



SENATE BILL No. 1171

September 19, 1996, Introduced by Senators BULLARD, SCHUETTE, STILLE, CISKY, BOUCHARD, SHUGARS, KOIVISTO, BYRUM, NORTH, HOFFMAN, GAST, STEIL, SCHWARZ, MC MANUS, DUNASKISS, MILLER, GOUGEON, BENNETT, CARL, GEAKE, DE GROW and CONROY and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend sections 3 and 30d of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 3 as amended by Act No. 153 of the Public Acts of 1981 and section 30d as amended by Act No. 8 of the Public Acts of 1995, being sections 436.3 and 436.30d of the Michigan Compiled Laws; and to add sections 2ee, 2ff, 2gg, 3a, and 30e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3 and 30d of Act No. 8 of the Public
2 Acts of the Extra Session of 1933, section 3 as amended by Act
3 No. 153 of the Public Acts of 1981 and section 30d as amended by
4 Act No. 8 of the Public Acts of 1995, being sections 436.3 and
5 436.30d of the Michigan Compiled Laws, are amended and sections
6 2ee, 2ff, 2gg, 3a, and 30e are added to read as follows:

1 SEC. 2EE. "AUTHORIZED DISTRIBUTION AGENT" MEANS A PERSON
2 APPROVED BY THE COMMISSION TO DO 1 OR MORE OF THE FOLLOWING:

3 (A) TO STORE SPIRITS OWNED BY A SUPPLIER OF SPIRITS OR THE
4 COMMISSION.

5 (B) TO DELIVER SPIRITS SOLD BY THE COMMISSION TO RETAIL
6 LICENSEES.

7 (C) TO PERFORM ANY FUNCTION NEEDED TO STORE SPIRITS OWNED BY
8 A SUPPLIER OF SPIRITS OR BY THE COMMISSION OR TO DELIVER SPIRITS
9 SOLD BY THE COMMISSION TO RETAIL LICENSEES.

10 SEC. 2FF. "PRIMARY SOURCE OF SUPPLY" MEANS, IN THE CASE OF
11 DOMESTIC SPIRITS, THE DISTILLER, PRODUCER, OWNER OF THE COMMODITY
12 AT THE TIME IT BECOMES A MARKETABLE PRODUCT, OR BOTTLER, OR THE
13 EXCLUSIVE AGENT OF ANY SUCH PERSON AND, IN THE CASE OF SPIRITS
14 IMPORTED INTO THE UNITED STATES, EITHER THE FOREIGN DISTILLER,
15 PRODUCER, OWNER OF THE BOTTLER, OR THE PRIME IMPORTER FOR, OR THE
16 EXCLUSIVE AGENT IN THE UNITED STATES OF, THE FOREIGN DISTILLER,
17 PRODUCER, OWNER, OR THE BOTTLER.

18 SEC. 2GG. "SUPPLIER OF SPIRITS" MEANS A VENDOR OF SPIRITS,
19 A MANUFACTURER OF SPIRITS, OR A PRIMARY SOURCE OF SUPPLY.

20 Sec. 3. (1) Except as provided in this section and section
21 16a, a sale, delivery, or importation of alcoholic liquor,
22 including alcoholic liquor for personal use, shall not be made in
23 this state unless the sale, delivery, or importation is made by
24 the commission, the commission's authorized agent or distributor,
25 AN AUTHORIZED DISTRIBUTION AGENT APPROVED BY ORDER OF THE
26 COMMISSION, a person licensed by the commission, or by prior
27 written order of the commission. All spirits for sale, use,

1 storage, or distribution in this state, shall originally be
2 purchased by and imported into the state by the commission, or by
3 prior written authority of the commission. This section shall
4 not apply in the case of an alcoholic liquor brought into this
5 state personally by a person of legal age to purchase alcoholic
6 liquor at the time of reentry into this state from without the
7 territorial limits of the United States for personal or household
8 use in an amount permitted by federal law if the person has been
9 outside the territorial limits of the United States for more than
10 48 hours and has not brought alcoholic liquor into the United
11 States during the preceding 30 days.

12 (2) Notwithstanding the provision of subsection (1) a person
13 who is of legal age to purchase alcoholic liquor may import from
14 another state for that person's personal use not more than 288
15 ounces of alcoholic liquor which contains less than 21% alcohol
16 by volume.

17 SEC. 3A. (1) THE COMMISSION MAY, PURSUANT TO SECTION 3(1),
18 BY ORDER APPOINT AUTHORIZED DISTRIBUTION AGENTS TO ENGAGE IN THE
19 WAREHOUSING AND DELIVERY OF SPIRITS IN THIS STATE. AN ORDER OF
20 THE COMMISSION APPOINTING AN AUTHORIZED DISTRIBUTION AGENT IS
21 CONSIDERED A LICENSE. AN AUTHORIZED DISTRIBUTION AGENT IS
22 SUBJECT TO UNIFORM REQUIREMENTS, INCLUDING BUSINESS OPERATING
23 PROCEDURES, WHICH THE COMMISSION SHALL PRESCRIBE BY RULE, SUBJECT
24 TO THIS SECTION.

25 (2) A PERSON IS ELIGIBLE FOR APPOINTMENT BY THE COMMISSION
26 AS AN AUTHORIZED DISTRIBUTION AGENT IF THE FOLLOWING
27 CIRCUMSTANCES EXIST:

1 (A) THE PERSON SATISFIES THE QUALIFICATIONS AND REQUIREMENTS
2 FOR LICENSURE OF A WHOLESALE LICENSE PRESCRIBED BY SECTION 23.

3 (B) THE PERSON SATISFIES ALL APPLICABLE COMMISSION RULES
4 PRESCRIBING QUALIFICATIONS FOR LICENSURE PROMULGATED PURSUANT TO
5 SECTION 7.

6 (C) THE PERSON HAS ENTERED INTO A WRITTEN AGREEMENT OR CON-
7 TRACT WITH A SUPPLIER OF SPIRITS FOR THE PURPOSES OF WAREHOUSING
8 AND DELIVERING A BRAND OR BRANDS OF SPIRITS OF THAT SUPPLIER OF
9 SPIRITS.

10 (D) THE PERSON HAS AN ADEQUATE WAREHOUSING FACILITY LOCATED
11 IN THIS STATE FOR THE STORING OF SPIRITS FROM WHICH ALL DELIVERY
12 OF SPIRITS TO RETAIL LICENSEES SHALL BE MADE.

13 (3) AN AUTHORIZED DISTRIBUTION AGENT SHALL NOT HAVE A DIRECT
14 OR INDIRECT INTEREST IN A SUPPLIER OF SPIRITS OR IN A RETAILER
15 AND A SUPPLIER OF SPIRITS OR A RETAILER SHALL NOT HAVE A DIRECT
16 OR INDIRECT INTEREST IN AN AUTHORIZED DISTRIBUTION AGENT.

17 (4) AN AUTHORIZED DISTRIBUTION AGENT OR PROSPECTIVE AUTHO-
18 RIZED DISTRIBUTION AGENT SHALL MAINTAIN AND MAKE AVAILABLE TO THE
19 COMMISSION OR ITS REPRESENTATIVES, UPON NOTICE, ANY CONTRACT OR
20 WRITTEN AGREEMENT IT MAY HAVE WITH A SUPPLIER OF SPIRITS OR OTHER
21 AUTHORIZED DISTRIBUTION AGENT FOR THE WAREHOUSING AND DELIVERY OF
22 SPIRITS IN THIS STATE.

23 (5) ALL CONTRACTS OR AGREEMENTS BETWEEN AN AUTHORIZED DIS-
24 TRIBUTION AGENT OR PROSPECTIVE AUTHORIZED DISTRIBUTION AGENT AND
25 A SUPPLIER OF SPIRITS SHALL BE IN WRITING, BE IN COMPLIANCE WITH
26 SECTION 30E, AND SHALL INCLUDE SUCH UNIFORM TERMS AS THE

1 COMMISSION SHALL BY RULE PRESCRIBE INCLUDING, BUT NOT LIMITED TO,
2 THE FOLLOWING PROVISIONS:

3 (A) THE DURATION AND METHOD FOR RENEWAL OF THE CONTRACT OR
4 AGREEMENT.

5 (B) A LISTING OF THE BRAND OR BRANDS OF SPIRITS THAT ARE
6 SUBJECT TO THE CONTRACT OR AGREEMENT.

7 (C) THE AUTHORIZED DISTRIBUTION AGENT'S SERVICE AREA.

8 (D) THE AUTHORIZED DISTRIBUTION AGENT'S DELIVERY, WAREHOUS-
9 ING, AND OTHER RESPONSIBILITIES WITH RESPECT TO THE BRANDS OF
10 SPIRITS THAT ARE SUBJECT TO THE CONTRACT OR AGREEMENT.

11 (E) THE AUTHORIZED DISTRIBUTION AGENT'S COMPENSATION UNDER
12 THE CONTRACT OR AGREEMENT.

13 (F) THE SUPPLIER OF SPIRITS' OBLIGATION TO PROVIDE SAFE,
14 SALEABLE PRODUCTS TO THE AUTHORIZED DISTRIBUTION AGENT ON A REGU-
15 LAR AND TIMELY BASIS.

16 (G) REQUIREMENTS FOR, OR LIMITATIONS UPON, SUBCONTRACTING OF
17 THE AUTHORIZED DISTRIBUTION AGENT'S DUTIES UNDER THE CONTRACT OR
18 AGREEMENT.

19 (H) A PROCEDURE BY WHICH THE AUTHORIZED DISTRIBUTION AGENT
20 IS NOTIFIED OF AND AFFORDED A REASONABLE OPPORTUNITY TO CORRECT
21 ANY DEFICIENCIES FOR ITS PERFORMANCE UNDER THE AGREEMENT.

22 (I) THE OBLIGATION OF GOOD FAITH THAT SHALL BE IMPOSED UPON
23 THE PARTIES TO THE CONTRACT OR AGREEMENT.

24 (J) THE GROUNDS FOR TERMINATION OF THE CONTRACT OR AGREEMENT
25 WHICH SHALL INCLUDE A REQUIREMENT OF GOOD CAUSE.

26 (6) AN AUTHORIZED DISTRIBUTION AGENT'S APPOINTMENT SHALL
27 REMAIN IN EFFECT AS LONG AS IT HAS 1 OR MORE AGREEMENTS WITH A

1 SUPPLIER OF SPIRITS FOR THE WAREHOUSING AND DELIVERING OF SPIRITS
2 IN THIS STATE, UNLESS REVOKED, SUSPENDED, OR FORFEITED PURSUANT
3 TO SUBSECTION (7).

4 (7) FOR ANY VIOLATION OF THIS ACT, RULES PROMULGATED UNDER
5 THIS ACT, OR THE TERMS OF AN ORDER APPOINTING AN AUTHORIZED DIS-
6 TRIBUTION AGENT, AN AUTHORIZED DISTRIBUTION AGENT SHALL BE
7 SUBJECT TO THE SUSPENSION, REVOCATION, FORFEITURE, AND PENALTY
8 PROVISIONS OF SECTIONS 20(1) AND 21. AN AUTHORIZED DISTRIBUTION
9 AGENT AGGRIEVED BY A PENALTY IMPOSED BY THE COMMISSION MAY INVOKE
10 THE HEARING AND APPEAL PROCEDURES OF SECTION 20(2) AND COMMISSION
11 RULES PROMULGATED UNDER THAT SECTION.

12 (8) FOR THE PURPOSES OF THE RULES PROMULGATED BY THE COMMIS-
13 SION, A SUPPLIER OF SPIRITS AND AN AUTHORIZED DISTRIBUTION AGENT
14 SHALL BE CONSIDERED AND TREATED AS A VENDOR OF SPIRITS AND A
15 WHOLESALER RESPECTIVELY, EXCEPT THAT THEY SHALL BE SUBJECT TO
16 RULES APPLICABLE TO SPIRITS FOR PURPOSES OF MANUFACTURING AND
17 LABELING.

18 Sec. 30d. (1) A ~~manufacturer and~~ WINE MAKER, SMALL WINE
19 MAKER, MASTER DISTRIBUTOR, OR outstate seller of wine shall grant
20 to each of its wholesalers a sales territory within which the
21 wholesaler shall be a distributor of the specified brand or
22 brands of the ~~manufacturer~~ WINE MAKER, SMALL WINE MAKER, MASTER
23 DISTRIBUTOR, or outstate seller of wine. The territory shall be
24 the territory agreed upon between the wholesaler and
25 ~~manufacturer~~ THE WINE MAKER, SMALL WINE MAKE, MASTER
26 DISTRIBUTOR, or outstate seller of wine. A ~~manufacturer~~ WINE
27 MAKER, SMALL WINE MAKER, MASTER DISTRIBUTOR, or outstate seller

1 of wine may grant the right to sell a specified brand or brands
2 in a sales territory to more than 1 wholesaler.

3 (2) NOTWITHSTANDING SUBSECTION (1), A WINE MAKER, SMALL WINE
4 MAKER, MASTER DISTRIBUTOR, OR OUTSTATE SELLER OF WINE WHO HAS,
5 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
6 SUBSECTION AND PURSUANT TO AN AGREEMENT REQUIRED BY SECTION 30C,
7 ASSIGNED 1 OR MORE WHOLESALERS TO A SALES TERRITORY FOR A BRAND
8 OR BRANDS OF WINE SHALL NOT ASSIGN THAT BRAND OR BRANDS OF WINE
9 TO ANY ADDITIONAL WHOLESALER OR WHOLESALERS IN ANY PART OF THAT
10 SALES TERRITORY.

11 (3) THE APPOINTMENT, AFTER SEPTEMBER 24, 1996, BY A WINE
12 MAKER, SMALL WINE MAKER, MASTER DISTRIBUTOR, OR OUTSTATE SELLER
13 OF WINE OF AN ADDITIONAL WHOLESALER OR WHOLESALERS TO SELL OR
14 DISTRIBUTE A BRAND OR BRANDS OF WINE IN ANY PART OF A SALES TER-
15 RITORY CURRENTLY BEING SERVICED BY A WHOLESALER FOR THAT BRAND OR
16 BRANDS OF WINE SHALL BE NULL, VOID, AND OF NO EFFECT, UPON THE
17 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

18 (4) ~~-(2)-~~ Notwithstanding subsection (1), a brand extension
19 is not considered a new or different brand and a manufacturer or
20 an outstate seller of wine shall assign a brand extension to the
21 wholesaler which was granted the sales territory for the brand
22 from which the brand extension resulted.

23 (5) ~~-(3)-~~ Subsection ~~-(2)-~~ (4) does not apply where, before
24 January 1, 1994, a manufacturer or an outstate seller of wine had
25 assigned a brand extension to a wholesaler which was not the
26 appointed wholesaler for the brand from which the brand extension
27 was made.

1 (6) ~~(4)~~ Until July 1, 1995, a manufacturer or an outstate
2 seller of wine who acquired or otherwise obtained the right to
3 assign brands of another manufacturer or outstate seller of wine
4 between January 1, 1994 and July 1, 1995 shall assign a brand
5 extension to the wholesaler which was granted the sales territory
6 for the brand from which the brand extension resulted. Beginning
7 July 1, 1995, a manufacturer or an outstate seller of wine who
8 acquires or otherwise obtains the right to assign brands of
9 another manufacturer or outstate seller of wine is not required
10 to assign a new brand extension to the wholesaler which is
11 granted the exclusive sales territory to the brand from which the
12 new brand extension results. Any brand extension assigned
13 between January 1, 1994 and July 1, 1995 shall remain assigned to
14 the assigned wholesaler.

15 (7) ~~(5)~~ A manufacturer of a mixed wine drink, mixed spirit
16 drink manufacturer, outstate seller of a mixed wine drink, or
17 outstate seller of mixed spirit drink shall grant to each of its
18 wholesalers an exclusive sales territory in which the wholesaler
19 shall be a distributor of the specified brand or brands of the
20 manufacturer or outstate seller. The territory shall be the ter-
21 ritory agreed upon between the wholesaler and manufacturer of a
22 mixed wine drink, mixed spirit drink manufacturer, outstate
23 seller of mixed wine drinks, or outstate seller of mixed spirit
24 drink.

25 (8) ~~(6)~~ Notwithstanding subsection ~~(5)~~ (7), a brand
26 extension is not considered a new or different brand. A
27 manufacturer of a mixed wine drink, mixed spirit drink

1 manufacturer, outstate seller of a mixed wine drink, or outstate
2 seller of mixed spirit drink shall assign a brand extension to
3 the wholesaler which was granted the exclusive sales territory
4 for the brand from which the brand extension resulted.

5 (9) ~~(7)~~ Subsection ~~(6)~~ (8) does not apply where, before
6 January 1, 1994, a manufacturer of a mixed wine drink, mixed
7 spirit drink manufacturer, outstate seller of a mixed wine drink,
8 or outstate seller of mixed spirit drink had assigned a brand
9 extension to a wholesaler which was not the appointed wholesaler
10 for the brand from which the brand extension was made.

11 (10) ~~(8)~~ Until July 1, 1995, a manufacturer of a mixed
12 wine drink, mixed spirit drink manufacturer, outstate seller of
13 mixed wine drink, or an outstate seller of mixed spirit drink who
14 acquired or otherwise obtained the right to assign brands of
15 another manufacturer of a mixed wine drink, mixed spirit drink
16 manufacturer, outstate seller of a mixed wine drink, or outstate
17 seller of mixed spirit drink between January 1, 1994 and July 1,
18 1995 shall assign a brand extension to the wholesaler which was
19 granted the exclusive sales territory for the brand from which
20 the brand extension resulted. Beginning July 1, 1995, a manufac-
21 turer of mixed wine drink, mixed spirit drink manufacturer, an
22 outstate seller of mixed wine drink, or an outstate seller of
23 mixed spirit drink who acquires or otherwise obtains the right to
24 assign brands of another manufacturer of mixed wine drink, mixed
25 spirit drink manufacturer, outstate seller of mixed wine drink,
26 or outstate seller of mixed spirit drink is not required to
27 assign a new brand extension to the wholesaler which is granted

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

5 SEC. 30E. (1) THE PURPOSE OF THIS SECTION IS TO PROVIDE A
6 STRUCTURE FOR THE BUSINESS RELATIONS BETWEEN AN AUTHORIZED DIS-
7 TRIBUTION AGENT AND A SUPPLIER OF SPIRITS. REGULATION IN THIS
8 AREA IS CONSIDERED NECESSARY FOR THE FOLLOWING REASONS:

9 (A) TO PROMOTE AND MAINTAIN A SOUND, STABLE, AND VIABLE
10 3-TIER DISTRIBUTION SYSTEM OF SPIRITS TO THE PUBLIC.

11 (B) TO RECOGNIZE THE MARKETING DISTINCTIONS BETWEEN BEER,
12 WINE, AND SPIRITS.

13 (C) TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE.

14 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES
15 OTHERWISE:

16 (A) "AGREEMENT" MEANS ANY AGREEMENT BETWEEN AN AUTHORIZED
17 DISTRIBUTION AGENT AND A SUPPLIER, WHETHER ORAL OR WRITTEN, IN
18 WHICH AN AUTHORIZED DISTRIBUTION AGENT IS GRANTED THE RIGHT TO
19 WAREHOUSE AND DELIVER A BRAND OR BRANDS OF SPIRITS SOLD BY A
20 SUPPLIER.

21 (B) "ANCILLARY BUSINESS" MEANS A BUSINESS OWNED BY AN AUTHO-
22 RIZED DISTRIBUTION AGENT, A STOCKHOLDER OF AN AUTHORIZED DISTRI-
23 BUTION AGENT, OR A PARTNER OF AN AUTHORIZED DISTRIBUTION AGENT
24 THE PRIMARY PURPOSE OF WHICH IS DIRECTLY RELATED TO THE TRANS-
25 PORTING, STORING, OR DELIVERY OF THE BRAND OR BRANDS OF SPIRITS
26 OF A SUPPLIER WITH WHOM THE AUTHORIZED DISTRIBUTION AGENT HAS AN
27 AGREEMENT; OR A BUSINESS OWNED BY AN AUTHORIZED DISTRIBUTION

1 AGENT, A STOCKHOLDER OF AN AUTHORIZED DISTRIBUTION AGENT, OR A
2 PARTNER OF AN AUTHORIZED DISTRIBUTION AGENT WHICH RECYCLES EMPTY
3 RETURNABLE BEVERAGE CONTAINERS.

4 (C) "DESIGNATED MEMBER" MEANS THE SPOUSE, CHILD, GRANDCHILD,
5 PARENT, BROTHER, OR SISTER OF A DECEASED INDIVIDUAL WHO OWNED AN
6 INTEREST IN AN AUTHORIZED DISTRIBUTION AGENT, WHO IS ENTITLED TO
7 INHERIT THE DECEASED INDIVIDUAL'S OWNERSHIP INTEREST IN THE
8 AUTHORIZED DISTRIBUTION AGENT UNDER THE TERMS OF THE DECEASED
9 INDIVIDUAL'S WILL, OR WHO HAS OTHERWISE BEEN DESIGNATED IN WRIT-
10 ING BY THE DECEASED INDIVIDUAL TO SUCCEED THE DECEASED INDIVIDUAL
11 IN THE AUTHORIZED DISTRIBUTION AGENT'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 AN AUTHORIZED DISTRIBUTION
15 AGENT, THE TERM MEANS THE PERSON APPOINTED BY A COURT AS THE CON-
16 SERVATOR OF SUCH AN INDIVIDUAL'S PROPERTY. THE TERM ALSO
17 INCLUDES THE APPOINTED AND QUALIFIED PERSONAL REPRESENTATIVE AND
18 THE TESTAMENTARY TRUSTEE OF A DECEASED INDIVIDUAL OWNING AN
19 OWNERSHIP INTEREST IN AN AUTHORIZED DISTRIBUTION AGENT.

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 AUTHORIZED DISTRIBUTION AGENT" MEANS AN AUTHO-
26 RIZED DISTRIBUTION AGENT WHO ACTS IN THE SAME OR SIMILAR CAPACITY
27 AS A SUPPLIER FOR A BRAND OR BRANDS OF SPIRITS TO OTHER

1 AUTHORIZED DISTRIBUTION AGENTS ON A REGULAR BASIS IN THE NORMAL
2 COURSE OF BUSINESS.

3 (F) "REASONABLE QUALIFICATIONS" MEANS THE AVERAGE STANDARD
4 OF THE CRITERIA USED BY THE RESPECTIVE SUPPLIER FOR AUTHORIZED
5 DISTRIBUTION AGENTS THAT ENTERED INTO OR RENEWED AN AGREEMENT
6 WITH THE SUPPLIERS DURING A PERIOD OF 24 MONTHS PRIOR TO THE PRO-
7 POSED TRANSFER OF THE AUTHORIZED DISTRIBUTION AGENT'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 AN AUTHORIZED DISTRIBUTION AGENT UNDER AN AGREEMENT,
12 WHICH REFUSAL OR REDUCTION IS NOT MADE IN GOOD FAITH.

13 (H) "DISTRIBUTION TERRITORY" MEANS AN AREA OF EXCLUSIVE
14 DELIVERY RESPONSIBILITY FOR THE BRAND OR BRANDS OF SPIRITS OF A
15 SUPPLIER 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 SPIRITS WHICH AN
19 AUTHORIZED DISTRIBUTION AGENT HAS DISTRIBUTED IN THIS STATE PUR-
20 SUANT TO AN AGREEMENT WITH ANOTHER SUPPLIER, WHO PREVIOUSLY HAD
21 THE DISTRIBUTION RIGHTS FOR THE BRAND OR BRANDS.

22 (J) "SUPPLIER" MEANS A SUPPLIER OF SPIRITS AS DEFINED IN
23 SECTION 2GG OR A MASTER DISTRIBUTOR.

24 (K) "TRANSFER OF AN AUTHORIZED DISTRIBUTION AGENT'S
25 BUSINESS" MEANS THE VOLUNTARY SALE, ASSIGNMENT, OR OTHER TRANSFER
26 OF THE BUSINESS OR CONTROL OF THE BUSINESS OF THE AUTHORIZED

1 DISTRIBUTION AGENT INCLUDING THE SALE OR OTHER TRANSFER OF STOCK
2 OR ASSETS BY MERGER, CONSOLIDATION, OR DISSOLUTION.

3 (3) A SUPPLIER SHALL NOT DO ANY OF THE FOLLOWING:

4 (A) COERCE, OR ATTEMPT TO COERCE, AN AUTHORIZED DISTRIBUTION
5 AGENT TO ACCEPT DELIVERY OF ANY SPIRITS OR OTHER COMMODITY WHICH
6 HAS NOT BEEN ORDERED BY THE AUTHORIZED DISTRIBUTION AGENT.

7 HOWEVER, A SUPPLIER MAY IMPOSE REASONABLE INVENTORY REQUIREMENTS
8 UPON AN AUTHORIZED DISTRIBUTION AGENT IF THE REQUIREMENTS ARE
9 MADE IN GOOD FAITH AND ARE GENERALLY APPLIED TO OTHER AUTHORIZED
10 DISTRIBUTION AGENTS HAVING AN AGREEMENT WITH THE SUPPLIER.

11 (B) COERCE, OR ATTEMPT TO COERCE, ANY AUTHORIZED DISTRIBUTION
12 AGENT TO ACCEPT DELIVERY OF ANY SPIRITS OR OTHER COMMODITY
13 ORDERED BY AN AUTHORIZED DISTRIBUTION AGENT IF THE ORDER WAS
14 PROPERLY CANCELED BY THE AUTHORIZED DISTRIBUTION AGENT IN ACCORD-
15 ANCE WITH THE PROCEDURES AGREED UPON BY THE SUPPLIER AND AUTHO-
16 RIZED DISTRIBUTION AGENT.

17 (C) COERCE, OR ATTEMPT TO COERCE, ANY AUTHORIZED DISTRIBUTION
18 AGENT TO DO ANY ILLEGAL ACT BY THREATENING TO AMEND, CANCEL,
19 TERMINATE, OR REFUSE TO RENEW ANY AGREEMENT EXISTING BETWEEN THE
20 SUPPLIER AND AUTHORIZED DISTRIBUTION AGENT.

21 (D) REQUIRE AN AUTHORIZED DISTRIBUTION AGENT TO ASSENT TO
22 ANY CONDITION, STIPULATION, OR PROVISION LIMITING THE AUTHORIZED
23 DISTRIBUTION AGENT'S RIGHT TO WAREHOUSE AND DELIVER THE BRAND OR
24 BRANDS OF SPIRITS OF ANY OTHER SUPPLIER ANYWHERE IN THIS STATE
25 UNLESS THE ACQUISITION OF THE BRAND OR BRANDS OF ANOTHER SUPPLIER
26 WOULD MATERIALLY IMPAIR THE QUALITY OF SERVICE OF THE BRAND OR

1 BRANDS OF THE SUPPLIER PRESENTLY BEING WAREHOUSED AND DELIVERED
2 BY THE AUTHORIZED DISTRIBUTION AGENT.

3 (E) REQUIRE AN AUTHORIZED DISTRIBUTION AGENT TO WAREHOUSE
4 AND DELIVER 1 OR MORE BRANDS OF SPIRITS IN ORDER FOR THE AUTHO-
5 RIZED DISTRIBUTION AGENT TO WAREHOUSE AND DELIVER ANOTHER BRAND
6 OR BRANDS OF SPIRITS FOR ANY REASON.

7 (F) REQUEST AN AUTHORIZED DISTRIBUTION AGENT TO SUBMIT
8 PROFIT AND LOSS STATEMENTS, BALANCE SHEETS, OR FINANCIAL RECORDS
9 AS A REQUIREMENT FOR RENEWING OR RETAINING AN AGREEMENT.

10 (G) WITHHOLD DELIVERY OF SPIRITS ORDERED BY AN AUTHORIZED
11 DISTRIBUTION AGENT, OR CHANGE AN AUTHORIZED DISTRIBUTION AGENT'S
12 QUOTA OF A BRAND OR BRANDS IF THE WITHHOLDING OR CHANGE IS NOT
13 MADE IN GOOD FAITH.

14 (H) REQUIRE AN AUTHORIZED DISTRIBUTION AGENT BY ANY MEANS TO
15 PARTICIPATE IN OR CONTRIBUTE TO ANY LOCAL OR NATIONAL ADVERTISING
16 FUND CONTROLLED DIRECTLY OR INDIRECTLY BY A SUPPLIER.

17 (I) FAIL TO PROVIDE EACH AUTHORIZED DISTRIBUTION AGENT OF
18 THE SUPPLIER'S BRAND OR BRANDS WITH A WRITTEN AGREEMENT WHICH
19 CONTAINS IN TOTAL THE SUPPLIER'S AGREEMENT WITH EACH AUTHORIZED
20 DISTRIBUTION AGENT, AND DESIGNATES A SPECIFIC DISTRIBUTION
21 TERRITORY.

22 (J) TAKE ANY RETALIATORY ACTION AGAINST AN AUTHORIZED DIS-
23 TRIBUTION AGENT THAT FILES A COMPLAINT REGARDING AN ALLEGED VIO-
24 LATION BY THE SUPPLIER OF STATE OR FEDERAL LAW OR AN ADMINISTRA-
25 TIVE RULE

26 (K) REQUIRE OR PROHIBIT ANY CHANGE IN THE MANAGER OR
27 SUCCESSOR MANAGER OF ANY AUTHORIZED DISTRIBUTION AGENT WHO HELD

1 THAT POSITION PRIOR TO THE EFFECTIVE DATE OF THE AMENDATORY ACT
2 THAT ADDED THIS SECTION. AFTER THE EFFECTIVE DATE OF THE AMENDA-
3 TORY ACT THAT ADDED THIS SECTION, SHOULD A SUPPLIER REQUIRE THAT
4 A MANAGER OR SUCCESSOR MANAGER BE APPOINTED, OR SHOULD AN AUTHO-
5 RIZED DISTRIBUTION AGENT CHANGE AN APPROVED MANAGER OR SUCCESSOR
6 MANAGER, A SUPPLIER SHALL NOT INTERFERE WITH OR PROHIBIT THE
7 APPOINTMENT UNLESS THE PERSON FAILS TO MEET THE REASONABLE WRIT-
8 TEN STANDARDS FOR MICHIGAN FOR AN AUTHORIZED DISTRIBUTION AGENT
9 OF THE SUPPLIER, WHICH STANDARDS HAVE BEEN PROVIDED TO THE AUTHO-
10 RIZED DISTRIBUTION AGENT.

11 (1) REQUIRE BY A PROVISION OF ANY AGREEMENT OR OTHER INSTRU-
12 MENT IN CONNECTION WITH THE AGREEMENT THAT ANY DISPUTE ARISING
13 OUT OF OR IN CONNECTION WITH THAT AGREEMENT BE DETERMINED THROUGH
14 THE APPLICATION OF ANY OTHER STATE'S LAWS. ANY SUPPLIER OR
15 AUTHORIZED DISTRIBUTION AGENT AGGRIEVED BY ANY DISPUTE ARISING
16 OUT OF OR IN CONNECTION WITH AN AGREEMENT GOVERNED BY THIS ACT
17 SHALL HAVE THE RIGHT TO FILE AN APPROPRIATE ACTION CONSISTENT
18 WITH THIS ACT IN ANY COURT IN THIS STATE HAVING VENUE.

19 (4) AN AUTHORIZED DISTRIBUTION AGENT SHALL NOT DELIVER SPIR-
20 ITS TO A RETAIL LICENSEE LOCATED OUTSIDE THE EXCLUSIVE DISTRIBUTION
21 TION TERRITORY DESIGNATED BY THE SUPPLIER OF A PARTICULAR BRAND
22 OR BRANDS OF SPIRITS. HOWEVER, DURING PERIODS OF TEMPORARY SERV-
23 ICE INTERRUPTIONS IMPACTING A PARTICULAR DISTRIBUTION TERRITORY,
24 THE AUTHORIZED DISTRIBUTION AGENT WHO NORMALLY SERVICES THE
25 IMPACTED DISTRIBUTION TERRITORY SHALL FILE WITH THE COMMISSION A
26 WRITTEN NOTICE DESIGNATING THE SPECIFIC AUTHORIZED DISTRIBUTION
27 AGENT OR AN AUTHORIZED DISTRIBUTION AGENT WHO WILL SERVICE THE

1 DISTRIBUTION TERRITORY DURING THE PERIOD OF TEMPORARY SERVICE
2 INTERRUPTION AND THE APPROXIMATE LENGTH OF TIME OF THE SERVICE
3 INTERRUPTION. WHEN THE TEMPORARY SERVICE INTERRUPTION IS OVER,
4 THE AUTHORIZED DISTRIBUTION AGENT WHO NORMALLY SERVICES THE DIS-
5 TRIBUTION TERRITORY SHALL NOTIFY IN WRITING THE COMMISSION AND
6 THE AUTHORIZED DISTRIBUTION AGENT, OR AUTHORIZED DISTRIBUTION
7 AGENTS, WHICH IS SERVICING THE DISTRIBUTION TERRITORY ON A TEMPO-
8 RARY BASIS OF THIS FACT AND ANY AUTHORIZED DISTRIBUTION AGENT
9 SERVICING THE DISTRIBUTION TERRITORY ON A TEMPORARY BASIS SHALL
10 CEASE SERVICING THE DISTRIBUTION TERRITORY UPON RECEIPT OF THE
11 NOTICE. AN AUTHORIZED DISTRIBUTION AGENT WHO IS DESIGNATED TO
12 SERVICE THE IMPACTED DISTRIBUTION TERRITORY DURING THE PERIOD OF
13 TEMPORARY SERVICE SHALL NOT BE IN VIOLATION OF THIS SUBSECTION
14 AND SHALL NOT HAVE ANY OF THE RIGHTS PROVIDED UNDER SUBSECTIONS
15 (6) TO (12).

16 (5) A SUPPLIER OR AUTHORIZED DISTRIBUTION AGENT SHALL NOT
17 RESTRICT OR INHIBIT, DIRECTLY OR INDIRECTLY, THE RIGHT OF FREE
18 ASSOCIATION AMONG SUPPLIERS OR AUTHORIZED DISTRIBUTION AGENTS FOR
19 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 HAS GOOD CAUSE AND IS ACTING IN GOOD FAITH IN MAKING
23 THE AMENDMENT.

24 (7) NOTWITHSTANDING ANY AGREEMENT AND EXCEPT AS OTHERWISE
25 PROVIDED FOR IN THIS SECTION, A SUPPLIER SHALL NOT CAUSE AN
26 AUTHORIZED DISTRIBUTION AGENT TO RESIGN FROM AN AGREEMENT; OR
27 CANCEL, TERMINATE, FAIL TO RENEW, OR REFUSE TO CONTINUE UNDER AN

1 AGREEMENT UNLESS THE SUPPLIER HAS COMPLIED WITH ALL OF THE
2 FOLLOWING:

3 (A) HAS SATISFIED THE APPLICABLE NOTICE REQUIREMENTS OF SUB-
4 SECTION (10).

5 (B) HAS ACTED IN GOOD FAITH.

6 (C) HAS GOOD CAUSE FOR THE CANCELLATION, TERMINATION, NONRE-
7 NEWAL, DISCONTINUANCE, OR FORCED RESIGNATION.

8 (8) NOTWITHSTANDING ANY AGREEMENT, GOOD CAUSE SHALL EXIST
9 FOR THE PURPOSES OF A TERMINATION, CANCELLATION, NONRENEWAL, OR
10 DISCONTINUANCE UNDER SUBSECTION (7)(C) WHEN ALL OF THE FOLLOWING
11 OCCUR:

12 (A) THERE IS A FAILURE BY THE AUTHORIZED DISTRIBUTION AGENT
13 TO COMPLY WITH A PROVISION OF THE AGREEMENT WHICH IS BOTH REASON-
14 ABLE AND OF MATERIAL SIGNIFICANCE TO THE BUSINESS RELATIONSHIP
15 BETWEEN THE AUTHORIZED DISTRIBUTION AGENT AND THE SUPPLIER.

16 (B) THE SUPPLIER FIRST ACQUIRED KNOWLEDGE OF THE FAILURE
17 DESCRIBED IN SUBDIVISION (A) NOT MORE THAN 2 YEARS BEFORE THE
18 DATE OF NOTIFICATION WAS GIVEN PURSUANT TO SUBSECTION (7).

19 (C) THE AUTHORIZED DISTRIBUTION AGENT WAS GIVEN WRITTEN
20 NOTICE BY THE SUPPLIER OF FAILURE TO COMPLY WITH THE AGREEMENT.

21 (D) THE AUTHORIZED DISTRIBUTION AGENT WAS AFFORDED A REASON-
22 ABLE OPPORTUNITY TO ASSERT GOOD FAITH EFFORTS TO COMPLY WITH THE
23 AGREEMENT WITHIN THE TIME LIMITS AS PROVIDED FOR IN SUBDIVISION
24 (E).

25 (E) THE AUTHORIZED DISTRIBUTION AGENT HAS BEEN AFFORDED 25
26 DAYS IN WHICH TO SUBMIT A PLAN OF CORRECTIVE ACTION TO COMPLY

1 WITH THE AGREEMENT AND AN ADDITIONAL 75 DAYS TO CURE SUCH
2 NONCOMPLIANCE IN ACCORDANCE WITH THE PLAN.

3 (9) A SUPPLIER OR AUTHORIZED DISTRIBUTION AGENT WHO TERMI-
4 NATES, CANCELS, NONRENEWS, OR DISCONTINUES AN AGREEMENT SHALL
5 HAVE THE BURDEN OF SHOWING THAT IT HAS ACTED IN GOOD FAITH, COM-
6 PLIED WITH THE APPLICABLE NOTICE REQUIREMENTS UNDER THIS SECTION,
7 AND THAT THERE WAS GOOD CAUSE FOR THE TERMINATION, CANCELLATION,
8 NONRENEWAL, OR DISCONTINUANCE.

9 (10) NOTWITHSTANDING ANY AGREEMENT AND EXCEPT AS OTHERWISE
10 PROVIDED IN THIS SECTION, THE SUPPLIER SHALL FURNISH WRITTEN
11 NOTICE OF THE TERMINATION, CANCELLATION, NONRENEWAL, OR DISCON-
12 TINUANCE OF AN AGREEMENT TO THE AUTHORIZED DISTRIBUTION AGENT NOT
13 LESS THAN 15 DAYS BEFORE THE EFFECTIVE DATE OF THE TERMINATION,
14 CANCELLATION, NONRENEWAL, OR DISCONTINUANCE. THE NOTICE SHALL BE
15 BY CERTIFIED MAIL AND SHALL CONTAIN ALL OF THE FOLLOWING:

16 (A) A STATEMENT OF INTENT TO TERMINATE, CANCEL, NOT RENEW,
17 OR DISCONTINUE THE AGREEMENT.

18 (B) A STATEMENT OF THE REASON FOR THE TERMINATION, CANCELLA-
19 TION, NONRENEWAL, OR DISCONTINUANCE.

20 (C) THE DATE ON WHICH THE TERMINATION, CANCELLATION, NONRE-
21 NEWAL, OR DISCONTINUANCE TAKES EFFECT.

22 (11) NOTWITHSTANDING SUBSECTIONS (7) AND (10), A SUPPLIER
23 MAY IMMEDIATELY TERMINATE, CANCEL, FAIL TO RENEW, OR DISCONTINUE
24 AN AGREEMENT UPON WRITTEN NOTICE GIVEN IN THE MANNER AND CONTAIN-
25 ING THE INFORMATION REQUIRED BY SUBSECTION (10) IF ANY OF THE
26 FOLLOWING OCCUR:

1 (A) INSOLVENCY OF THE AUTHORIZED DISTRIBUTION AGENT, THE
2 FILING OF ANY PETITION BY OR AGAINST THE AUTHORIZED DISTRIBUTION
3 AGENT UNDER ANY BANKRUPTCY OR RECEIVERSHIP LAW, OR THE DISSOLU-
4 TION OR LIQUIDATION OF THE AUTHORIZED DISTRIBUTION AGENT WHICH
5 MATERIALLY AFFECTS THE AUTHORIZED DISTRIBUTION AGENT'S ABILITY TO
6 REMAIN IN BUSINESS.

7 (B) REVOCATION OF THE AUTHORIZED DISTRIBUTION AGENT'S CERTI-
8 FICATION BY THE COMMISSION WHEREBY THE AUTHORIZED DISTRIBUTION
9 AGENT CANNOT SERVICE THE AUTHORIZED DISTRIBUTION AGENT'S DISTRI-
10 BUTION TERRITORY FOR MORE THAN 60 DAYS.

11 (C) THE AUTHORIZED DISTRIBUTION AGENT, OR AN INDIVIDUAL WHO
12 OWNS MORE THAN 10% OF THE STOCK OF A CORPORATE AUTHORIZED DISTRI-
13 BUTION AGENT, HAS BEEN CONVICTED OF A FELONY. AS USED IN THIS
14 SUBDIVISION, "FELONY" MEANS A FELONY UNDER THE UNITED STATES CODE
15 OR THE MICHIGAN COMPILED LAWS. HOWEVER, AN EXISTING APPROVED
16 STOCKHOLDER OR STOCKHOLDERS SHALL HAVE THE RIGHT TO PURCHASE THE
17 STOCK OF THE OFFENDING STOCKHOLDER PRIOR TO THE CONVICTION OF THE
18 OFFENDING STOCKHOLDER, AND IF THE SALE IS COMPLETED PRIOR TO CON-
19 VICTION, THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY.

20 (12) NOTWITHSTANDING SUBSECTIONS (7), (10), AND (11), UPON
21 NOT LESS THAN 15 DAYS' PRIOR WRITTEN NOTICE GIVEN IN THE MANNER
22 AND CONTAINING THE INFORMATION REQUIRED BY SUBSECTION (10), A
23 SUPPLIER MAY TERMINATE, CANCEL, FAIL TO RENEW, OR DISCONTINUE AN
24 AGREEMENT IF ANY OF THE FOLLOWING EVENTS OCCUR:

25 (A) THERE WAS FRAUDULENT CONDUCT ON THE PART OF THE AUTHO-
26 RIZED DISTRIBUTION AGENT IN DEALINGS WITH THE SUPPLIER.

1 (B) THE AUTHORIZED DISTRIBUTION AGENT FAILED TO CONFINE ITS
2 DISTRIBUTION OF A BRAND OR BRANDS TO THE ASSIGNED DISTRIBUTION
3 TERRITORY. THIS SUBDIVISION DOES NOT APPLY IF THERE IS A DISPUTE
4 BETWEEN 2 OR MORE AUTHORIZED DISTRIBUTION AGENTS AS TO THE BOUND-
5 ARIES OF THE ASSIGNED TERRITORY, AND THE BOUNDARIES CANNOT BE
6 DETERMINED BY A READING OF THE DESCRIPTION CONTAINED IN THE
7 AGREEMENTS BETWEEN THE SUPPLIER AND THE AUTHORIZED DISTRIBUTION
8 AGENTS.

9 (13) NOTWITHSTANDING SUBSECTIONS (7), (10), (11), AND (12),
10 A SUPPLIER MAY TERMINATE, CANCEL, NOT RENEW, OR DISCONTINUE AN
11 AGREEMENT UPON NOT LESS THAN 30 DAYS' PRIOR WRITTEN NOTICE IF THE
12 SUPPLIER DISCONTINUES PRODUCTION OR DISCONTINUES DISTRIBUTION IN
13 THIS STATE OF ALL THE BRANDS ASSIGNED BY THE SUPPLIER TO THE
14 AUTHORIZED DISTRIBUTION AGENT. THIS SECTION SHALL NOT PROHIBIT A
15 SUPPLIER, UPON NOT LESS THAN 30 DAYS' NOTICE, TO COMPLETELY DIS-
16 CONTINUE IN THIS STATE THE DISTRIBUTION OF ANY PARTICULAR BRAND
17 OR PACKAGE OF SPIRITS. A SUPPLIER WHO DISCONTINUES THE DISTRIBU-
18 TION OF ALL OR ANY PARTICULAR BRAND OR PACKAGE OF SPIRITS UNDER
19 THIS SUBSECTION AND THEN REINTRODUCES THAT BRAND PACKAGE OR BRAND
20 WITHIN 365 DAYS OF THE DISCONTINUANCE SHALL ASSIGN THAT BRAND
21 PACKAGE OR BRAND TO THE AUTHORIZED DISTRIBUTION AGENT WHO HAD
22 BEEN ASSIGNED THE BRAND PACKAGE OR BRAND PRIOR TO THE
23 DISCONTINUANCE. THIS SUBSECTION DOES NOT PROHIBIT A SUPPLIER
24 FROM CONDUCTING TEST MARKETING OF A NEW BRAND OF SPIRITS WHICH IS
25 NOT CURRENTLY BEING SOLD IN THIS STATE PROVIDED THAT THE SUPPLIER
26 HAS NOTIFIED THE COMMISSION IN WRITING OF ITS PLANS TO TEST
27 MARKET. THE NOTICE SHALL DESCRIBE THE MARKET AREA IN WHICH THE

1 TEST SHALL BE CONDUCTED; THE NAME OR NAMES OF THE AUTHORIZED
2 DISTRIBUTION AGENT OR AUTHORIZED DISTRIBUTION AGENTS WHO WILL BE
3 DISTRIBUTING THE SPIRITS; THE NAME OR NAMES OF THE BRAND OF SPIR-
4 ITS BEING TESTED; AND THE PERIOD OF TIME DURING WHICH THE TESTING
5 WILL TAKE PLACE. A MARKET TESTING PERIOD SHALL NOT EXCEED 6
6 MONTHS.

7 (14) AN AUTHORIZED DISTRIBUTION AGENT SHALL DEVOTE REASON-
8 ABLE EFFORTS AND RESOURCES TO THE DISTRIBUTION OF ALL THE
9 SUPPLIER'S PRODUCTS WHICH THE AUTHORIZED DISTRIBUTION AGENT HAS
10 BEEN GRANTED THE RIGHT TO DISTRIBUTE.

11 (15) A SUPPLIER SHALL NOT WITHHOLD CONSENT TO ANY TRANSFER
12 OF AN AUTHORIZED DISTRIBUTION AGENT'S BUSINESS IF THE PROPOSED
13 TRANSFEREE MEETS THE REASONABLE QUALIFICATIONS REQUIRED BY THE
14 SUPPLIER. AN AUTHORIZED DISTRIBUTION AGENT SHALL GIVE THE SUP-
15 PLIER WRITTEN NOTICE OF INTENT TO TRANSFER THE AUTHORIZED DISTRI-
16 BUTION AGENT'S BUSINESS. A SUPPLIER SHALL NOT UNREASONABLY DELAY
17 A RESPONSE TO A REQUEST FOR A PROPOSED TRANSFER OF AN AUTHORIZED
18 DISTRIBUTION AGENT'S BUSINESS. HOWEVER, A TRANSFER OF AN AUTHO-
19 RIZED DISTRIBUTION AGENT'S BUSINESS WHICH IS NOT APPROVED BY THE
20 SUPPLIER SHALL BE NULL AND VOID. A SUPPLIER SHALL NOT INTERFERE
21 WITH, OR PREVENT, THE TRANSFER OF THE AUTHORIZED DISTRIBUTION
22 AGENT'S BUSINESS IF THE PROPOSED TRANSFEREE IS A DESIGNATED
23 MEMBER.

24 (16) A SUPPLIER AS PART OF THE WRITTEN AGREEMENT REQUIRED BY
25 THIS SECTION MAY, SUBJECT TO THE PROVISIONS OF SUBSECTION (3)(1),
26 REQUIRE AN AUTHORIZED DISTRIBUTION AGENT TO DESIGNATE A SUCCESSOR
27 MANAGER WHO SHALL BE SUBJECT TO PRIOR APPROVAL BY THE SUPPLIER.

1 IN THE EVENT THE DESIGNATED SUCCESSOR MANAGER FAILS TO ASSUME THE
2 ROLE OF APPROVED MANAGER OR FOR ANY REASON DOES NOT CONTINUE TO
3 MANAGE THE AUTHORIZED DISTRIBUTION AGENT'S BUSINESS, AFTER ASSUM-
4 ING THAT RESPONSIBILITY, THEN ANY SUCCESSOR SHALL BE SUBJECT TO
5 THE PRIOR APPROVAL OF THE SUPPLIER, SUBJECT TO THE PROVISIONS OF
6 SUBSECTION (3)(1), NOTWITHSTANDING THE TRANSFEREE'S INTEREST AS A
7 DESIGNATED MEMBER.

8 (17) A SUPPLIER THAT HAS AMENDED, CANCELED, TERMINATED, OR
9 REFUSED TO RENEW ANY AGREEMENT; HAS CAUSED AN AUTHORIZED DISTRI-
10 BUTION AGENT TO RESIGN FROM AN AGREEMENT; OR HAS WITHHELD CONSENT
11 TO ANY ASSIGNMENT OR TRANSFER OF AN AUTHORIZED DISTRIBUTION
12 AGENT'S BUSINESS, EXCEPT AS PROVIDED FOR IN THIS SECTION, SHALL
13 PAY THE AUTHORIZED DISTRIBUTION AGENT REASONABLE COMPENSATION FOR
14 THE DIMINISHED VALUE OF THE AUTHORIZED DISTRIBUTION AGENT'S BUSI-
15 NESS OR OF ANY ANCILLARY BUSINESS WHICH HAS BEEN NEGATIVELY
16 AFFECTED BY THE ACT OF THE SUPPLIER, OR BOTH. THE VALUE OF THE
17 AUTHORIZED DISTRIBUTION AGENT'S BUSINESS OR ANCILLARY BUSINESS
18 SHALL INCLUDE, BUT NOT BE LIMITED TO, ITS GOODWILL.

19 (18) EITHER PARTY MAY, AT ANY TIME, DETERMINE THAT MUTUAL
20 AGREEMENT ON THE AMOUNT OF REASONABLE COMPENSATION CANNOT BE
21 REACHED. SHOULD SUCH A DETERMINATION BE MADE, THE SUPPLIER OR
22 THE AUTHORIZED DISTRIBUTION AGENT SHALL SEND WRITTEN NOTICE TO
23 THE OTHER PARTY DECLARING THEIR INTENTION TO PROCEED WITH
24 ARBITRATION. ARBITRATION SHALL PROCEED ONLY BY MUTUAL AGREEMENT
25 OF BOTH PARTIES.

26 (19) THE MATTER OF DETERMINING THE AMOUNT OF COMPENSATION
27 UNDER ARBITRATION MAY, BY AGREEMENT OF THE PARTIES, BE SUBMITTED

1 TO A 5-MEMBER ARBITRATION PANEL CONSISTING OF 2 REPRESENTATIVES
2 SELECTED BY THE SUPPLIER BUT UNASSOCIATED WITH THE AFFECTED SUP-
3 PLIER, 2 AUTHORIZED DISTRIBUTION AGENT REPRESENTATIVES SELECTED
4 BY THE AUTHORIZED DISTRIBUTION AGENT BUT UNASSOCIATED WITH THE
5 AUTHORIZED DISTRIBUTION AGENT, AND AN IMPARTIAL ARBITRATOR.

6 (21) NOT MORE THAN 30 DAYS AFTER THE LIST OF ARBITRATORS IS
7 RECEIVED, THE AUTHORIZED DISTRIBUTION AGENT AND SUPPLIER SHALL
8 EXCHANGE IN WRITING THE NAMES OF THEIR RESPECTIVE ARBITRATION
9 PANEL REPRESENTATIVES.

10 (22) NOT MORE THAN 30 DAYS AFTER THE FINAL SELECTION OF THE
11 ARBITRATION PANEL IS MADE, THE ARBITRATION PANEL SHALL CONVENE TO
12 DECIDE THE DISPUTE. THE PANEL SHALL RENDER A DECISION BY MAJOR-
13 ITY VOTE OF THE PARTICIPANTS WITHIN 20 DAYS FROM THE CONCLUSION
14 OF THE ARBITRATION.

15 (23) THE COST OF THE IMPARTIAL ARBITRATOR, THE STENOGRAPHER,
16 AND THE MEETING SITE SHALL BE EQUALLY DIVIDED BETWEEN THE AUTHO-
17 RIZED DISTRIBUTION AGENT AND THE SUPPLIER. ALL OTHER COSTS SHALL
18 BE PAID BY THE PARTY INCURRING THEM. THE AWARD OF THE ARBITRA-
19 TION PANEL SHALL BE FINAL AND BINDING ON THE PARTIES.

20 (24) SHOULD EITHER PARTY FAIL TO ABIDE BY THE TIME LIMITA-
21 TIONS AS PRESCRIBED IN SUBSECTIONS (20), (21), AND (22), OR FAIL
22 OR REFUSE TO MAKE THE SELECTION OF ANY ARBITRATORS, OR FAIL TO
23 PARTICIPATE IN THE ARBITRATION HEARINGS, THE OTHER PARTY SHALL
24 MAKE THE SELECTION OF THEIR ARBITRATORS AND PROCEED TO
25 ARBITRATION. THE PARTY WHO HAS FAILED OR REFUSED TO COMPLY AS
26 PRESCRIBED IN THIS SUBSECTION SHALL BE CONSIDERED TO BE IN
27 DEFAULT. ANY PARTY CONSIDERED TO BE IN DEFAULT PURSUANT TO THIS

1 SUBSECTION SHALL HAVE WAIVED ANY AND ALL RIGHTS THE PARTY WOULD
2 HAVE HAD IN THE ARBITRATION AND SHALL BE CONSIDERED TO HAVE CON-
3 SENTED TO THE DETERMINATION OF THE ARBITRATION PANEL.

4 (27) THIS SECTION SHALL APPLY TO AGREEMENTS IN EXISTENCE ON
5 THE EFFECTIVE DATE OF THE 1996 AMENDATORY ACT THAT ADDED THIS
6 SECTION, AS WELL AS AGREEMENTS ENTERED INTO OR RENEWED AFTER THAT
7 DATE.

8 (28) IF A SUPPLIER ENGAGES IN CONDUCT PROHIBITED UNDER THIS
9 SECTION, AN AUTHORIZED DISTRIBUTION AGENT WITH WHICH THE SUPPLIER
10 HAS AN AGREEMENT MAY MAINTAIN A CIVIL ACTION AGAINST THE SUPPLIER
11 TO RECOVER ACTUAL DAMAGES REASONABLY INCURRED AS THE RESULT OF
12 THE PROHIBITED CONDUCT. IF AN AUTHORIZED DISTRIBUTION AGENT
13 ENGAGES IN CONDUCT PROHIBITED UNDER THIS SECTION, A SUPPLIER WITH
14 WHICH THE AUTHORIZED DISTRIBUTION AGENT HAS AN AGREEMENT MAY
15 MAINTAIN A CIVIL ACTION AGAINST THE AUTHORIZED DISTRIBUTION AGENT
16 TO RECOVER ACTUAL DAMAGES REASONABLY INCURRED AS THE RESULT OF
17 THE PROHIBITED CONDUCT.

18 (29) A SUPPLIER THAT VIOLATES ANY PROVISION OF THIS SECTION
19 IS LIABLE FOR ALL ACTUAL DAMAGES AND ALL COURT COSTS AND REASON-
20 ABLE ATTORNEY FEES INCURRED BY AN AUTHORIZED DISTRIBUTION AGENT
21 AS A RESULT OF THAT VIOLATION. AN AUTHORIZED DISTRIBUTION AGENT
22 THAT VIOLATES ANY PROVISION OF THIS SECTION IS LIABLE FOR ALL
23 ACTUAL DAMAGES AND ALL COURT COSTS AND REASONABLE ATTORNEY FEES
24 INCURRED BY THE SUPPLIER AS A RESULT OF THAT VIOLATION.

25 (30) A SUPPLIER OR AUTHORIZED DISTRIBUTION AGENT MAY BRING
26 AN ACTION FOR DECLARATORY JUDGMENT FOR DETERMINATION OF ANY
27 CONTROVERSY ARISING PURSUANT TO THIS SECTION.

1 (31) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF A
2 COURT FINDS THAT A SUPPLIER HAS NOT ACTED IN GOOD FAITH IN
3 EFFECTING THE AMENDMENT, TERMINATION, CANCELLATION, OR NONRENEWAL
4 OF ANY AGREEMENT; OR HAS UNREASONABLY WITHHELD ITS CONSENT TO ANY
5 ASSIGNMENT, TRANSFER, OR SALE OF AN AUTHORIZED DISTRIBUTION
6 AGENT'S BUSINESS, IT MAY AWARD EXEMPLARY DAMAGES, AS WELL AS
7 ACTUAL DAMAGES, COURT COSTS, AND REASONABLE ATTORNEY FEES TO THE
8 AUTHORIZED DISTRIBUTION AGENT WHO HAS BEEN DAMAGED BY THE ACTION
9 OF THE SUPPLIER.

10 (32) UPON PROPER APPLICATION TO THE COURT, A SUPPLIER OR
11 AUTHORIZED DISTRIBUTION AGENT MAY OBTAIN INJUNCTIVE RELIEF
12 AGAINST ANY VIOLATION OF THIS SECTION. IF THE COURT GRANTS
13 INJUNCTIVE RELIEF OR ISSUES A TEMPORARY RESTRAINING ORDER, BOND
14 SHALL NOT BE REQUIRED TO BE POSTED.

15 (33) THE PROCEDURE FOR RESOLVING ANY VIOLATION OF SUBSECTION
16 (3)(A), (B), (C), (E), (F), (H), (I), (J), (K), OR (L) OR (4)
17 SHALL BE THE PROCEDURE PRESCRIBED BY THIS ACT AND THE ADMINISTRA-
18 TIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
19 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
20 LAWS. ANY OTHER VIOLATION OF OR DISPUTE REGARDING THIS SECTION,
21 UNLESS THE DISPUTE IS RESOLVED PURSUANT TO SUBSECTIONS (18) TO
22 (24), SHALL ONLY BE RESOLVED BY A CIVIL ACTION IN COURT AS PRO-
23 VIDED IN THIS SECTION AND NOT BY THE COMMISSION.