

A bill to amend 1933 (Ex Sess) PA 8, entitled
"The Michigan liquor control act,"
by amending section 40 (MCL 436.40), as amended by 1994 PA 421.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40. (1) Except as provided in this section, the com-
2 mission shall levy and collect a tax on all beer manufactured or
3 sold in this state at the rate of \$6.30 per barrel if the beer is
4 sold in bulk or in different quantities. The tax shall be paid
5 by the brewer or brewpub if manufactured in this state or by the
6 wholesaler or the person from whom purchased if manufactured out-
7 side this state, whichever is designated by the commission. The
8 commission shall establish by rule a method for the collection of
9 the tax levied in this subsection. The rules shall be
10 promulgated pursuant to the administrative procedures act of
11 1969, ~~Act No. 306 of the Public Acts of 1969, as amended, being~~

1 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
2 306, MCL 24.201 TO 24.328.

3 (2) The tax levied in subsection (1) shall not be collected
4 with respect to beer that is consumed on the premises of the man-
5 ufacturer or is damaged in the process of brewing, packaging, and
6 storage and is not offered for sale, except that beer sold by a
7 brewpub for consumption on the premises or beer produced and con-
8 sumed on the premises of a micro brewer ~~shall be~~ IS subject to
9 the tax levied under subsection (1).

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

15 (4) For the purposes of ~~taxation~~ THE TAX LEVIED UNDER SUB-
16 SECTION (1), a barrel ~~shall be construed to contain~~ OF BEER
17 CONTAINS 31 gallons.

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

1 the seller ~~neither transports~~ DOES NOT TRANSPORT the beer into
2 the state ~~nor sells~~ AND DOES NOT SELL the beer in the state; or
3 that imposes any higher taxes or inspection fees upon beer manu-
4 factured in this state when transporting THE BEER into or ~~sold~~
5 SELLING THE BEER in that state ~~,~~ than ~~is~~ TAXES OR FEES
6 imposed upon beer manufactured and sold within that state. ~~The~~
7 A rule PROMULGATED UNDER THIS SUBSECTION shall prohibit all
8 licensees from purchasing, receiving, possessing, or selling any
9 beer manufactured in any state designated in the rule. ~~The~~ A
10 rule ~~shall become~~ PROMULGATED UNDER THIS SUBSECTION BECOMES
11 effective as provided in section 47 of ~~Act No. 306 of the Public~~
12 ~~Acts of 1969, being section 24.247 of the Michigan Compiled Laws~~
13 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
14 24.247. Any licensee or person adversely affected by ~~the~~ A
15 rule PROMULGATED UNDER THIS SUBSECTION is entitled to review by
16 leave to ~~the proper~~ A court OF COMPETENT JURISDICTION REGARDING
17 the question as to whether the commission acted illegally or in
18 excess of ITS authority in making its finding UNDER THIS
19 SUBSECTION with respect to any state.

20 (6) An eligible brewer may claim a credit against the tax
21 levied ~~in~~ UNDER subsection (1) in the amount of \$2.00 per
22 barrel. As used in this subsection, "eligible brewer" means a
23 brewer, whether or not located in this state, or brewpub that
24 manufactures ~~less~~ NOT MORE than ~~20,000~~ 30,000 barrels of beer
25 during the tax year for which the credit is claimed. In deter-
26 mining the number of barrels for purposes of the credit, all
27 brands and labels of a brewer shall be combined and all

1 facilities for the production of beer that are owned or
2 controlled by the same person shall be treated as a single
3 facility.