license or more than 1 interest in a  
11 license at more than 1 location, but in the name of a single  
12 legal entity, transfers all of the licenses or interests in  
13 licenses simultaneously to another single legal entity, the  
14 transfers shall be considered 1 transfer for purposes of deter-  
15 mining a transfer fee, payable in an amount equal to the highest  
16 license fee provided in this act for any of the licenses, or  
17 interests in licenses, being transferred. A transfer fee shall  
18 not be required in regard to any of the following:

19       (a) The transfer, in the aggregate, of less than 50% of the  
20 outstanding shares of stock in a licensed corporation or less  
21 than 50% of the total interest in a licensed limited partnership  
22 during any licensing year.

23       (b) The exchange of the assets of a licensed sole proprie-  
24 torship, licensed general partnership, or licensed limited part-  
25 nership for all outstanding shares of stock in a corporation in  
26 which either the sole proprietor, all members of the general  
27 partnership, or all members of the limited partnership are the



1 only stockholders of that corporation. An exchange under this  
2 subdivision shall not be considered an application for a license  
3 for the purposes of section 5001.

4 (c) The transfer of the interest in a licensed business of a  
5 deceased licensee, a deceased stockholder, or a deceased member  
6 of a general or limited partnership to the deceased person's  
7 spouse or children.

8 (d) The removal of a member of a firm, a stockholder, a  
9 member of a general partnership or limited partnership, or asso-  
10 ciation of licensees from a license.

11 (e) The addition to a license of the spouse, son, daughter,  
12 or parent of any of the following:

13 (i) A licensed sole proprietor.

14 (ii) A stockholder in a licensed corporation.

15 (iii) A member of a licensed general partnership, licensed  
16 limited partnership, or other licensed association.

17 (f) The occurrence of any of the following events:

18 (i) A corporate stock split of a licensed corporation.

19 (ii) The issuance to a stockholder of a licensed corporation  
20 of previously unissued stock as compensation for services  
21 performed.

22 (iii) The redemption by a licensed corporation of its own  
23 stock.

24 (4) A nonrefundable inspection fee of \$70.00 shall be paid  
25 to the commission by an applicant or licensee at the time of  
26 filing any of the following:

1 (a) An application for a new license or permit.

2 (b) A request for approval of a transfer of ownership or  
3 location of a license.

4 (c) A request for approval to increase or decrease the size  
5 of the licensed premises, or to add a bar.

6 (d) A request for approval of the transfer in any licensing  
7 year of any of the shares of stock in a licensed corporation from  
8 1 person to another, or any part of the total interest in a  
9 licensed limited partnership from 1 person to another.

10 (5) An inspection fee shall be returned to the person by  
11 whom it was paid if the purpose of the inspection was to inspect  
12 the physical premises of the licensee, and the inspection was not  
13 actually conducted. An inspection fee shall not be required for  
14 any of the following:

15 (a) The issuance or transfer of a special license, salesper-  
16 son license, limited alcohol buyer license, corporate salesperson  
17 license, hospital permit, military permit, or Sunday sale of  
18 spirits permit.

19 (b) The issuance of a new permit, or the transfer of an  
20 existing permit, if the permit is issued or transferred simulta-  
21 neously with the issuance or transfer of a license or an interest  
22 in a license.

23 (c) The issuance of authorized but previously unissued cor-  
24 porate stock to an existing stockholder of a licensed  
25 corporation.

1 (d) The transfer from a corporation to an existing  
2 stockholder of any of the corporation's stock that is owned by  
3 the corporation itself.

4 (6) All inspection fees collected under this section shall  
5 be deposited in the special fund in section 5041 for carrying out  
6 of the licensing and enforcement provisions of this act.

7 Sec. 5029. (1) A public license shall not be granted for  
8 the sale of alcoholic liquor for consumption on the premises in  
9 excess of 1 license for each 1,500 of population or major frac-  
10 tion thereof. This quota does not bar the right of an existing  
11 licensee to renew a license or transfer the license and does not  
12 bar the right of a tavern or class A hotel from requesting  
13 reclassification of a license to class C, unless local option  
14 laws prevent the sale of spirits and mixed spirit drinks by those  
15 licensed premises, subject to the consent of the commission. The  
16 upgrading of a license resulting from a request under this sub-  
17 section shall be approved by the local governmental unit having  
18 jurisdiction.

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

26 (3) In addition to the resort licenses authorized in  
27 subsection (2), the commission may issue not more than 10

1 additional licenses per year for the years 1996 and 1997 to  
2 establishments whose business and operation, as determined by the  
3 commission, is designed to attract and accommodate tourists and  
4 visitors to the resort area and whose primary purpose is not for  
5 the sale of alcoholic liquor. In counties having a population of  
6 less than 50,000, as determined by the last federal decennial  
7 census or as determined pursuant to subsection (11), the commis-  
8 sion shall not require the establishments to have dining facili-  
9 ties to seat more than 50 persons. The commission may cancel the  
10 license if the resort is no longer active or no longer qualifies  
11 for the license. Before January 16 of each year, the commission  
12 shall transmit to the legislature a report giving details as to  
13 the number of applications received under this subsection; the  
14 number of licenses granted and to whom; the number of applica-  
15 tions rejected and the reasons; and the number of the licenses  
16 revoked, suspended, or subject to other disciplinary action taken  
17 and against whom and the grounds for revocation, suspension, or  
18 disciplinary action.

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

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

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

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

9 (5) In governmental units having a population of 50,000 per-  
10 sons or less, as determined by the last federal decennial census  
11 or as determined pursuant to subsection (11), in which the quota  
12 of specially designated distributor licenses, as provided by com-  
13 mission rule, has been exhausted, the commission may issue not  
14 more than 10 additional specially designated distributor licenses  
15 per year for the years 1996 and 1997 to established merchants  
16 whose business and operation, as determined by the commission, is  
17 designed to attract and accommodate tourists and visitors to the  
18 resort area. A specially designated distributor license issued  
19 pursuant to this subsection may be issued at a location within  
20 2,640 feet of existing specially designated distributor license  
21 locations. A specially designated distributor license issued  
22 pursuant to this subsection shall not bar another specially des-  
23 ignated distributor licensee from transferring location to within  
24 2,640 feet of that licensed location.

25 (6) In addition to any licenses for the sale of alcoholic  
26 liquor for consumption on the premises that may be available in  
27 the local governmental unit under subsection (1), and the resort

1 licenses authorized in subsections (2), (3), and (4), and  
2 notwithstanding section 501(4), the commission may issue not more  
3 than 5 additional special purpose licenses in any calendar year  
4 for the sale of beer and wine for consumption on the premises. A  
5 special purpose license issued pursuant to this subsection shall  
6 be issued only for events which are to be held from May 1 to  
7 September 30, are artistic in nature, and which are to be held on  
8 the campus of a public university with an enrollment of 30,000 or  
9 more students. A special purpose license shall be valid for 30  
10 days or for the duration of the event for which it is issued,  
11 whichever is less. The fee for a special purpose license shall  
12 be \$50.00. A special purpose license may be issued only to a  
13 corporation which is all of the following:

14 (a) Is a nonprofit corporation organized pursuant to the  
15 nonprofit corporation act, Act No. 162 of the Public Acts of  
16 1982, being sections 450.2101 to 450.3192 of the Michigan  
17 Compiled Laws.

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

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

23 (7) Notwithstanding the local legislative body approval pro-  
24 vision of section 5001(3) and notwithstanding the provisions of  
25 section 5001(5), the commission may issue, without regard to the  
26 quota provisions of subsection (1) and with the approval of the  
27 governing board of the university, either a tavern or a class C

1 license which may be used only for regularly scheduled events at  
2 a public university's established outdoor program or festival at  
3 a facility on the campus of a public university having a head  
4 count enrollment of 10,000 students or more. A license issued  
5 under this subsection may only be issued to the governing board  
6 of a public university or a person that is the lessee or conces-  
7 sionaire of the governing board of the university, or both. A  
8 license issued under this subsection is not transferable as to  
9 ownership or location. A license issued under this subsection  
10 may not be issued at an outdoor stadium customarily used for  
11 intercollegiate athletic events.

12 (8) In issuing a resort license under subsection (3), (4),  
13 or (5), the commission shall consider economic development fac-  
14 tors of the area in the issuance of licenses to establishments  
15 designed to stimulate and promote the resort and tourist  
16 industry. The commission shall not transfer a resort license  
17 issued under subsection (3), (4), or (5) to another location, and  
18 if the licensee goes out of business the license shall be surren-  
19 dered to the commission.

20 (9) The limitations and quotas of this section do not apply  
21 to the issuance of a new license to a veteran of the armed forces  
22 of the United States who was honorably discharged or released  
23 under honorable conditions from the armed forces of the United  
24 States and who had by forced sale disposed of a similar license  
25 within 90 days before or after entering or while serving in the  
26 armed forces of the United States, as a part of the person's  
27 preparation for that service, if the application for a new

1 license is made for the same governmental unit in which the  
2 previous license was issued and within 60 days after the dis-  
3 charge of the applicant from the armed forces of the United  
4 States.

5 (10) In cities, incorporated villages, or townships, the  
6 commission shall issue only 1 specially designated distributor  
7 license for each 3,000 of population, or fraction thereof.

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

13 (12) For purposes of implementing this section a special  
14 state census of a local governmental unit may be taken at the  
15 expense of the local governmental unit by the federal bureau of  
16 census or the secretary of state under section 6 of Act No. 279  
17 of the Public Acts of 1909, being section 117.6 of the Michigan  
18 Compiled Laws. The special census shall be initiated by resolu-  
19 tion of the governing body of the local governmental unit  
20 involved. The secretary of state may promulgate additional rules  
21 necessary for implementing this section pursuant to the adminis-  
22 trative procedures act of 1969, Act No. 306 of the Public Acts of  
23 1969, being sections 24.201 to 24.328 of the Michigan Compiled  
24 Laws.

25 (13) Before granting an approval as required in  
26 section 5001(3) for a license to be issued under subsection (2),  
27 (3), or (4), a local legislative body shall disclose the



1 availability of transferable licenses held in escrow for more  
2 than 1 licensing year within that respective local governmental  
3 unit. Public notice of the meeting to consider the granting of  
4 the license by the local governmental unit shall be made 2 weeks  
5 before the meeting.

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

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

22       (16) As used in this section:

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

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

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

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

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

9 Sec. 5031. A retail vendor licensed under this act to sell  
10 for consumption on the premises may apply for a license as a spe-  
11 cially designated merchant. A specially designated distributor  
12 may apply for a license as a specially designated merchant.

13 Sec. 5033. A vendor shall be a person authorized to do  
14 business under the laws of this state.

15 Sec. 5035. (1) The following classes of vendors may sell  
16 alcoholic 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 beer manufactured on the premises by the  
16 licensee may be sold only for consumption on the premises by any  
17 of the following licensees:

18 (i) Class "C".

19 (ii) Tavern.

20 (iii) Class "A" hotel.

21 (iv) Class "B" hotel.

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

25 (2) A wine maker may sell wine made by that wine maker in a  
26 restaurant for consumption on or off the premises if the

1 restaurant is owned or leased to another person by the wine maker  
2 and located on the premises where the wine maker is licensed.

3 (3) A wine maker, with the prior written approval of the  
4 commission, may conduct wine tastings of wines made by that wine  
5 maker and may sell the wine made by that wine maker for consump-  
6 tion off the premises at a location other than the premises where  
7 the wine maker is licensed to manufacture wine, under the follow-  
8 ing conditions:

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

11 (b) Not more than 1 wine tasting location as described in  
12 this subsection, per wine maker, may be approved by the commis-  
13 sion in a licensing year.

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

16 (d) The wine tasting locations shall be considered licensed  
17 premises.

18 (e) Wine tasting does not take place between the hours of 2  
19 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and  
20 12 noon on Sunday.

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

23 Sec. 5037. A marina that is situated on 1 of the Great  
24 Lakes, on that part of an inland waterway or tributary connected  
25 to and navigable to 1 of the Great Lakes, or on a Great Lakes  
26 connecting waterway may be issued a license as a specially  
27 designated merchant or specially designated distributor,

1 notwithstanding the fact that the marina maintains motor vehicle  
2 fuel pumps on or adjacent to the licensed premises, or maintains  
3 a financial interest in any motor vehicle fuel pumps if both of  
4 the following conditions are met:

5 (a) The marina's primary business is the sale of boats or  
6 the provision of services and supplies to recreational power  
7 cruisers and sailboats of the type that typically travel on the  
8 Great Lakes.

9 (b) The fuel pumps are used for dispensing fuel only to  
10 boats described in subdivision (a).

11 Sec. 5039. (1) The commission shall not prohibit an appli-  
12 cant for or the holder of a specially designated distributor  
13 license or specially designated merchant license from owning or  
14 operating motor vehicle fuel pumps on or adjacent to the licensed  
15 premises, if both of the following conditions are met:

16 (a) One or both of the following conditions exist:

17 (i) The applicant or licensee is located in a neighborhood  
18 shopping center composed of 1 or more commercial establishments  
19 organized or operated as a unit which is related in location,  
20 size, and type of shop to the trade area that the unit serves,  
21 which provides not less than 50,000 square feet of gross leasable  
22 retail space, and which provides 5 private off-street parking  
23 spaces for each 1,000 square feet of gross leasable retail  
24 space.

25 (ii) The applicant or licensee maintains a minimum inventory  
26 on the premises, excluding alcoholic liquor and motor vehicle

1 fuel, of not less than \$250,000.00, at cost, of those goods and  
2 services customarily marketed by approved types of businesses.

3 (b) The site of payment and selection of alcoholic liquor is  
4 not less than 50 feet from that point where motor vehicle fuel is  
5 dispensed.

6 (2) The commission shall not prohibit an applicant for or  
7 the holder of a specially designated merchant license from owning  
8 or operating motor vehicle fuel pumps on or adjacent to the  
9 licensed premises if both of the following conditions are met:

10 (a) The applicant or licensee is located in either of the  
11 following:

12 (i) A city, incorporated village, or township with a popula-  
13 tion of 3,000 or less and a county with a population of 31,000 or  
14 more.

15 (ii) A city, incorporated village, or township with a popu-  
16 lation of 3,500 or less and a county with a population of less  
17 than 31,000.

18 (b) The applicant or licensee maintains a minimum inventory  
19 on the premises, excluding alcoholic liquor and motor vehicle  
20 fuel, of not less than \$10,000.00, at cost, of those goods and  
21 services customarily marketed by approved types of businesses.

22 (3) The commission shall not prohibit an applicant for or  
23 the holder of a specially designated distributor license from  
24 owning or operating motor vehicle fuel pumps on or adjacent to  
25 the licensed premises if both of the following conditions are  
26 met:

1 (a) The applicant or licensee is located in either of the  
2 following:

3 (i) A city, incorporated village, or township with a popula-  
4 tion of 3,000 or less and a county with a population of 31,000 or  
5 more.

6 (ii) A city, incorporated village, or township with a popu-  
7 lation of 3,500 or less and a county with a population of less  
8 than 31,000.

9 (b) The applicant or licensee maintains a minimum inventory  
10 on the premises, excluding alcoholic liquor and motor vehicle  
11 fuel, of not less than \$12,500.00, at cost, of those goods and  
12 services customarily marketed by approved types of businesses.

13 (4) A person who was issued a specially designated merchant  
14 license or specially designated distributor license at a location  
15 at which another person owned, operated or maintained motor vehi-  
16 cle fuel pumps at the same location may have or acquire an inter-  
17 est in the ownership, operation or maintenance of those motor  
18 vehicle fuel pumps.

19 (5) The commission may transfer ownership of a specially  
20 designated merchant license or specially designated distributor  
21 license to a person who owns or is acquiring an interest in motor  
22 vehicle fuel pumps already in operation at the same location at  
23 which the license is issued.

24 Sec. 5041. (1) Quarterly, upon recommendation of the com-  
25 mission, the state shall pay in the manner prescribed by law to  
26 the city, village, or township in which a full-time police  
27 department or full-time ordinance enforcement department is

1 maintained or, if a police department or full-time ordinance  
2 enforcement department is not maintained, to the county, to be  
3 credited to the sheriff's department of the county in which the  
4 licensed premises are located, 55% of the amount of the proceeds  
5 of the retailers' license fees and license renewal fees collected  
6 in that jurisdiction, for the specific purpose of enforcing this  
7 act and the rules promulgated under this act. Forty-one and  
8 one-half percent of the amount of the proceeds of retailers'  
9 license and license renewal fees collected shall be deposited in  
10 a special fund to be annually appropriated to the commission for  
11 carrying out the licensing and enforcement provisions of this  
12 act. Any unencumbered or uncommitted money in the special fund  
13 shall revert to the general fund of the state 12 months after the  
14 end of each fiscal year in which the funds were collected. The  
15 legislature shall appropriate 3-1/2% of the amount of the pro-  
16 ceeds of retailers' license and license renewal fees collected to  
17 be credited to a special fund in the state treasury for the pur-  
18 poses of promoting and sustaining programs for the prevention,  
19 rehabilitation, care, and treatment of alcoholics. This subsec-  
20 tion does not apply to retail license fees collected for railroad  
21 or Pullman cars, watercraft, or aircraft, or to the transfer fees  
22 provided in section 5027.

23       (2) All license and license renewal fees, other than retail  
24 license and license renewal fees, shall be credited to the grape  
25 and wine industry council created in section 3003, to be used as  
26 provided in section 3003. Money credited to the grape and wine  
27 industry council shall not revert to the state general fund at



1 the close of the fiscal year, but shall remain in the account to  
2 which it was credited to be used as provided in section 3003.

3 (3) All retail license fees collected for railroad or  
4 Pullman cars, watercraft, or aircraft, and the transfer fees pro-  
5 vided in section 5027 shall be deposited in the special fund cre-  
6 ated in subsection (1) for carrying out the licensing and  
7 enforcement provisions of this act.

8 CHAPTER 6

9 Sec. 6001. (1) A wholesale licensee or an applicant for a  
10 wholesale license, if an individual, shall be licensed only if  
11 that individual has resided in this state for not less than 1  
12 year immediately prior to the date of issuance of the license.

13 (2) A wholesale licensee or an applicant for a wholesale  
14 license, if a partnership other than a limited partnership, shall  
15 be licensed only if all of its members have resided in this state  
16 for not less than 1 year immediately prior to the date of issu-  
17 ance of the license.

18 (3) A wholesale licensee or an applicant for a wholesale  
19 license, if a limited partnership, shall be licensed only if the  
20 limited partnership is authorized to do business under the laws  
21 of this state, and if the general partner and all limited part-  
22 ners have resided in this state for not less than 1 year immedi-  
23 ately preceding the date of issuance of the license. If the gen-  
24 eral partner is a corporation, the limited partnership shall be  
25 licensed only if the corporation has been authorized to do busi-  
26 ness under the laws of this state for not less than 1 year  
27 immediately preceding the date on which the corporation obtained

1 an interest in the limited partnership. A limited partnership  
2 that holds a wholesale license shall not admit as a new limited  
3 partner an individual who has not resided in this state for at  
4 least 1 year immediately preceding the date on which the limited  
5 partnership interest was acquired by the individual.

6 (4) A wholesale licensee or an applicant for a wholesale  
7 license, if a corporation, shall be licensed only if the corpora-  
8 tion is authorized to do business under the laws of this state  
9 and if all stockholders of the corporation have resided in this  
10 state for not less than 1 year immediately preceding the date of  
11 issuance of the license. A corporation that holds a wholesale  
12 license shall not issue shares of the corporation's stock to a  
13 person who has not resided in this state for at least 1 year  
14 immediately preceding the date on which the corporate stock was  
15 acquired by the person.

16 Sec. 6003. (1) Except as provided in section 6005, a manu-  
17 facturer, mixed spirit drink manufacturer, warehouseman, whole-  
18 saler, outstate seller of beer, outstate seller of wine, outstate  
19 seller of mixed spirit drink, or vendor of spirits shall not have  
20 any financial interest, directly or indirectly, in the establish-  
21 ment, maintenance, operation, or promotion of the business of any  
22 other vendor.

23 (2) Except as provided in section 6005, a manufacturer,  
24 mixed spirit drink manufacturer, warehouseman, wholesaler, out-  
25 state seller of beer, outstate seller of wine, outstate seller of  
26 mixed spirit drink, or vendor of spirits or a stockholder of a  
27 manufacturer, mixed spirit drink manufacturer, warehouseman,

1 wholesaler, outstate seller of beer, outstate seller of wine,  
2 outstate seller of mixed spirit drink, or vendor of spirits shall  
3 not have an interest by ownership in fee, leasehold, mortgage, or  
4 otherwise, directly or indirectly, in the establishment, mainte-  
5 nance, operation, or promotion of the business of any other  
6 vendor.

7       (3) Except as provided in section 6005, a manufacturer,  
8 mixed spirit drink manufacturer, warehouseman, wholesaler, out-  
9 state seller of beer, outstate seller of wine, outstate seller of  
10 mixed spirit drink, or vendor of spirits shall not have an inter-  
11 est directly or indirectly by interlocking directors in a corpo-  
12 ration or by interlocking stock ownership in a corporation in the  
13 establishment, maintenance, operation, or promotion of the busi-  
14 ness of any other vendor.

15       (4) Except as provided in section 6005, a person shall not  
16 buy the stocks of a manufacturer, mixed spirit drink manufactur-  
17 er, warehouseman, wholesaler, outstate seller of beer, outstate  
18 seller of wine, outstate seller of mixed spirit drink, or vendor  
19 of spirits and place the stock in any portfolio under an arrange-  
20 ment, written trust agreement, or form of investment trust agree-  
21 ment and issue participating shares based upon the portfolio,  
22 trust agreement, or investment trust agreement, and sell the par-  
23 ticipating shares within this state.

24       Sec. 6005. (1) A brewer, or the parent company, a subsid-  
25 iary or an affiliate of a brewer which parent company, subsid-  
26 iary, or affiliate is located in this state may acquire, develop,  
27 sell, lease, finance, maintain, operate, or promote real property

1 occupied or to be occupied by another vendor, except a  
2 wholesaler, if all of the following circumstances exist:

3 (a) The brewer has received written approval of the commis-  
4 sion before entering into any arrangement or contract between the  
5 parties regarding the real property.

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

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

16 (2) The commission may deny or approve an arrangement or  
17 contract to be entered into under this section. In denying or  
18 approving an arrangement or contract, the commission shall con-  
19 sider all of the following:

20 (a) That the arrangement or contract to be entered into is  
21 concerned only with real property.

22 (b) That the certification required under subsection (1)(b)  
23 has been received by the commission.

24 (c) That the arrangement or contract does not violate this  
25 act or the rules promulgated under this act.

26 (3) The commission may review any arrangement or contract  
27 under this section at the time that 1 of the parties to the

1 arrangement or contract applies for or renews a license. The  
2 commission may deny, revoke, or suspend the license of a party to  
3 the arrangement or contract if the commission finds that the  
4 party to the arrangement or contract has violated this act or the  
5 rules promulgated under this act.

6 (4) A wholesaler shall not directly or indirectly be a party  
7 to an arrangement or contract under this section.

8 Sec. 6007. (1) Except as provided in section 6003(5), a  
9 warehouseman, mixed spirit drink manufacturer, wholesaler, out-  
10 state seller of beer, outstate seller of wine, outstate seller of  
11 mixed spirit drink, or vendor of spirits shall not be licensed as  
12 a specially designated merchant or a specially designated dis-  
13 tributor or permitted to sell or deliver to the consumer any  
14 quantity of alcoholic liquor at retail.

15 (2) A specially designated distributor or specially desig-  
16 nated merchant or any other retailer shall not hold a mixed  
17 spirit drink manufacturer, wholesale, warehouse, outstate seller  
18 of beer, outstate seller of mixed spirit drink, or outstate  
19 seller of wine license.

20 (3) A brewer, warehouseman, or wholesaler shall not be  
21 licensed as a specially designated merchant, except for brewers  
22 who manufacture less than 200,000 barrels of beer per year. This  
23 subsection shall not affect the operation of a brewery hospital-  
24 ity room.

25 (4) A wholesaler may sell or deliver beer and alcoholic  
26 liquor to hospitals, military establishments, governments of  
27 federal Indian reservations, and churches requiring sacramental

1 wines and may sell to the wholesaler's own employees to a limit  
2 of 2 cases of 24 12-ounce units or its equivalent of malt bever-  
3 age per week, or 1 case of 12 1-liter units or its equivalent of  
4 wine or mixed spirit drink per week.

5       Sec. 6009. Except as provided in section 6005, a manufac-  
6 turer, mixed spirit drink manufacturer, warehouseman, wholesaler,  
7 outstate seller of beer, outstate seller of wine, outstate seller  
8 of mixed spirit drink, or vendor of spirits shall not aid or  
9 assist any other vendor by gift, loan of money or property of any  
10 description, or other valuable thing, or by the giving of premi-  
11 ums or rebates, and a vendor shall not accept the same. However,  
12 if manufacturers of spirits reduce the price of their products,  
13 the manufacturer of spirits may refund the amount of the price  
14 reductions to specially designated distributor licensees in a  
15 manner prescribed by the commission.

16       Sec. 6011. (1) A refund or credit of the tax on wine or  
17 mixed spirit drink paid under section 3003 and of the tax on beer  
18 paid under section 4009 shall be made by the commission to a  
19 brewer, wine maker, outstate seller of beer, outstate seller of  
20 wine, outstate seller of mixed spirit drink, manufacturer of  
21 mixed spirit drink, wholesaler, or retail licensee who paid the  
22 tax if the wine, beer, or mixed spirit drink was sold to a mili-  
23 tary installation or Indian reservation in this state or, subject  
24 to subsection (2), if the wine, beer, or mixed spirit drink is  
25 lost, made unmarketable, or condemned by order of the commission  
26 as the result of a fire, flood, casualty, or other occurrence. A  
27 refund or credit shall not be made as the result of theft.

1 (2) A refund or credit of taxes as provided in subsection  
2 (1) shall be made for damaged wine, beer, or mixed spirit drink  
3 only if all of the following circumstances exist:

4 (a) At the time of the fire, flood, casualty, or other  
5 occurrence, the wine, beer, or mixed spirit drink was being held  
6 for sale by the vendor claiming the refund or credit.

7 (b) The refund or credit of the amount claimed or any part  
8 of the amount claimed has not been and will not be claimed for  
9 the same wine, beer, or mixed spirit drink under any other law or  
10 rule.

11 (c) The vendor claiming the refund or credit is not indemni-  
12 fiable by any valid claim of insurance or otherwise for the tax  
13 on the wine, beer, or mixed spirit drink covered by the claim.

14 (d) The amount claimed for a refund or credit is more than  
15 \$250.00 or the refund or credit is claimed for defective wine,  
16 beer, or mixed spirit drink for which the commission has autho-  
17 rized a manufacturer, outstate seller of beer, outstate seller of  
18 wine, outstate seller of mixed spirit drink, manufacturer of  
19 mixed spirit drink, or wholesaler to make an exchange, have  
20 replaced, or be reimbursed.

21 (e) The occurrence was not caused by an intentional act of  
22 the vendor claiming the refund or credit or an agent of that  
23 vendor.

24 (3) A claim for a refund or credit of the tax as provided in  
25 subsection (1) shall be made not later than 3 months after either  
26 of the following:

1 (a) The date upon which the damage occurred or was first  
2 discovered.

3 (b) The date of the sale to a military installation or  
4 Indian reservation in this state.

5 (4) A claim for a refund or credit of the tax as provided in  
6 subsection (1) shall be submitted to the commission on a form  
7 approved by the commission. The claim shall contain the follow-  
8 ing information, as applicable:

9 (a) The name and business address of the vendor claiming the  
10 refund or credit.

11 (b) The address where the wine, beer, or mixed spirit drink  
12 was lost, made unmarketable, or condemned, if different from the  
13 business address.

14 (c) The address of the military installation or Indian res-  
15 ervation to which the wine, beer, or mixed spirit drink was  
16 sold.

17 (d) The kind of wine, beer, or mixed spirit drink.

18 (e) The size of bottles or containers.

19 (f) The number of bottles or containers.

20 (g) The total amount of wine, beer, or mixed spirit drink  
21 that was sold or damaged. The amount shall be stated in liters  
22 or portions of liters for wine and mixed spirit drink and barrels  
23 or portions of barrels.

24 (h) A statement that other claims for a refund or credit of  
25 the amount claimed or for any part of the amount claimed have not  
26 been and will not be made.



1 (i) A statement that the vendor has not been indemnified by  
2 a valid claim of insurance or otherwise for the tax on the wine,  
3 beer, or mixed spirit drink covered by the claim.

4 (j) Evidence that the tax on the wine, beer, or mixed spirit  
5 drink has been paid.

6 (k) Evidence that the wine, beer, or mixed spirit drink was  
7 lost, made unmarketable, or condemned by reason of damage sus-  
8 tained as the result of a fire, flood, casualty, or other  
9 occurrence.

10 (l) A statement as to the type and date of the occurrence.

11 (m) A statement that the occurrence was not caused by an  
12 intentional act of the vendor claiming the refund or credit or an  
13 agent of that vendor.

14 (5) The vendor claiming the refund or credit for damaged  
15 wine, beer, or mixed spirit drink shall support a claim with any  
16 evidence, such as an inventory, statement, invoice, bill, record,  
17 or label, relating to the quantity of wine, beer, or mixed spirit  
18 drink on hand at the time of the fire, flood, casualty, or other  
19 disaster and alleged to have been lost, made unmarketable, or  
20 condemned as a result of the damage.

21 (6) Before or after a tax refund or credit has been made for  
22 damaged wine, beer, or mixed spirit drink, the wine, beer, or  
23 mixed spirit drink upon which the refund or credit is based shall  
24 be removed from this state or destroyed under the supervision of  
25 the commission.

26 (7) In addition to the provisions of this section, the tax  
27 paid on wine or mixed spirit drink pursuant to section 3001 shall

1 be rebated to the person who paid the tax upon the presentation  
2 of satisfactory proof to the commission that the wine or mixed  
3 spirit drink was shipped outside of this state for sale and con-  
4 sumption outside of this state.

5 CHAPTER 7

6 Sec. 7001. (1) Alcoholic liquor shall not be sold or fur-  
7 nished to a person unless the person has attained 21 years of  
8 age. Except as otherwise provided in subsection (2) and subject  
9 to subsection (4), a person who knowingly sells or furnishes  
10 alcoholic liquor to a minor, or who fails to make diligent  
11 inquiry as to whether the person is a minor, is guilty of a  
12 misdemeanor. A retail licensee or a retail licensee's clerk,  
13 agent, or employee who violates this subsection shall be punished  
14 in the manner provided for licensees in section 9009.  
15 Notwithstanding section 9009 and except as otherwise provided in  
16 subsection (2), a person who is not a retail licensee or a retail  
17 licensee's clerk, agent, or employee and who violates this sub-  
18 section shall be fined \$1,000.00 and may be sentenced to impris-  
19 onment for up to 60 days for a first offense, shall be fined  
20 \$2,500.00 and shall be sentenced to imprisonment for up to 90  
21 days for a second or subsequent offense, and may be ordered to  
22 perform community service. A suitable sign describing the con-  
23 tent of this section and the penalties for its violation shall be  
24 posted in a conspicuous place in each room where alcoholic liquor  
25 is sold. The signs shall be approved and furnished by the  
26 commission.

1       (2) A person who is not a retail licensee or the retail  
2 licensee's clerk, agent, or employee and who violates  
3 subsection (1) is guilty of a felony, punishable by imprisonment  
4 for not more than 10 years, or a fine of not more than \$5,000.00,  
5 or both, if the subsequent consumption of the alcoholic liquor by  
6 the minor is a direct and substantial cause of that person's  
7 death or an accidental injury that causes that person's death.

8       (3) If a violation occurs in an establishment that is  
9 licensed by the commission for consumption of alcoholic liquor on  
10 the licensed premises, a person who is a licensee or the clerk,  
11 agent, or employee of a licensee shall not be charged with a vio-  
12 lation of subsection (1) or section 8001(3) unless the licensee  
13 or the clerk, agent, or employee of the licensee knew or should  
14 have reasonably known with the exercise of due diligence that a  
15 person less than 21 years of age possessed or consumed alcoholic  
16 liquor on the licensed premises and the licensee or clerk, agent,  
17 or employee of the licensee failed to take immediate corrective  
18 action.

19       (4) If the enforcing agency involved in the violation is the  
20 state police or a local police agency, a licensee shall not be  
21 charged with a violation of subsection (1) or section 8001(2)  
22 unless enforcement action under section 7005 is taken against the  
23 minor who purchased or attempted to purchase, consumed or  
24 attempted to consume, or possessed or attempted to possess alco-  
25 holic liquor and, if applicable, enforcement action is taken  
26 under this section against the person 21 years of age or older  
27 who sold or furnished the alcoholic liquor to the minor. If the

1 enforcing agency is the commission, then the commission shall  
2 recommend to a local law enforcement agency that enforcement  
3 action be taken against a violator of this section or  
4 section 7005 who is not a licensee. However, this subsection  
5 does not apply under any of the following circumstances:

6       (a) The person against whom enforcement action is taken  
7 under section 7005 or the person 21 years of age or older who  
8 sold or furnished alcoholic liquor to the minor is not alive or  
9 is not present in this state at the time the licensee is  
10 charged.

11       (b) The violation of subsection (1) is the result of an  
12 undercover operation in which the minor purchased or received  
13 alcoholic liquor under the direction of the person's employer and  
14 with the prior approval of the local prosecutor's office as part  
15 of an employer-sponsored internal enforcement action.

16       (c) The violation of subsection (1) is the result of an  
17 undercover operation in which the minor purchased or received  
18 alcoholic liquor under the direction of the state police, the  
19 commission, or a local police agency as part of an enforcement  
20 action. However, any initial or contemporaneous purchase or  
21 receipt of alcoholic liquor by the minor shall have been under  
22 the direction of the state police, the commission, or the local  
23 police agency and shall have been part of the undercover  
24 operation.

25       (5) If a minor participates in an undercover operation in  
26 which the minor is to purchase or receive alcoholic liquor under  
27 the supervision of a law enforcement agency, his or her parents

1 or legal guardian shall consent to the participation if that  
2 person is less than 18 years of age.

3 (6) In an action for the violation of this section, proof  
4 that the defendant or the defendant's agent or employee demanded  
5 and was shown, before furnishing alcoholic liquor to a minor, a  
6 motor vehicle operator's or chauffeur's license or a registration  
7 certificate issued by the federal selective service, or other  
8 bona fide documentary evidence of the age and identity of that  
9 person, shall be a defense to an action brought under this  
10 section.

11 (7) The commission shall provide, on an annual basis, a  
12 written report to the department of state police as to the number  
13 of actions heard by the commission involving violations of this  
14 section and section 8001(2). The report shall include the dispo-  
15 sition of each action and contain figures representing the fol-  
16 lowing categories:

17 (a) Decoy operations.

18 (b) Off-premises violations.

19 (c) On-premises violations.

20 (d) Repeat offenses within the 3 years preceding the date of  
21 that report.

22 (8) As used in this section:

23 (a) "Corrective action" means action taken by a licensee or  
24 a clerk, agent, or employee of a licensee designed to prevent a  
25 minor from further possessing or consuming alcoholic liquor on  
26 the licensed premises. Corrective action includes, but is not  
27 limited to, contacting a law enforcement agency and ejecting the

1 minor and any other person suspected of aiding and abetting the  
2 minor.

3 (b) "Diligent inquiry" means a diligent good faith effort to  
4 determine the age of a person, which includes at least an exami-  
5 nation of an official Michigan operator's or chauffeur's license,  
6 an official Michigan personal identification card, or any other  
7 bona fide picture identification which establishes the identity  
8 and age of the person.

9 Sec. 7003. (1) A minor shall not knowingly transport or  
10 possess, in a motor vehicle, alcoholic liquor unless the person  
11 is employed by a licensee under this act, a common carrier desig-  
12 nated by the commission, the commission, or an agent of the com-  
13 mission and is transporting or having the alcoholic liquor in a  
14 motor vehicle under the person's control during regular working  
15 hours and in the course of the person's employment. A person who  
16 violates this subsection is guilty of a misdemeanor.

17 (2) Within 30 days after the conviction of a person for the  
18 violation of subsection (1), which conviction has become final,  
19 complaint may be made by the arresting officer or the officer's  
20 superior before the court from which the warrant was issued,  
21 which complaint shall be under oath and shall contain a descrip-  
22 tion of the motor vehicle in which alcoholic liquor was possessed  
23 or transported by the minor in committing the offense and praying  
24 that the motor vehicle be impounded as provided in this section.  
25 Upon the filing of the complaint the court shall issue an order  
26 to the owner of the motor vehicle to show cause why the motor  
27 vehicle shall not be impounded. The order to show cause shall

1 have a date and time fixed in the order for a hearing, which date  
2 shall not be less than 10 days after the issuance of the order  
3 and shall be served by delivering a true copy to the owner not  
4 less than 3 full days before the date of hearing or, if the owner  
5 cannot be located, by sending a true copy by certified mail to  
6 the last known address of the owner. If the owner is a nonresi-  
7 dent of the state, service may be made upon the secretary of  
8 state as provided in section 403 of the Michigan vehicle code,  
9 Act No. 300 of the Public Acts of 1949, being section 257.403 of  
10 the Michigan Compiled Laws.

11 (3) If the court determines upon the hearing of the order to  
12 show cause, from competent and relevant evidence, that at the  
13 time of the commission of the offense the motor vehicle was being  
14 driven by the minor with the express or implied consent or knowl-  
15 edge of the owner, and that the use of the motor vehicle is not  
16 needed by the owner in the direct pursuit of the owner's employ-  
17 ment or the actual operation of the owner's business, the court  
18 shall authorize the impounding of the vehicle for a period to be  
19 determined by the court, of not less than 15 days nor more than  
20 30 days. The court's order authorizing the impounding of the  
21 vehicle shall authorize a law enforcement officer to take posses-  
22 sion without other process of the motor vehicle wherever located  
23 and to store the vehicle in a public or private garage at the  
24 expense and risk of the owner of the vehicle. Appeal shall lie  
25 from the order to the circuit court of the county and the provi-  
26 sions governing the taking of appeals from judgments for damages

1 shall be applicable to the appeal. This section does not prevent  
2 a bona fide lienholder from exercising rights under a lien.

3 (4) A person who knowingly transfers title to a motor vehi-  
4 cle for the purpose of avoiding this section is guilty of a  
5 misdemeanor.

6 Sec. 7005. (1) A minor shall not purchase or attempt to  
7 purchase alcoholic liquor, consume or attempt to consume alco-  
8 holic liquor, or possess or attempt to possess alcoholic liquor,  
9 except as provided in this section and section 7003(1).  
10 Notwithstanding section 9009, a minor who violates this subsec-  
11 tion is guilty of a misdemeanor punishable by the following fines  
12 and sanctions, and is not subject to the penalties prescribed in  
13 section 9009:

14 (a) For the first violation a fine of not more than \$100.00  
15 and may be ordered to perform community service and to undergo  
16 substance abuse screening and assessment at his or her own  
17 expense as described in subsection (4).

18 (b) For a second violation a fine of not more than \$200.00,  
19 and may be ordered to participate in substance abuse prevention  
20 or substance abuse treatment and rehabilitation services as  
21 defined in section 6107 of the public health code, Act No. 368 of  
22 the Public Acts of 1978, being section 333.6107 of the Michigan  
23 Compiled Laws, and designated by the administrator of substance  
24 abuse services, to perform community service, and to undergo sub-  
25 stance abuse screening and assessment at his or her own expense  
26 as described in subsection (4). The person is also subject to



1 sanctions against his or her operator's or chauffeur's license  
2 imposed in subsection (5).

3       (c) For a third or subsequent violation a fine of not more  
4 than \$500.00, and may be ordered to participate in substance  
5 abuse prevention or substance abuse treatment and rehabilitation  
6 services as defined in section 6107 of Act No. 368 of the Public  
7 Acts of 1978, and designated by the administrator of substance  
8 abuse services, to perform community service, and to undergo sub-  
9 stance abuse screening and assessment at his or her own expense  
10 as described in subsection (4). The person is also subject to  
11 sanctions against his or her operator's or chauffeur's license  
12 imposed in subsection (5).

13       (2) Fifty percent of the fines collected under subsection  
14 (1) shall be deposited with the state treasurer for deposit in  
15 the general fund to the credit of the department of public health  
16 for substance abuse prevention, treatment, and rehabilitation  
17 services.

18       (3) A person who furnishes fraudulent identification to a  
19 minor, or notwithstanding subsection (1), a minor who uses fraud-  
20 ulent identification to purchase alcoholic liquor, is guilty of a  
21 misdemeanor. The court shall order the secretary of state to  
22 suspend, pursuant to section 319(5) of Act No. 300 of the Public  
23 Acts of 1949, being section 257.319 of the Michigan Compiled  
24 Laws, for a period of 90 days, the operator or chauffeur license  
25 of a person who is convicted of furnishing or using fraudulent  
26 identification in violation of this subsection and the operator  
27 or chauffeur license of that person shall be surrendered to the

1 court. The court shall immediately forward the surrendered  
2 license and an abstract of conviction to the secretary of state.  
3 A suspension ordered under this subsection shall be in addition  
4 to any other suspension of the person's operator or chauffeur  
5 license.

6 (4) The court may order the person found violating subsec-  
7 tion (1) to undergo screening and assessment by a person or  
8 agency as designated by the substance abuse coordinating agency  
9 as defined in section 6103 of Act No. 368 of the Public Acts of  
10 1978, being section 333.6103 of the Michigan Compiled Laws, in  
11 order to determine whether the person is likely to benefit from  
12 rehabilitative services, including alcohol or drug education and  
13 alcohol or drug treatment-programs.

14 (5) Immediately upon the entry of a conviction or a probate  
15 court disposition for a violation of subsection (1), the court  
16 shall consider all prior convictions or probate court disposi-  
17 tions of subsection (1), or a local ordinance or law of another  
18 state substantially corresponding to subsection (1), and shall  
19 impose the following sanctions:

20 (a) If the court finds that the person has 1 such prior con-  
21 viction or probate court disposition, the court shall order the  
22 secretary of state to suspend the operator's or chauffeur's  
23 license of the person for a period of not less than 90 days or  
24 more than 180 days. The court may order the secretary of state  
25 to issue to the person a restricted license after the first 30  
26 days of the period of suspension in the manner described in  
27 subsection (6) and provided for in section 319 of Act No. 300 of

1 the Public Acts of 1949. In the case of a person who does not  
2 possess an operator's or chauffeur's license, the secretary of  
3 state shall deny the application for an operator's or chauffeur's  
4 license for the applicable suspension period.

5 (b) If the court finds that the person has 2 or more such  
6 prior convictions or probate court dispositions, the court shall  
7 order the secretary of state to suspend the operator's or  
8 chauffeur's license of the person for a period of not less than  
9 180 days or more than 1 year. The court may order the secretary  
10 of state to issue to the person a restricted license after the  
11 first 60 days of the period of suspension in the manner described  
12 in subsection (6) and provided for in section 319 of Act No. 300  
13 of the Public Acts of 1949. In the case of a person who does not  
14 possess an operator's or chauffeur's license, the secretary of  
15 state shall deny the application for an operator's or chauffeur's  
16 license for the applicable suspension period.

17 (6) In those cases in which a restricted license is allowed  
18 under this section, the court shall not order the secretary of  
19 state to issue a restricted license unless the person states  
20 under oath, and the court finds based upon the record in open  
21 court, that the person is unable to take public transportation to  
22 and from his or her work location, place of alcohol or drug edu-  
23 cation treatment, probation department, court-ordered community  
24 service program, or educational institution, and does not have  
25 any family members or others able to provide transportation. The  
26 court order under subsection (5) and the restricted license shall  
27 indicate the work location of the person to whom it is issued,

1 the approved route or routes and permitted times of travel, and  
2 shall permit the person to whom it is issued only to do 1 or more  
3 of the following:

4 (a) Drive to and from the person's residence and work  
5 location.

6 (b) Drive in the course of the person's employment or  
7 occupation.

8 (c) Drive to and from the person's residence and an alcohol  
9 or drug education or treatment program as ordered by the court.

10 (d) Drive to and from the person's residence and the court  
11 probation department, or a court-ordered community service pro-  
12 gram, or both.

13 (e) Drive to and from the person's residence and an educa-  
14 tional institution at which the person is enrolled as a student.

15 (7) If license sanctions are imposed, immediately upon the  
16 entry of a court-ordered sanction pursuant to subsection (5), the  
17 court shall order the person convicted for the violation to sur-  
18 render to the court his or her operator's or chauffeur's  
19 license. The court shall immediately forward a notice of  
20 court-ordered license sanctions to the secretary of state. If  
21 the license is not forwarded to the secretary of state, an expla-  
22 nation of the reason why the license is absent shall be  
23 attached. If the finding is reviewed by the circuit court, the  
24 court may, ex parte, order the secretary of state to rescind the  
25 suspension or restricted license issued pursuant to this  
26 section. Immediately following imposition of the sanction, the

1 court shall forward a notice to the secretary of state indicating  
2 the sanction imposed.

3 (8) A peace officer who has reasonable cause to believe a  
4 minor has consumed alcoholic liquor may require the person to  
5 submit to a preliminary chemical breath analysis. A legal pre-  
6 sumption shall be made by the court that the minor has consumed  
7 or possessed alcoholic liquor if a preliminary chemical breath  
8 analysis or other acceptable blood alcohol test indicates the  
9 person's blood contained .02% or more by weight of alcohol. A  
10 minor who refuses to submit to a preliminary chemical breath test  
11 analysis as required in this subsection is responsible for a  
12 state civil infraction.

13 (9) A law enforcement agency, upon determining that a person  
14 less than 18 years of age who is not emancipated pursuant to Act  
15 No. 293 of the Public Acts of 1968, being sections 772.1 to 772.6  
16 of the Michigan Compiled Laws, allegedly consumed, possessed,  
17 purchased, or attempted to consume, possess, or purchase alco-  
18 holic liquor in violation of subsection (1) shall notify the  
19 parent or parents, custodian, or guardian of the person as to the  
20 nature of the violation if the name of a parent, guardian, or  
21 custodian is reasonably ascertainable by the law enforcement  
22 agency. The notice required by this subsection shall be made not  
23 later than 48 hours after the law enforcement agency determines  
24 that the person who allegedly violated subsection (1) is less  
25 than 18 years of age and not emancipated pursuant to Act No. 293  
26 of the Public Acts of 1968. The notice may be made by any means  
27 reasonably calculated to give prompt actual notice including, but

1 not limited to, notice in person, by telephone, or by first-class  
2 mail. If a person less than 17 years of age is incarcerated for  
3 violating subsection (1), then his or her parents or legal guard-  
4 ian shall be notified immediately as provided in this  
5 subsection.

6       (10) This section does not prohibit a minor from possessing  
7 alcoholic liquor during regular working hours and in the course  
8 of his or her employment if employed by a person licensed by this  
9 act, by the commission, or by an agent of the commission, if the  
10 alcoholic liquor is not possessed for his or her personal  
11 consumption.

12       (11) This section shall not be construed to limit the civil  
13 or criminal liability of the vendor or the vendor's clerk, ser-  
14 vant, agent, or employee for a violation of this act.

15       (12) The consumption of alcoholic liquor by a minor who is  
16 enrolled in a course offered by an accredited post secondary edu-  
17 cational institution in an academic building of the institution  
18 under the supervision of a faculty member is not prohibited by  
19 this act if the purpose of the consumption is solely educational  
20 and is a necessary ingredient of the course.

21       (13) The consumption by a minor of sacramental wine in con-  
22 nection with religious services at a church, synagogue, or temple  
23 is not prohibited by this act.

24       (14) Subsection (1) does not apply to a minor who partici-  
25 pates in either or both of the following:

26       (a) An undercover operation in which the minor purchases or  
27 receives alcoholic liquor under the direction of the person's

1 employer and with the prior approval of the local prosecutor's  
2 office as part of an employer-sponsored internal enforcement  
3 action.

4 (b) An undercover operation in which the minor purchases or  
5 receives alcoholic liquor under the direction of the state  
6 police, the commission, or a local police agency as part of an  
7 enforcement action except that any initial or contemporaneous  
8 purchase or receipt of alcoholic liquor by the minor is under the  
9 direction of the state police, the commission, or the local  
10 police agency and is part of the undercover operation. The state  
11 police, the commission, or a local police agency shall not  
12 recruit or attempt to recruit a minor for participation in an  
13 undercover operation at the scene of a violation of  
14 subsection (1), section 8001(2), or section 7001(1).

15 (15) As used in this section:

16 (a) "Probate court disposition" means a probate court order  
17 of disposition for a child found to be within the provisions of  
18 chapter XIIIA of Act No. 288 of the Public Acts of 1939, being  
19 sections 712A.1 to 712A.31 of the Michigan Compiled Laws.

20 (b) "Work location" means, as applicable, either the spe-  
21 cific place or places of employment, or the territory or territo-  
22 ries regularly visited by the person in pursuance of the person's  
23 occupation, or both.

24 Sec. 7007. (1) A sheriff or deputy sheriff; village or town-  
25 ship marshal; an officer or member of a village, township, or  
26 city police department; an officer of the department of state  
27 police; or an inspector of the commission who witnesses a

1 violation of section 7005 or a local ordinance corresponding to  
2 that section may stop and detain the person for purposes of  
3 obtaining satisfactory identification, seizing illegally pos-  
4 sessed alcoholic liquor, and issuing an appearance ticket.

5       (2) As used in this section, "appearance ticket" means a  
6 complaint or written notice, issued and subscribed by a law  
7 enforcement officer of the type described in subsection (1) or  
8 inspector of the commission, directing a designated person to  
9 appear in a designated district, municipal, or probate court at a  
10 designated time in connection with the alleged violation. The  
11 appearance ticket shall consist of the following parts:

12       (a) The original which shall be a complaint or notice to  
13 appear by the officer and filed with the court.

14       (b) The first copy which shall be the abstract of court  
15 record.

16       (c) The second copy which shall be delivered to the alleged  
17 violator.

18       (d) The third copy which shall be retained by the law  
19 enforcement agency.

20       (3) The court may accept a plea of guilty by the defendant  
21 of the allegations of an appearance ticket and the court shall  
22 then impose a fine, license suspension, or other sanction as fur-  
23 ther authorized by section 7005. If the defendant denies the  
24 allegations of the appearance ticket, the court shall then set a  
25 date for trial or hearing.

26       Sec. 7009. A vendor shall not sell any alcoholic liquor to  
27 any person in an intoxicated condition.



## CHAPTER 8

1

2       Sec. 8001. (1) Except as otherwise provided in this act,  
3 before the approval and granting, or renewal, of a license, the  
4 following licensees or applicants for that license shall make,  
5 execute, and deliver to the commission a bond executed by a  
6 surety company authorized to do business in the state or, in the  
7 discretion of the commission, by approved personal surety running  
8 to the people of the state, in the following amounts:

9       (a) A manufacturer of beer, a manufacturer of wine, a mixed  
10 spirit drink manufacturer, an outstate seller of beer, an out-  
11 state seller of mixed spirit drink, and an outstate seller of  
12 wine, a bond in an amount equal to 1/12 of the total beer, mixed  
13 spirit drink, or wine excise taxes paid to the state in the last  
14 calendar year or a bond in the sum of \$1,000.00, whichever is  
15 greater, for the faithful performance of the conditions of the  
16 license issued and for compliance with this act. A surety shall  
17 not cancel a bond issued under this subdivision except upon 30  
18 days' written notice to the commission.

19       (b) A special license authorizing the sale of beer, mixed  
20 spirit drink, wine, or spirits for consumption on the premises, a  
21 bond in the sum of \$1,000.00. A bond issued under this subdivi-  
22 sion shall remain in effect for 60 days after the expiration of  
23 the special license. A bond is not required for a church or  
24 school.

25       (2) A retail licensee shall not directly, individually, or  
26 by a clerk, agent, or servant sell, furnish, or give alcoholic  
27 liquor to a minor except as otherwise provided in this act. A

1 retail licensee shall not directly or indirectly, individually or  
2 by a clerk, agent, or servant sell, furnish, or give alcoholic  
3 liquor to a person who is visibly intoxicated.

4       (3) Except as otherwise provided in this section, an indi-  
5 vidual who suffers damage or who is personally injured by a minor  
6 or visibly intoxicated person by reason of the unlawful selling,  
7 giving, or furnishing of alcoholic liquor to the minor or visibly  
8 intoxicated person, if the unlawful sale is proven to be a proxi-  
9 mate cause of the damage, injury, or death, or the spouse, child,  
10 parent, or guardian of that individual, shall have a right of  
11 action in his or her name against the person who by selling,  
12 giving, or furnishing the alcoholic liquor has caused or contrib-  
13 uted to the intoxication of the person or who has caused or con-  
14 tributed to the damage, injury, or death. In an action pursuant  
15 to this section, the plaintiff shall have the right to recover  
16 actual damages in a sum of not less than \$50.00 in each case in  
17 which the court or jury determines that intoxication was a proxi-  
18 mate cause of the damage, injury, or death.

19       (4) An action under this section shall be instituted within  
20 2 years after the injury or death. A plaintiff seeking damages  
21 under this section shall give written notice to all defendants  
22 within 120 days after entering an attorney-client relationship  
23 for the purpose of pursuing a claim under this section. Failure  
24 to give written notice within the time specified shall be grounds  
25 for dismissal of a claim as to any defendants that did not  
26 receive that notice unless sufficient information for determining  
27 that a retail licensee might be liable under this section was not

1 known and could not reasonably have been known within the 120  
2 days. In the event of the death of either party, the right of  
3 action under this section shall survive to or against his or her  
4 personal representative. In each action by a husband, wife,  
5 child, or parent, the general reputation of the relation of hus-  
6 band and wife or parent and child shall be prima facie evidence  
7 of the relation, and the amount recovered by either the husband,  
8 wife, parent, or child shall be his or her sole and separate  
9 property. The damages, together with the costs of the action,  
10 shall be recovered in an action under this section. If the par-  
11 ents of the individual who suffered damage or who was personally  
12 injured are entitled to damages under this section, the father  
13 and mother may sue separately, but recovery by 1 is a bar to  
14 action by the other.

15 (5) An action under this section against a retail licensee  
16 shall not be commenced unless the minor or the alleged intoxi-  
17 cated person is a named defendant in the action and is retained  
18 in the action until the litigation is concluded by trial or  
19 settlement.

20 (6) Any licensee subject to the provisions of subsection (3)  
21 regarding the unlawful selling, furnishing, or giving of alco-  
22 holic liquor to a visibly intoxicated person shall have the right  
23 to full indemnification from the alleged visibly intoxicated  
24 person for all damages awarded against the licensee.

25 (7) All defenses of the alleged visibly intoxicated person  
26 or the minor shall be available to the licensee. In an action  
27 alleging the unlawful sale of alcoholic liquor to a minor, proof

1 that the defendant retail licensee or the defendant's agent or  
2 employee demanded and was shown a Michigan driver license or  
3 official state personal identification card, appearing to be gen-  
4 uine and showing that the minor was at least 21 years of age,  
5 shall be a defense to the action.

6 (8) There shall be a rebuttable presumption that a retail  
7 licensee, other than the retail licensee who last sold, gave, or  
8 furnished alcoholic liquor to the minor or the visibly intoxi-  
9 cated person, has not committed any act giving rise to a cause of  
10 action under subsection (3).

11 (9) The alleged visibly intoxicated person shall not have a  
12 cause of action pursuant to this section and a person shall not  
13 have a cause of action pursuant to this section for the loss of  
14 financial support, services, gifts, parental training, guidance,  
15 love, society, or companionship of the alleged visibly intoxi-  
16 cated person.

17 (10) This section provides the exclusive remedy for money  
18 damages against a licensee arising out of the selling, giving, or  
19 furnishing of alcoholic liquor.

20 (11) Except as otherwise provided for under this section and  
21 section 8015, a civil action under subsection (3) against a  
22 retail licensee shall be subject to the revised judicature act of  
23 1961, Act No. 236 of the Public Acts of 1961, being sections  
24 600.101 to 600.9947 of the Michigan Compiled Laws.

25 Sec. 8003. (1) Except as otherwise provided in  
26 subsection (2), before the renewal or approval and granting of a  
27 retail license, a retail licensee or applicant for a retail

1 license shall file with the commission proof of financial  
2 responsibility providing security for liability under  
3 section 8001(3) of not less than \$50,000.00. The proof of finan-  
4 cial responsibility may be in the form of cash, unencumbered  
5 securities, a policy or policies of liquor liability insurance, a  
6 constant value bond executed by a surety company authorized to do  
7 business in this state, or membership in a group self-insurance  
8 pool authorized by law that provides security for liability under  
9 section 8001.

10 (2) If the commissioner of insurance certifies, pursuant to  
11 section 2409b of the insurance code of 1956, Act No. 218 of the  
12 Public Acts of 1956, being section 500.2409b of the Michigan  
13 Compiled Laws, that liquor liability insurance is not reasonably  
14 available in this state or is not available at a reasonable pre-  
15 mium, the commission may waive the requirements of subsection (1)  
16 with regard to any affected retail licensees and applicants for a  
17 retail license until the commissioner of insurance certifies that  
18 liquor liability insurance is reasonably available or is avail-  
19 able at a reasonable premium, as applicable, to the affected  
20 licensees and applicants.

21 (3) A licensee may furnish proof of financial responsibility  
22 that exceeds the requirements of this section.

23 (4) An insurer under a policy or policies of liquor liabil-  
24 ity insurance or a surety under such a bond shall not be named as  
25 a defendant in an action brought against the insured or bonded  
26 licensee for liability under section 8001. Bankruptcy of the  
27 insured shall not discharge an insurer or surety under this

1 section from liability. Insurance policies and bonds issued for  
2 purposes under this section shall continue from year to year  
3 unless sooner canceled by the insurer.

4 (5) An insured retail licensee shall not cancel any such  
5 liquor liability insurance except upon 30 days' prior written  
6 notice to the commission and unless new proof of financial  
7 responsibility complying with this section is procured by the  
8 retail licensee and delivered to the commission prior to the  
9 expiration of the 30-day period, the license of that licensee  
10 shall be revoked.

11 (6) This section does not apply to a special licensee or  
12 applicant for a special license.

13 (7) The commission shall promulgate rules pursuant to the  
14 administrative procedures act of 1969, Act No. 306 of the Public  
15 Acts of 1969, being sections 24.201 to 24.328 of the Michigan  
16 Compiled Laws, to implement and enforce this section.

17 Sec. 8005. If an action is instituted against a retailer as  
18 defendant in any court of competent jurisdiction to enforce the  
19 liability provided in section 8001 and service of process has not  
20 been effected in the manner provided for by law, and either the  
21 sheriff or constable to whom process has been delivered for serv-  
22 ice shall make return that he or she has not been able to serve  
23 the defendant for a period of 30 days, in which period he or she  
24 has made 3 or more attempts to serve the defendant at his or her  
25 residence or place of business, or the plaintiff or another  
26 person with knowledge of the facts files an affidavit in the  
27 cause stating that the defendant has ceased to be a resident of

1 the state of Michigan or has been absent from the state for a  
2 continuous period of 6 months, then it shall be competent for the  
3 plaintiff to cause service of process to be made upon the  
4 defendant by service of the process upon the commission, the  
5 liability for which suit is brought arose during the period in  
6 which the defendant was a licensed retailer and was insured under  
7 the provisions of section 8003. Such service of process shall be  
8 made in duplicate on the commission, and return showing such  
9 service shall be made to the court. The commission shall mail a  
10 copy of the process served upon it to the defendant at the  
11 address shown in the consent to service of process, and shall  
12 immediately transmit to the clerk of the court in which the  
13 action is pending an acknowledgment of the mailing of the copy of  
14 that process by the commission to the defendant. Whenever the  
15 foregoing provisions of this section have been complied with, the  
16 court may proceed to hear and determine the matter as fully and  
17 effectually as though the defendant retailer had been personally  
18 served with process within the jurisdiction of the court. The  
19 commission shall also notify the insurer under the liability  
20 policy of the defendant, on file with the commission, that the  
21 commission has received service of that process, stating the  
22 names of the parties to the action and the court in which the  
23 action is pending. If the defendant retailer is deceased, serv-  
24 ice of process may be made upon the executor or administrator of  
25 the deceased defendant by service on the commission, in an action  
26 in which that service would be authorized by this section upon

1 the defendant if he or she were living, in the manner provided in  
2 this section.

3       Sec. 8007. The insurer shall file with the commission, at  
4 Lansing, Michigan, at least 30 days before the effectiveness of  
5 any termination or cancellation of the contract or policy, a  
6 notice giving the date at which it is proposed to terminate or  
7 cancel the contract or policy. Any termination of the contract  
8 or policy shall not be effective as far as the insured covered by  
9 the policy is concerned until 30 days after such notice of the  
10 proposed termination or cancellation is received by the  
11 commission.

12       Sec. 8009. Except as otherwise provided for by law or the  
13 Michigan court rules, when an action for damages brought under  
14 this act has been reduced to a judgment, the insurer shall,  
15 within 90 days from the date of the judgment, pay the judgment  
16 together with the costs in full, unless the judgment has been  
17 paid or settled by the insured. If the insurer fails or neglects  
18 to pay the judgment and costs within 90 days, it shall be subject  
19 to punitive damages in the amount of \$1,000.00, in addition to  
20 the amount of the judgment and interest on the judgment. The  
21 amount of the judgment, with interest on the judgment, and the  
22 punitive damages provided for in this section may be recovered by  
23 the person or persons entitled to damages under the judgment in  
24 an action against the insurer in any court of competent jurisdic-  
25 tion in this state.



1       Sec. 8011. The insurance policy described in this chapter  
2 shall cover the liability imposed by section 8001 and shall  
3 contain the following conditions:

4       That no condition, provision, stipulation or limitation con-  
5 tained in the policy, or any other endorsement thereon, shall  
6 relieve the insurer from liability (within the statutory limits  
7 provided by section 8003 of the Michigan liquor control code of  
8 1996), for the payment of any claim for which the insured may be  
9 held legally liable under section 8001 of said act.

10       Sec. 8013. No false statement or breach of authority or act  
11 or omission on the part of the insured shall vitiate this insur-  
12 ance, unless the intention of the insured to conceal a hazard of  
13 perpetrating fraud is proven; and this policy cannot be cancelled  
14 by the insured or the company without first giving thirty days'  
15 written notice to the commission in Lansing, Michigan.

16       Sec. 8015. (1) In defense of a civil action under section  
17 8001, a retail licensee may present evidence that, at the time of  
18 the selling, giving, or furnishing of the alcoholic liquor, the  
19 retail licensee was adhering to responsible business practices.  
20 Responsible business practices are those business policies, pro-  
21 cedures, and actions which an ordinarily prudent person would  
22 follow in like circumstances. The compensating of an employee of  
23 an on premises retail licensee on a commission basis constitutes  
24 an unreasonable business practice for purposes of this section.

25       (2) The compensation of an employee of an on premises retail  
26 licensee shall not be on a commission basis.

## CHAPTER 9

1

2       Sec. 9001. A person, directly or indirectly, himself or  
3 herself or by his or her clerk, agent, or employee, shall not  
4 manufacture, manufacture for sale, sell, offer or keep for sale,  
5 barter, furnish, import, import for sale, transport for hire,  
6 transport, or possess any alcoholic liquor unless the person com-  
7 plies with this act.

8       Sec. 9003. (1) The commission or any commissioner or duly  
9 authorized agent of the commission designated by the chairperson  
10 of the commission, upon due notice and proper hearing, may sus-  
11 pend or revoke any license upon a violation of this act or any of  
12 the rules promulgated by the commission under this act. The com-  
13 mission or any commissioner or duly authorized agent of the com-  
14 mission designated by the chairperson of the commission, may  
15 assess a penalty of not more than \$300.00 for each violation of  
16 this act or rules promulgated under this act, or not more than  
17 \$1,000.00 for each violation of section 8001(2), in addition to  
18 or in lieu of revocation or suspension of the license, which pen-  
19 alty shall be paid to the commission and deposited with the state  
20 treasurer and shall be credited to the general fund of the  
21 state. The commission shall hold a hearing and order the suspen-  
22 sion or revocation of a license if the licensee has been found  
23 liable, within a 24-month period, for 3 or more separate viola-  
24 tions of section 8001(2) which violations occurred on different  
25 occasions.

26       (2) The commission shall provide a procedure by which a  
27 licensee who is aggrieved by any penalty imposed under subsection

1 (1) and any suspension or revocation of a license ordered by the  
2 commission, a commissioner, or a duly authorized agent of the  
3 commission may request a hearing for the purpose of presenting  
4 any facts or reasons to the commission as to why the penalty,  
5 suspension, or revocation should be modified or rescinded. Any  
6 such request shall be in writing and accompanied by a fee of  
7 \$25.00. The commission, after reviewing the record made before a  
8 commissioner or a duly authorized agent of the commission, may  
9 allow or refuse to allow the hearing in accordance with the  
10 commission's rules. The right to a hearing provided in this sub-  
11 section, however, shall not be interpreted by any court as cur-  
12 tailing, removing, or annulling the right of the commission to  
13 suspend or revoke licenses as provided for in this act. A  
14 licensee does not have a right of appeal from the final determi-  
15 nation of the commission, except by leave of the circuit court.  
16 Notice of the order of suspension or revocation of a license or  
17 of the assessment of a penalty, or both, shall be given in the  
18 manner prescribed by the commission. The suspension or revoca-  
19 tion of a license or the assessment of a penalty, or both, by the  
20 commission or a duly authorized agent of the commission does not  
21 prohibit the institution of a criminal prosecution for a viola-  
22 tion of this act. The institution of a criminal prosecution for  
23 a violation of this act or the acquittal or conviction of a  
24 person for a violation of this act does not prevent the suspen-  
25 sion or revocation of a license or the assessment of a penalty,  
26 or both, by the commission. In a hearing for the suspension or  
27 revocation of a license issued under this act, proof that the

1 defendant licensee or an agent or employee of the licensee  
2 demanded and was shown, before furnishing any alcoholic liquor to  
3 a minor, a motor vehicle operator or chauffeur license or a reg-  
4 istration certificate issued by the federal selective service, or  
5 other bona fide documentary evidence of majority and identity of  
6 the person, may be offered as evidence in a defense to a proceed-  
7 ing for the suspension or revocation of a license issued under  
8 this act. A licensee who has reason to believe that a minor has  
9 used fraudulent identification to purchase alcoholic liquor in  
10 violation of section 7005 shall file a police report concerning  
11 the violation with a local law enforcement agency and shall also  
12 present the alleged fraudulent identification to the local law  
13 enforcement agency at the time of filing the report if the iden-  
14 tification is in the possession of the licensee. The commission  
15 may promulgate rules pursuant to the administrative procedures  
16 act of 1969, Act No. 306 of the Public Acts of 1969, being sec-  
17 tions 24.201 to 24.328 of the Michigan Compiled Laws, regarding  
18 the utilization by licensees of equipment designed to detect  
19 altered or forged driver licenses, state identification cards,  
20 and other forms of identification.

21 (3) In addition to the hearing commissioners provided for in  
22 section 2007, the chairperson of the commission may designate not  
23 more than 2 duly authorized agents to hear violation cases. A  
24 person appointed under this subsection shall be a member in good  
25 standing of the state bar of Michigan.

26 (4) A duly authorized agent who has been designated by the  
27 chairperson pursuant to subsection (3) shall have, in the hearing

1 of violation cases, the same authority and responsibility as does  
2 a hearing commissioner under this act and the rules promulgated  
3 under this act.

4 (5) A duly authorized agent who has been designated by the  
5 chairperson pursuant to subsection (3) shall be ineligible for  
6 appointment to the commission for a period of 1 year after the  
7 person ceases to serve as a duly authorized agent.

8 Sec. 9005. (1) Notwithstanding section 9003, if a retail  
9 licensee or a retail licensee's clerk, agent, or employee vio-  
10 lates this act by selling or furnishing alcoholic liquor to a  
11 minor, or by allowing a minor to consume alcoholic liquor or pos-  
12 sess alcoholic liquor for personal consumption on the licensed  
13 premises, and if the enforcing agency involved in the prosecution  
14 of the violation is the state police or a local police agency,  
15 the commission shall not take any action under section 9003 to  
16 suspend or revoke the licensee's license or assess a penalty  
17 against the licensee unless enforcement action is taken against  
18 the minor who purchased, consumed, or received the alcoholic  
19 liquor from the retail licensee or the retail licensee's clerk,  
20 agent, or employee and, if applicable, enforcement action is  
21 taken under this section against the person 21 years of age or  
22 older who sold or furnished the alcoholic liquor to the minor.

23 (2) Subsection (1) does not apply under either of the fol-  
24 lowing circumstances:

25 (a) The enforcing agent involved in the prosecution is a  
26 commission inspector rather than a police agency.

1 (b) The prosecution of the violation is the result of an  
2 undercover operation in which the minor who purchased, consumed,  
3 or received the alcoholic liquor acted under the direction of the  
4 state police or a local police agency as part of the enforcement  
5 action and such enforcement action is otherwise in compliance  
6 with section 7001(4).

7 Sec. 9007. (1) Upon revocation of a license issued under  
8 this act, any and all privileges conferred by that license shall  
9 be forfeited and the commission shall seize any and all alcoholic  
10 liquor found in the possession of the licensee.

11 (2) The commission shall remit to that licensee the purchase  
12 price less 10%, paid by the licensee to the commission for all  
13 alcoholic liquor seized. All other alcoholic liquor seized shall  
14 be disposed of by order of the commission and no payment shall be  
15 made for that alcoholic liquor.

16 Sec. 9009. (1) Except as otherwise provided in this act, a  
17 person, other than a person required to be licensed under this  
18 act, who violates this act is guilty of a misdemeanor.

19 (2) Except as otherwise provided in this act, a licensee who  
20 violates this act, or a rule or regulation promulgated under this  
21 act, is guilty of a misdemeanor punishable by imprisonment for  
22 not more than 6 months or a fine of not more than \$500.00, or  
23 both.

24 (3) A person who performs any act for which a license is  
25 required under this act without first obtaining that license or  
26 who sells alcoholic liquor in a county that has prohibited the  
27 sale of alcoholic liquor under section 10107 is guilty of a

1 felony punishable by imprisonment for not more than 1 year or by  
2 a fine of not more than \$1,000.00, or both.

3 (4) It is the intent of the legislature that the court, in  
4 imposing punishment under this section, should discriminate  
5 between casual or slight violations and habitual sales of alco-  
6 holic liquor or attempts to commercialize violations of this act  
7 or the rules or regulations promulgated under this act.

8 Sec. 9011. (1) If a person fails or refuses to pay the tax  
9 required by this act, the commission shall assess the tax against  
10 that person and the tax shall become due and payable together  
11 with a penalty or penalties that the commission considers appro-  
12 priate, but not to exceed \$5,000.00, upon demand by the commis-  
13 sion or a person designated by the commission. If the tax  
14 remains unpaid for 15 days after that demand is made, the commis-  
15 sion may issue its warrant under its official seal, directed to  
16 the sheriff of any county or other officer, to levy upon and sell  
17 the taxpayer's property, either personal or real, used in connec-  
18 tion with the business for the privilege of doing which the tax  
19 is levied, found within his or her jurisdiction, for the payment  
20 of the amount of the tax with the added penalties, interest and  
21 cost of executing the warrant. A warrant issued under this sec-  
22 tion shall be returned to the commission, together with the money  
23 collected by virtue of the warrant, within the time specified in  
24 the warrant, which time shall be not less than 20 or more than 90  
25 days from the date of the warrant. The sheriff or other officer  
26 to whom the warrant is directed shall proceed upon the warrant in  
27 all respects, with like effect, and in the same manner as

1 prescribed by law in respect to executions issued against  
2 property upon judgments by a court of record, and shall be enti-  
3 tled to the same fees for his service in executing the warrant,  
4 to be collected in the same manner. The state of Michigan,  
5 through the commission or an officer or agent designated by it,  
6 is authorized to bid for and purchase any property sold under  
7 this section.

8       (2) In addition to the mode of collection provided in sub-  
9 section (1), the commission may bring an action at law in the  
10 county in which the business or any part of the business is car-  
11 ried on, to collect and recover the amount of taxes, interest, or  
12 penalties, or any combination of taxes, interest, or penalties,  
13 due from a taxpayer.

14       Sec. 9013. (1) A person shall not maintain, operate, lease,  
15 or otherwise furnish to any person, any premises or place which  
16 is not licensed under this act within which the other person may  
17 engage in the drinking of alcoholic liquor for consideration.

18       (2) A person shall not consume alcoholic liquor in a commer-  
19 cial establishment selling food if the commercial establishment  
20 is not licensed under this act. A person owning, operating, or  
21 leasing a commercial establishment selling food which is not  
22 licensed under this act shall not allow the consumption of alco-  
23 holic liquor on its premises.

24       (3) This section shall not apply to any hotel or any  
25 licensee under this act.

26       (4) This section shall not be construed to repeal or amend  
27 section 10019.



1 (5) As used in this section, "consideration" includes any  
2 fee, cover charge, the storage of alcoholic liquor, the sale of  
3 food, ice, mixers, or other liquids used with alcoholic liquor  
4 drinks, or the furnishing of glassware or other containers for  
5 use in the consumption of alcoholic liquor in conjunction with  
6 the sale of food.

7 Sec. 9015. (1) Alcoholic liquor shall not be consumed on  
8 the public highways.

9 (2) Except as provided in subsections (3) and (4), alcoholic  
10 liquor may be possessed or consumed in public parks, public  
11 places of amusement, or a publicly owned area not licensed to  
12 sell for consumption on the premises.

13 (3) The governing body of a local governmental unit may pro-  
14 hibit by ordinance, order, or resolution the possession or con-  
15 sumption of alcoholic liquor in any public park, public place of  
16 amusement, or publicly owned area that is owned or administered,  
17 or both, by that local governmental unit. When land is leased  
18 from a department or agency of this state, an ordinance, order,  
19 or resolution adopted pursuant to this subsection shall be  
20 subject to the approval of the department or agency.

21 (4) A department or agency of this state that administers  
22 public lands may prohibit by rule, order, or resolution the pos-  
23 session or consumption of alcoholic liquor on the public land  
24 under its jurisdiction.

25 (5) As used in this section:

26 (a) "Local governmental unit" means a county, city,  
27 township, village, or charter authority.

1 (b) "Publicly owned area" means an area under the  
2 jurisdiction of a local governmental unit.

3 Sec. 9017. (1) A person who engages in the business of  
4 selling or keeping for sale alcoholic liquor in violation of this  
5 act, whether as owner, clerk, agent, servant, or employee, is  
6 equally liable, as principal, both civilly and criminally, for  
7 the violation of this act.

8 (2) A person or principal is liable, both civilly and crimi-  
9 nally, for the acts of his or her clerk, servant, agent, or  
10 employee, in violating this act.

11 Sec. 9019. A person who falsely or fraudulently makes, sim-  
12 ulates, forges, alters, or counterfeits a document, label, or  
13 stamp prescribed by the commission under this act or rules  
14 promulgated under this act, or who causes or procures to be  
15 falsely or fraudulently made, simulated, forged, altered, or  
16 counterfeited any such document, label, or stamp, who knowingly  
17 and willfully utters, publishes, passes, or tenders as true, any  
18 such false, altered, forged, or counterfeited document, label, or  
19 stamp, or who uses more than once any label or stamp prescribed  
20 by the commission pursuant to this act or the rules promulgated  
21 under this act is guilty of a felony punishable by imprisonment  
22 for not more than 1 year or by a fine of not more than \$1,000.00,  
23 or both.

24 Sec. 9021. Notwithstanding section 2003, a collector, who  
25 is 21 years of age or older, of ceramic commemorative bottles  
26 containing alcoholic liquor and bearing an unbroken federal tax  
27 stamp or seal may sell or trade the bottles to other such

1 collectors of those bottles without obtaining a license under  
2 this act. All sales conducted under this subsection shall be for  
3 the purpose of exchanging ceramic commemorative bottles between  
4 private collectors of those bottles and shall not be for the pur-  
5 pose of selling alcoholic liquor for personal consumption. A  
6 sale or exchange conducted under this subsection shall not occur  
7 in any of the following ways:

8 (a) In connection with the business of a holder of an alco-  
9 holic liquor license.

10 (b) In connection with any other business.

11 Sec. 9023. The commission has complete power to regulate,  
12 limit, and control the sale, transfer, barter, or exchange in  
13 this state of warehouse receipts for alcoholic liquor wherever  
14 alcoholic liquor is situated.

15 CHAPTER 10

16 Sec. 10001. The commanding general of the Michigan national  
17 guard may publish by general order such regulations and restric-  
18 tions as to the transportation, possession, sale, and use of  
19 alcoholic liquor in armories, air bases, and naval installations  
20 owned or leased by the state or provided by the federal govern-  
21 ment by lease, license, or use permit and used by outside parties  
22 of a nonmilitary or state governmental nature and on the state  
23 military reservation during the field training periods of the  
24 Michigan national guard, either in state or federal service, as  
25 he or she determines are for the best interests of the military  
26 service.

1       Sec. 10003. A person who makes a false or fraudulent  
2 statement to the commission, orally or in writing, for the  
3 purpose of inducing the commission to act or refrain from taking  
4 action or for the purpose of enabling or assisting a person to  
5 evade the provisions of this act is guilty of a violation of this  
6 act and is punishable in the manner provided for in  
7 section 9009.

8       Sec. 10005. (1) A licensee who, by himself or herself or by  
9 his or her agent or employee, sells, offers for sale, exposes for  
10 sale, or possesses alcoholic liquor that is adulterated, mis-  
11 branded, or in bottles that have been refilled is guilty of a  
12 violation of this act.

13       (2) For purposes of this section, alcoholic liquor is adul-  
14 terated if it contains any liquid or other ingredient that was  
15 not placed there by the original manufacturer or bottler.

16       (3) For purposes of this section alcoholic liquor is mis-  
17 branded if it is not plainly labeled, marked, or otherwise  
18 designated.

19       (4) For purposes of this section, alcoholic liquor bottles  
20 have been refilled when the bottles contain any liquid or other  
21 ingredient not placed in the bottles by the original manufacturer  
22 or bottler.

23       (5) This section does not apply to beer containers.

24       Sec. 10007. (1) A search warrant may be issued in accord-  
25 ance with the code of criminal procedure, Act No. 175 of the  
26 Public Acts of 1927, being sections 760.1 to 776.21 of the  
27 Michigan Compiled Laws. Under such a search warrant the officer

1 may seize any alcoholic liquor, containers, implements, or  
2 conveyances used in connection with the violation of this act or  
3 any rule promulgated under this act. A property right does not  
4 exist in any alcoholic liquor had, kept, transported, or pos-  
5 sessed contrary to law or in any receptacle or container of any  
6 kind in which the alcoholic liquor is found, and all such are  
7 hereby declared contraband and forfeited to the state and shall  
8 be seized. All alcoholic liquor, containers, implements, or con-  
9 veyances seized under any such search warrant shall be turned  
10 over to the commission by direction of the court or magistrate  
11 and shall be disposed of in accordance with the rules promulgated  
12 under this act, which shall guarantee the return of such proper-  
13 ty, or payment of money received for the sale of that property,  
14 to the owner unless the owner is charged and convicted of the  
15 alleged offense or offenses in connection with which the search  
16 and seizure was made.

17 (2) All alcoholic liquor that is manufactured, transported,  
18 sold, or possessed without the consent of the commission is  
19 hereby declared contraband and shall be disposed of by order of  
20 the commission.

21 Sec. 10009. (1) If alcoholic liquor is seized under a judg-  
22 ment rendered against a licensee or if a licensee becomes insol-  
23 vent, the officer seizing that alcoholic liquor or the trustee in  
24 bankruptcy of the insolvent licensee shall deliver to the commis-  
25 sion all alcoholic liquor found in the licensee's possession.

26 (2) Within 1 month after the date of delivery of alcoholic  
27 liquor to the commission by an officer or trustee in bankruptcy

1 under this section, the commission shall pay over to the officer  
2 or trustee in bankruptcy the purchase price, less 10%, paid by  
3 the licensee to the commission for all legal alcoholic liquor  
4 seized and the value, less 10%, as established by the commission,  
5 of other legally acquired alcoholic liquor delivered to the com-  
6 mission under this section. Alcoholic liquor delivered to the  
7 commission under this section that was illegally acquired by the  
8 licensee shall be disposed of by order of the commission and pay-  
9 ment shall not be made for that alcoholic liquor.

10       Sec. 10011. Alcoholic liquor for consumption on the  
11 premises shall be sold only in accordance with a printed price  
12 list posted conspicuously in a prominent place on the premises.

13       Sec. 10013. A sale or purchase of alcoholic liquor made in  
14 a state liquor store and by all types of licensees shall be for  
15 cash only, except for the following:

16       (a) A customer's charge account with a specially designated  
17 merchant who is not a holder of a license authorizing sale of  
18 alcoholic liquor for consumption on the premises.

19       (b) A sale to a bona fide registered guest of a class  
20 B-hotel or class A-hotel, if the extension of credit does not  
21 exceed 30 days.

22       (c) A sale to an industrial account if the extension of  
23 credit does not exceed 30 days.

24       (d) A sale to a person holding an authorized credit card  
25 from a credit card agency.

1 (e) A sale to a professional account, or an industrial  
2 account of class C-licensee or a tavern, whose major business is  
3 food, if the extension of credit does not exceed 30 days.

4 (f) A sale by a private club to a bona fide member.

5 Sec. 10015. (1) A nonlicensee, or a person who holds either  
6 a special license or a club license under this act, may offer and  
7 award unopened alcoholic liquor having a value of less than  
8 \$200.00 to a person 21 years of age or older in a drawing or  
9 raffle or as a door prize, pursuant to a lawful fund raising  
10 activity. The alcoholic liquor awarded shall not be consumed on  
11 the premises at which it is awarded.

12 (2) A person who holds either a special license or a club  
13 license under this act and who has purchased alcoholic liquors to  
14 be awarded as provided for in subsection (1) shall be exempt from  
15 sections 10023 and 10027 for those purchases.

16 (3) A person who holds either a special license or a club  
17 license under this act shall not sell or award alcoholic liquor  
18 to a person who is in an intoxicated condition.

19 Sec. 10017. Alcoholic liquor shall not be served to a  
20 person for consumption on the premises unless the glass in which  
21 the alcoholic liquor is to be served has been sterilized by a  
22 method and in a manner as prescribed by the commission.

23 Sec. 10019. (1) Alcoholic liquor may be served by any hotel  
24 licensed individually under this act in the room of a bona fide  
25 guest.

26 (2) A person shall not consume or offer for consumption  
27 spirits or mixed spirit drink in any place licensed under this

1 act to sell beer or wine and not licensed to sell spirits or  
2 mixed spirit drink.

3       Sec. 10021. (1) No regulation shall be made requiring the  
4 purchase or serving of food with the purchase of alcoholic  
5 liquor.

6       (2) Alcoholic liquor sold by vendors for consumption on the  
7 premises shall not be removed from those premises.

8       Sec. 10023. The commission shall not prohibit licensees  
9 from allowing pinball machines on the premises for the purpose of  
10 amusement.

11       Sec. 10025. (1) A vendor shall not give away any alcoholic  
12 liquor of any kind or description at any time in connection with  
13 his or her business, except manufacturers for consumption on the  
14 premises only.

15       (2) Subsection (1) does not prevent either of the  
16 following:

17       (a) A vendor of spirits, brewer, mixed spirit drink manufac-  
18 turer, wine maker, small wine maker, outstate seller of beer,  
19 outstate seller of wine, or outstate seller of mixed spirit  
20 drink, or a bona fide market research organization retained by 1  
21 of the persons named in this subsection, from conducting sam-  
22 plings or tastings of an alcoholic liquor product before it is  
23 approved for sale in this state, if the sampling or tasting is  
24 conducted pursuant to prior written approval of the commission.

25       (b) A person from conducting of any sampling or tasting  
26 authorized by rule of the commission.



1 (3) A vendor shall not sell an alcoholic liquor to a person  
2 in an intoxicated condition.

3 Sec. 10027. (1) Unless otherwise provided by rule of the  
4 commission, a person shall not conduct samplings or tastings of  
5 any alcoholic liquor for a commercial purpose except at premises  
6 that are licensed by the commission for the sale and consumption  
7 of alcoholic liquor on the premises.

8 (2) This section does not prevent a vendor of spirits,  
9 brewer, wine maker, mixed spirit drink manufacturer, small wine  
10 maker, outstate seller of beer, outstate seller of wine, or out-  
11 state seller of mixed spirit drink, or a bona fide market  
12 research organization retained by 1 of the persons named in this  
13 subsection, from conducting samplings or tastings of an alcoholic  
14 liquor product before it is approved for sale in this state if  
15 the sampling or tasting is conducted pursuant to prior written  
16 approval of the commission.

17 (3) A sampling or tasting of any alcoholic liquor in a home  
18 or domicile for other than a commercial purpose is not subject to  
19 this section.

20 (4) For purposes of this section, "commercial purpose" means  
21 a purpose for which monetary gain or other remuneration could  
22 reasonably be expected.

23 CHAPTER 11

24 Sec. 10101. (1) Spirits and mixed spirit drink for consump-  
25 tion on the premises, in addition to beer and wine, may be sold  
26 by restaurants, hotels, and establishments approved by the  
27 commission under this act in the following cities, villages, or

1 townships if the legislative body of the city, village, or  
2 township by resolution of a majority vote of the members elect,  
3 votes in favor of allowing that sale. A petition may be filed  
4 with the city, village, or township clerk requesting the submis-  
5 sion of the question of sale of spirits and mixed spirit drink  
6 for consumption on the premises, in addition to beer and wine.  
7 In the case of a city or township, the petition shall be signed  
8 by a number of the registered and qualified electors which shall  
9 be not less than 35% of the total number of votes cast for all  
10 candidates for the office of secretary of state in that city or  
11 township at the last general election held for that purpose. In  
12 the case of a village, the petition shall be signed by a number  
13 of the registered and qualified electors that is not less than  
14 35% of the total number of votes cast for all candidates for the  
15 office of president of the village at the last village election  
16 held for that purpose. The question shall not be submitted to  
17 the electors of a city, village, or township more often than once  
18 in every 2 years. The city, village, or township clerk shall,  
19 within 10 days after the petition is filed with the clerk, give  
20 notice of the filing by publication of notice setting forth the  
21 essential facts of the petition in a newspaper published or in  
22 general circulation in the city, village, or township. The city,  
23 village, or township clerk shall submit the question at the next  
24 regular state election held in the city, village, or township if  
25 the petitions are filed at least 60 days before the election.  
26 Class C licensees in a newly incorporated city or village shall  
27 continue to be licensed by the commission until the question of

1 the sale of spirits and mixed spirit drink for consumption on the  
2 premises, in addition to beer and wine, is submitted to the elec-  
3 tors of the city or village as provided in this section. The  
4 question of the sale of spirits and mixed spirit drink for con-  
5 sumption on the premises, in addition to beer and wine, shall be  
6 submitted by ballot in substantially the following form:

7 "Shall the sale of spirits and mixed spirit drink in addi-  
8 tion to beer and wine be permitted for consumption on the  
9 premises within the city, village, or township of .....  
10 under the provisions of the law governing same?

11 Yes .....

12 No .....".

13 (2) All votes on the question submitted by ballot under sub-  
14 section (1) shall be taken, counted, and canvassed in the same  
15 manner as votes cast in city, village, or township elections, as  
16 applicable, are taken, counted, and canvassed. Ballots shall be  
17 furnished by the election commission or similar body of the  
18 respective city, village, or township. If a majority of the  
19 electors voting at an election conducted under this section shall  
20 vote in favor of the question submitted by ballot under  
21 subsection (1), spirits and mixed spirit drink may be sold under  
22 this act in that city, village, or township for consumption on  
23 the premises, in addition to beer and wine.

24 (3) At any time within 18 months after an election conducted  
25 under this section has resulted in a tie vote, the question shall  
26 be resubmitted to the electors upon the filing of a petition with  
27 the legislative body of the city, village, or township. The

1 petition shall be signed by a number of electors not less than  
2 that required under subsection (1) for the calling of an election  
3 on an original petition. The question shall be resubmitted to  
4 the electors by the city, village, or township clerk at the next  
5 regular election if that election occurs not less than 30 days  
6 and not more than 60 days after the filing of the petition or at  
7 a special election called for that purpose and to be held within  
8 not less than 30 days and not more than 60 days after the filing  
9 of the petition.

10 (4) This section shall not be used by the legislative body  
11 of a city, village, or township to nullify the results of a ref-  
12 erendum vote of the electors of the city, village, or township.

13 Sec. 10103. (1) If spirits and mixed spirit drink for con-  
14 sumption on the premises, in addition to beer and wine, may be  
15 sold by restaurants, hotels, and establishments approved by the  
16 commission in a city, village, or township and all or a part of  
17 that city, village, or township becomes annexed to and a part of  
18 a city or village that does not, at the time of annexation,  
19 permit those sales, class C licensees in that annexed area shall  
20 continue to be licensed by the commission until the next regular,  
21 city, or village election, at which election, without the need to  
22 file a petition, the question of the sale of spirits and mixed  
23 spirit drink for consumption on the premises, in addition to beer  
24 and wine, shall be submitted to the electors of the city or vil-  
25 lage to which the territory has been annexed.

1       (2) The form of the ballot, the voting and canvassing of  
2 votes, and the effect of the votes shall be as provided in  
3 section 10101.

4       (3) The fact that a vote has been taken upon that question  
5 either in the annexing municipality or in the annexed area, or in  
6 both, within 4 years before the annexation is not a bar to the  
7 submission of the question as provided in this section.

8       Sec. 10105. (1) When the question of the sale of spirits  
9 and mixed spirit drink for consumption on the premises is submit-  
10 ted to and approved by the electors of a city, village, or town-  
11 ship, and immediately after certification of the results of the  
12 election, all currently approved licensed establishments for con-  
13 sumption of beer and wine on the premises in the city, village,  
14 or township shall be licensed to serve spirits and mixed spirit  
15 drink in addition to beer and wine for consumption on the  
16 premises upon application to and approval by the commission and  
17 payment of the applicable license fee as specified in section  
18 5023.

19       (2) A township having incorporated villages within its  
20 boundaries may submit to the voters in the unincorporated portion  
21 of the township the question of sale of spirits and mixed spirit  
22 drink for consumption on the premises and the will of the elec-  
23 tors outside of the incorporated villages shall decide the ques-  
24 tion for the unincorporated portion of the township.

25       Sec. 10107. (1) Upon the filing with the county clerk of a  
26 petition signed by not less than 20% of the registered and  
27 qualified electors of any county of the entire vote cast for the

1 office of secretary of state in that county at the last general  
2 election requesting the submission to the electors of that county  
3 of the question of the manufacture or sale of alcoholic liquor,  
4 or both, within that county, the county clerk shall submit the  
5 question at the next regular state election held in that county.  
6 A petition filed under this subsection shall be filed at least 60  
7 days before the election. A ballot question under this subsec-  
8 tion shall not be submitted to the electors more often than once  
9 in any 4-year period.

10 (2) All votes on the question shall be taken, counted, and  
11 canvassed in the same manner as votes cast for county offices are  
12 taken, counted, and canvassed. The vote on that question shall  
13 be by ballot, which ballots shall be furnished by the board of  
14 election commissioners of the county and shall be substantially  
15 in 1 of the following forms:

16 "1. Shall the manufacture of alcoholic liquor be prohibited  
17 in the county of .....?

18 Yes .....

19 No .....

20 2. Shall the sale of alcoholic liquor be prohibited in the  
21 county of .....?

22 Yes .....

23 No .....

24 3. Shall the manufacture and sale of alcoholic liquor be  
25 prohibited in the county of .....?

26 Yes .....

1 No .....".

2 (3) The effective date of the prohibition of the manufacture  
3 or sale, or both, as applicable, shall be 30 days after the board  
4 of county canvassers has determined that a majority of those  
5 voting on that question have voted in favor of the prohibition.  
6 The county clerk shall give notice of the effective date of the  
7 prohibition by publishing the date at least once in a newspaper  
8 published in that county or, if no newspaper is published within  
9 the county, in a newspaper published in an adjoining county.

10 Sec. 10109. (1) Notwithstanding section 10101, a city, vil-  
11 lage, or township in which there are no retail licenses for the  
12 sale of alcoholic liquor may, by ordinance, prohibit the retail  
13 sale of alcoholic liquor within its borders.

14 (2) An ordinance adopted under subsection (1) remains in  
15 effect until the next general or special election held not less  
16 than 45 days after the adoption of the ordinance. At that elec-  
17 tion, the ordinance shall be submitted to the electors of the  
18 city, village, or township for affirmance or revocation. A revo-  
19 cation of the ordinance is effective on the date the election  
20 results are certified.

21 (3) The commission shall not issue a license that violates  
22 an ordinance adopted under subsection (1).

23 Sec. 10111. (1) The sale of beer and wine between the hours  
24 of 2 a.m. and 12 midnight on Sunday may be prohibited in any  
25 county, city, village, or township by a majority vote of the  
26 electors voting at a regular state election. Not more often than  
27 once in every 4 years, upon the filing of a petition with the

1 county, city, village, or township clerk, as applicable,  
2 requesting the submission of the question of the Sunday sale of  
3 beer and wine, the clerk shall submit that question to the elec-  
4 tors of the county, city, village, or township at the next regu-  
5 lar state election held in that county, city, village or  
6 township. A petition filed under this subsection shall be filed  
7 not less than 60 days before the regular state election. A  
8 ballot question under this subsection shall not be submitted more  
9 often than once in any 4-year period.

10 (2) In the case of a county, city, or township, the petition  
11 shall be signed by a number of the registered and qualified elec-  
12 tors of the county, city, or township that is not less than 35%  
13 of the total number of votes cast for all candidates for the  
14 office of secretary of state in that county, city, or township at  
15 the last general election held for that purpose and, in the case  
16 of a village the petition shall be signed by a number of the reg-  
17 istered and qualified electors of the village that is less than  
18 35% of the total number of votes cast for all candidates for the  
19 office of president of the village at the last village election  
20 held for that purpose.

21 (3) The question of the Sunday sale of beer and wine shall  
22 be submitted by ballot in substantially the following form:

23 "Shall the sale of beer and wine within (the county, city,  
24 village, or township as the case may be) between the hours of 2  
25 a.m. and 12 midnight on Sunday be prohibited?

26 Yes .....



1 No .....".

2 (4) All votes on the question submitted to the electors  
3 under this section shall be taken, counted, and canvassed in the  
4 same manner as votes cast in county, city, village, or township  
5 election, as applicable, are taken, counted, and canvassed.  
6 Ballots shall be furnished by the election commission or similar  
7 body of the respective county, city, village, or township. If a  
8 majority of the electors voting at an election conducted under  
9 this section vote in favor of the question submitted, the sale of  
10 beer and wine within that county, city, village, or township  
11 between the hours of 2 a.m. and 12 midnight on Sunday is  
12 prohibited.

13 Sec. 10113. (1) Except as provided in subsection (2), (3),  
14 or (5), a licensee enumerated under section 5023 or any other  
15 person shall not sell at retail, give away, or furnish, and a  
16 person shall not knowingly and willfully buy, spirits or mixed  
17 spirit drink between the hours of 2 a.m. and 12 midnight on  
18 Sunday. If January 1 falls on Sunday, the hours may be extended  
19 to 4 a.m.

20 (2) If the legislative body of a county has authorized the  
21 sale of spirits and mixed spirit drink for consumption on the  
22 premises on Sunday, by resolution approved by a majority of the  
23 legislative body voting on that resolution, the spirits and mixed  
24 spirit drink may be sold after 12 noon in an establishment  
25 licensed under this act in which the gross receipts derived from  
26 the sale of food and other goods and services exceed 50% of the  
27 total gross receipts. With respect to an action taken by the

1 legislative body or if the legislative body fails to act, a  
 2 petition may be filed with the county clerk requesting the sub-  
 3 mission of the question of the sale of spirits and mixed spirit  
 4 drink for consumption on the premises in addition to beer and  
 5 wine on Sunday. The petition shall be signed by a number of the  
 6 registered and qualified electors of the county that is not less  
 7 than 8% of the total number of votes cast for all candidates for  
 8 the office of secretary of state in the county at the last gen-  
 9 eral election held for that purpose. The question shall not be  
 10 submitted to the electors of a county more than once every 4  
 11 years. The county clerk shall submit the question at the next  
 12 regular state election held in the county if the petitions are  
 13 filed not less than 60 days before the election. The question of  
 14 the sale of spirits and mixed spirit drink for consumption on the  
 15 premises, in addition to beer and wine, on Sunday shall be sub-  
 16 mitted by ballot in substantially the following form:

17 "Shall the sale of spirits and mixed spirit drink for con-  
 18 sumption on the premises be permitted on Sunday in an establish-  
 19 ment licensed under the Michigan liquor control code of 1996 in  
 20 which the gross receipts derived from the sale of food or other  
 21 goods and services exceed 50% of the total gross receipts within  
 22 the county of ..... under the provisions of the law govern-  
 23 ing the sale of spirits and mixed spirit drink for consumption?

24 Yes .....

25 No ..... "

26 (3) If the legislative body of a county has authorized the  
 27 sale of spirits and mixed spirit drink for consumption off the

1 premises on Sunday by resolution approved by a majority of the  
2 legislative body voting on the resolution, spirits and mixed  
3 spirit drink may be sold after 12 noon in a retail establishment  
4 licensed under this act. With respect to an action taken by the  
5 legislative body or if the legislative body fails to act, a peti-  
6 tion may be filed with the county clerk requesting the submission  
7 of the question of the sale of spirits and mixed spirit drink for  
8 consumption off the premises, in addition to beer and wine, in a  
9 retail establishment licensed under this act on Sunday. The  
10 petition shall be signed by a number of the registered and quali-  
11 fied electors of the county that is not less than 8% of the total  
12 number of votes cast for all candidates for the office of secre-  
13 tary of state in the county at the last general election held for  
14 that purpose. The question shall not be submitted to the elec-  
15 tors of a county more than once every 4 years. The county clerk  
16 shall submit the question at the next regular state election held  
17 in the county if the petitions are filed not less than 60 days  
18 before the election. The question of the sale of spirits and  
19 mixed spirit drink for consumption off the premises, in addition  
20 to beer and wine, in a retail establishment licensed under this  
21 act on Sunday shall be submitted by ballot in substantially the  
22 following form:

23       "Shall the sale of spirits and mixed spirit drink for con-  
24 sumption off the premises be permitted on Sunday in a retail  
25 establishment licensed under the Michigan liquor control code of  
26 1996 within the county of ..... under the provisions of the

1 law governing the sale of spirits and mixed spirit drink for  
2 consumption?

3 Yes .....

4 No .....".

5 (4) Votes on a question submitted under this section shall  
6 be taken, counted, and canvassed in the same manner as votes cast  
7 in county elections are taken, counted, and canvassed. A ballot  
8 shall be furnished by the election commission or similar body of  
9 the county. If a majority of the electors voting at an election  
10 vote in favor of the proposal, spirits and mixed spirit drink may  
11 be sold in the county under this act for consumption on the  
12 premises or by a retail establishment for consumption off the  
13 premises, in addition to beer and wine, on Sunday. The sale  
14 shall not be permitted in a city, village, or township in which  
15 the sale of spirits and mixed spirit drink is prohibited under  
16 this act. A violation of this section is a misdemeanor. This  
17 section does not apply to spirits and mixed spirit drink served  
18 to a bona fide guest in the residence of a person or sold or fur-  
19 nished for medicinal purposes as provided for in this act.

20 (5) A licensee enumerated under section 5023 or any other  
21 person shall not sell at retail, and a person shall not knowingly  
22 and willfully buy, alcoholic liquor between the hours of  
23 9 p.m. on December 24 and 7 a.m. on December 26. If December 26  
24 falls on Sunday, the hours of closing shall be determined pursu-  
25 ant to this act. The legislative body of a city, village, or  
26 township, by resolution or ordinance, may prohibit the sale of

1 alcoholic liquor on Sunday or a legal holiday, primary election  
2 day, general election day, or municipal election day.

3       Sec. 10115. (1) A licensee who elects to sell spirits or  
4 mixed spirit drink on Sunday under section 10113 shall not do so  
5 until he or she first pays to the commission an additional fee in  
6 the amount of 15% of the fee charged for the issuance of his or  
7 her license.

8       (2) The revenue received from subsection (1) shall be depos-  
9 ited with the state treasurer in a special fund to be used only  
10 by the department of public health in programs for the treatment  
11 of alcoholics.

## CHAPTER 12

13       Sec. 10201. (1) In addition to any and all taxes imposed by  
14 law, there is imposed and levied upon and collected a specific  
15 tax equal to 4% of the retail selling price of spirits. The tax  
16 shall be collected by the commission at the time of sale by the  
17 commission. In the case of sales to licensees, the tax shall be  
18 computed on the retail selling price established by the commis-  
19 sion without allowance of discount.

20           (2) Upon collection, the commission shall deposit the entire  
21 proceeds in the state treasury, to the credit of the general  
22 fund.

(3) If section 1201 is repealed, every licensee, who has on hand any spirits on the effective date of the repeal, shall file a complete inventory of those spirits with the commission within 20 days after the repeal. The commission shall credit to such a licensee an amount equal to 4% of the retail selling price of

1 those spirits on future purchases of spirits from the  
2 commission.

3       Sec. 10203. (1) In addition to any and all taxes imposed by  
4 law, there is imposed, levied upon, and collected a specific tax  
5 equal to 4% retail selling price of spirits. The tax shall be  
6 collected by the commission at the time of sale by the  
7 commission. In the case of sales to licensees, the tax shall be  
8 computed on the retail selling price established by the commis-  
9 sion without allowance of discount.

10       (2) Upon collection, the commission shall deposit the entire  
11 proceeds in the state treasury, to the credit of the state school  
12 aid fund established by sections 8, 10, and 11 of article IX of  
13 the state constitution.

14       Sec. 10205. (1) In addition to any and all taxes imposed by  
15 law, there is imposed and levied upon and collected a specific  
16 tax equal to 1.85% of the retail selling price of spirits for  
17 consumption off the premises. The tax shall be collected by the  
18 commission at the time of the sale by the commission.

19       (2) Upon collection, the commission shall deposit the entire  
20 proceeds in the state treasury, to the credit of the liquor pur-  
21 chase revolving fund.

22       Sec. 10207. (1) The legislature finds and declares that  
23 there exists in this state a continuing need for programs to pro-  
24 mote tourism and convention business in order to assist in the  
25 prevention of unemployment and the alleviation of the conditions  
26 of unemployment, to preserve existing jobs, and to create new  
27 jobs to meet the employment demands of population growth. In

1 order to achieve these purposes, it is necessary to assist and  
2 encourage local units of government to acquire, construct,  
3 improve, enlarge, renew, replace, repair, furnish, and equip con-  
4 vention facilities and the real property on which they are  
5 located.

6       (2) In addition to any other taxes imposed by law, there is  
7 imposed, levied upon, and collected a specific tax equal to 4.0%  
8 of the retail selling price of spirits for consumption on the  
9 premises. The tax shall be collected by the commission at the  
10 time of sale by the commission. In the case of sales to licens-  
11 ees, the tax shall be computed on the retail selling price estab-  
12 lished by the commission without allowance of discount.

13       (3) In addition to any other taxes imposed by law, there is  
14 imposed, levied upon, and collected a specific tax equal to 4.0%  
15 of the retail selling price of spirits for consumption off the  
16 premises. The tax shall be collected by the commission at the  
17 time of the sale by the commission.

18       (4) Upon collection, the commission shall deposit the pro-  
19 ceeds of the taxes imposed pursuant to subsections (2) and (3) in  
20 the state treasury to the credit of the convention facility  
21 development fund created by the state convention facility devel-  
22 opment act, Act No. 106 of the Public Acts of 1985, being  
23 sections 207.621 to 207.640 of the Michigan Compiled Laws, for  
24 distribution and use only in the manner and for the purposes  
25 stated in that act.

1       (5) The tax imposed by this act shall not be levied during  
2 any period in which the tax imposed pursuant to Act No. 106 of  
3 the Public Acts of 1985 is not levied.

4       (6) This section shall not be construed as making  
5 appropriations.

6                                   CHAPTER 13

7       Sec. 10301. The following acts and parts of acts are  
8 repealed:

9       (a) Act No. 8 of the Public Acts of the Extra Session of  
10 1933, being sections 436.1 to 436.58 of the Michigan Compiled  
11 Laws.

12       (b) Act No. 94 of the Public Acts of 1959, being  
13 sections 436.101 to 436.103 of the Michigan Compiled Laws.

14       (c) Act No. 218 of the Public Acts of 1962, being  
15 sections 436.121 to 436.125 of the Michigan Compiled Laws.

16       (d) Act No. 213 of the Public Acts of 1972, being  
17 sections 436.131 to 436.133 of the Michigan Compiled Laws.

18       (e) The tourism and convention facility promotion tax act,  
19 Act No. 107 of the Public Acts of 1985, being sections 436.141 to  
20 436.148 of the Michigan Compiled Laws.

21       Sec. 10303. This act shall take effect 180 days after it is  
22 enacted into law.