

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4959

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 113, 537, 543, and 607 (MCL 436.1113,
436.1537, 436.1543, and 436.1607), section 537 as amended by 2005
PA 166 and section 543 as amended by 2005 PA 97, and by adding
section 113a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 113. (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 sell
6 alcoholic liquor.

1 (4) "Vendor of spirits" means a person selling spirits to the
2 commission.

3 (5) "Warehouse" means a premises or place primarily
4 constructed, used, or provided with facilities for the storage in
5 transit or other temporary storage of perishable goods or for the
6 conduct of a warehousing business, or for both.

7 (6) "Warehouser" means a licensee authorized by the commission
8 to store alcoholic beverages, but prohibited from making sales or
9 deliveries to retailers unless the licensee is also the holder of a
10 wholesaler or manufacturer license issued by the commission.

11 (7) "Wholesaler" means a person who sells beer, wine, or mixed
12 spirit drink only to retailers or other licensees, and who sells
13 sacramental wine as provided in section 301.

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

19 (9) "Wine maker" means any person licensed by the commission
20 to manufacture wine and ~~sell, at wholesale or retail, wine~~
21 ~~manufactured by that person~~ **TO SELL THAT WINE TO A WHOLESALER, TO**
22 **A CONSUMER BY DIRECT SHIPMENT, AT RETAIL ON THE LICENSED WINERY**
23 **PREMISES, TO SELL THAT WINE TO A RETAILER, AND AS PROVIDED FOR IN**
24 **SECTION 537.**

25 **SEC. 113A. (1) "TAVERN" MEANS ANY PLACE LICENSED TO SELL AT**
26 **RETAIL BEER AND WINE FOR CONSUMPTION ON THE PREMISES ONLY.**

27 (2) "VEHICLE" MEANS ANY MEANS OF TRANSPORTATION BY LAND, BY

1 WATER, OR BY AIR.

2 (3) "VENDOR" MEANS A PERSON LICENSED BY THE COMMISSION TO SELL
3 ALCOHOLIC LIQUOR.

4 (4) "VENDOR OF SPIRITS" MEANS A PERSON SELLING SPIRITS TO THE
5 COMMISSION.

6 (5) "WAREHOUSE" MEANS A PREMISES OR PLACE PRIMARILY
7 CONSTRUCTED, USED, OR PROVIDED WITH FACILITIES FOR THE STORAGE IN
8 TRANSIT OR OTHER TEMPORARY STORAGE OF PERISHABLE GOODS OR FOR THE
9 CONDUCT OF A WAREHOUSING BUSINESS, OR FOR BOTH.

10 (6) "WAREHOUSER" MEANS A LICENSEE AUTHORIZED BY THE COMMISSION
11 TO STORE ALCOHOLIC LIQUOR, BUT PROHIBITED FROM MAKING SALES OR
12 DELIVERIES TO RETAILERS UNLESS THE LICENSEE IS ALSO THE HOLDER OF A
13 WHOLESALE LICENSE ISSUED BY THE COMMISSION.

14 (7) "WHOLESALE" MEANS A PERSON WHO SELLS BEER, WINE, OR MIXED
15 SPIRIT DRINK ONLY TO RETAILERS OR OTHER LICENSEES, AND WHO SELLS
16 SACRAMENTAL WINE AS PROVIDED IN SECTION 301.

17 (8) "WINE" MEANS THE PRODUCT MADE BY THE NORMAL ALCOHOLIC
18 FERMENTATION OF THE JUICE OF SOUND, RIPE GRAPES, OR ANY OTHER FRUIT
19 WITH THE USUAL CELLAR TREATMENT, AND CONTAINING NOT MORE THAN 21%
20 OF ALCOHOL BY VOLUME, INCLUDING FERMENTED FRUIT JUICES OTHER THAN
21 GRAPES AND MIXED WINE DRINKS.

22 (9) "WINE MAKER" MEANS ANY PERSON LICENSED BY THE COMMISSION
23 TO MANUFACTURE WINE, TO SELL THAT WINE TO A WHOLESALE, TO SELL
24 THAT WINE BY DIRECT SHIPMENT TO A CONSUMER, AT RETAIL ON THE
25 LICENSED WINERY PREMISES, AND AS PROVIDED FOR IN SECTION 537 BUT
26 NOT TO SELL WINE TO A RETAILER.

27 Sec. 537. (1) The following classes of vendors may sell

1 alcoholic liquors at retail as provided in this section:

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

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

6 (c) Clubs where beer, wine, mixed spirit drink, and spirits
7 may be sold for consumption on the premises only to bona fide
8 members where consumption is limited to these members and their
9 bona fide guests, who have attained the age of 21 years.

10 (D) DIRECT SHIPPERS WHERE WINE MAY BE SOLD AND SHIPPED
11 DIRECTLY TO THE CONSUMER.

12 (E) ~~—(d)—~~ Hotels of class A where beer and wine may be sold
13 for consumption on the premises and in the rooms of bona fide
14 registered guests. Hotels of class B where beer, wine, mixed spirit
15 drink, and spirits may be sold for consumption on the premises and
16 in the rooms of bona fide registered guests.

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

19 (G) ~~—(f)—~~ Specially designated distributors where spirits and
20 mixed spirit drink may be sold for consumption off the premises
21 only.

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

25 (I) ~~—(h)—~~ Dining cars or other railroad or Pullman cars,
26 watercraft, or aircraft, where alcoholic liquor may be sold for
27 consumption on the premises only, subject to rules promulgated by

1 the commission.

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

5 (i) Class C.

6 (ii) Tavern.

7 (iii) Class A hotel.

8 (iv) Class B hotel.

9 (K) ~~—(j)—~~ Micro brewers **AND BREWERS SELLING LESS THAN 200,000**
10 **BARRELS OF BEER PER YEAR** where beer produced by the micro brewer **OR**
11 **BREWER** may be sold to a consumer for consumption on or off the
12 brewery premises.

13 (L) ~~—(k)—~~ Class G-1 license where beer, wine, mixed spirit
14 drink, and spirits may be sold for consumption on the premises only
15 to members required to pay an annual membership fee and consumption
16 is limited to these members and their bona fide guests.

17 (M) ~~—(l)—~~ Class G-2 license where beer and wine may be sold for
18 consumption on the premises only to members required to pay an
19 annual membership fee and consumption is limited to these members
20 and their bona fide guests.

21 (N) ~~—(m)—~~ Motorsports event license where beer and wine may be
22 sold for consumption on the premises during sanctioned motorsports
23 events only.

24 (O) **WINE MAKER WHERE WINE MAY BE SOLD BY DIRECT SHIPMENT, AT**
25 **RETAIL ON THE LICENSED PREMISES, AND AS PROVIDED FOR IN SUBSECTIONS**
26 **(2) AND (3).**

27 (2) A wine maker may sell wine made by that wine maker in a

1 restaurant for consumption on or off the premises if the restaurant
2 is owned by the wine maker or operated by another person under an
3 agreement approved by the commission and located on the premises
4 where the wine maker is licensed.

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

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

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

15 (c) The wine tasting locations shall be considered licensed
16 premises.

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

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

22 Sec. 543. (1) Quarterly, upon recommendation of the
23 commission, the state shall pay pursuant to appropriation in the
24 manner prescribed by law to the city, village, or township in which
25 a full-time police department or full-time ordinance enforcement
26 department is maintained or, if a police department or full-time
27 ordinance enforcement department is not maintained, to the county,

1 to be credited to the sheriff's department of the county in which
2 the licensed premises are located, 55% of the amount of the
3 proceeds of the retailers' license fees and license renewal fees
4 collected in that jurisdiction, for the specific purpose of
5 enforcing this act and the rules promulgated under this act. Forty-
6 one and one-half percent of the amount of the proceeds of
7 retailers' license and license renewal fees collected shall be
8 deposited in a special fund to be annually appropriated to the
9 commission for carrying out the licensing and enforcement
10 provisions of this act. Any unencumbered or uncommitted money in
11 the special fund shall revert to the general fund of the state 12
12 months after the end of each fiscal year in which the funds were
13 collected. The legislature shall appropriate 3-1/2% of the amount
14 of the proceeds of retailers' license and license renewal fees
15 collected to be credited to a special fund in the state treasury
16 for the purposes of promoting and sustaining programs for the
17 prevention, rehabilitation, care, and treatment of alcoholics. This
18 subsection does not apply to retail license fees collected for
19 railroad or Pullman cars, watercraft, or aircraft, or to the
20 transfer fees provided in section 529.

21 (2) All license and license renewal fees, other than retail
22 license and license renewal fees, shall be credited to the grape
23 and wine industry council created in section 303, to be used as
24 provided in section 303. Money credited to the grape and wine
25 industry council shall not revert to the state general fund at the
26 close of the fiscal year, but shall remain in the account to which
27 it was credited to be used as provided in section 303.

1 (3) All retail license fees collected for railroad or Pullman
2 cars, watercraft, or aircraft, and the transfer fees provided in
3 section 529 shall be deposited in the special fund created in
4 subsection (1) for carrying out the licensing and enforcement
5 provisions of this act.

6 (4) The license fee enhancement imposed for licenses issued
7 under section 531(3) and (4) shall be deposited into a special fund
8 to be annually appropriated to the commission for enforcement and
9 other related projects determined appropriate by the commission.
10 The money representing that amount of the license fees for
11 identical licenses not issued under section 531(3) and (4) shall be
12 allocated and appropriated under subsection (1).

13 **(5) THE LICENSE FEE IMPOSED ON DIRECT SHIPPER LICENSES AND ANY**
14 **VIOLATION FINES IMPOSED BY THE COMMISSION SHALL BE DEPOSITED INTO**
15 **THE DIRECT SHIPPER ENFORCEMENT REVOLVING FUND. THE DIRECT SHIPPER**
16 **ENFORCEMENT REVOLVING FUND IS CREATED WITHIN THE STATE TREASURY.**
17 **THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE**
18 **STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM**
19 **FUND INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR**
20 **SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.**
21 **THE COMMISSION SHALL EXPEND MONEY FROM THE FUND, UPON**
22 **APPROPRIATION, ONLY FOR ENFORCEMENT OF THE PROVISIONS OF SECTION**
23 **203 AND RELATED PROJECTS.**

24 (6) ~~—(5)—~~ As used in this section, "license fee enhancement"
25 means the money representing the difference between the license fee
26 imposed for a license under section 525(1) and the additional
27 amount imposed for resort and resort economic development licenses

1 under section 525(2).

2 Sec. 607. (1) Except as provided in section 537(2), a
3 warehouser, mixed spirit drink manufacturer, wholesaler, outstate
4 seller of beer, outstate seller of wine, outstate seller of mixed
5 spirit drink, or vendor of spirits shall not be licensed as a
6 specially designated merchant or a specially designated
7 distributor. ~~or permitted to sell or deliver to the consumer any~~
8 ~~quantity of alcoholic liquor at retail.~~ **BEGINNING ON THE EFFECTIVE**
9 **DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE AND IN ADDITION**
10 **TO THE PERSONS DESCRIBED IN THIS SUBSECTION, A WINE MAKER AND A**
11 **SMALL WINE MAKER SHALL ALSO NOT BE LICENSED AS A SPECIALLY**
12 **DESIGNATED MERCHANT OR A SPECIALLY DESIGNATED DISTRIBUTOR. ANY WINE**
13 **MAKER OR SMALL WINE MAKER HOLDING A SPECIALLY DESIGNATED MERCHANT**
14 **OR SPECIALLY DESIGNATED DISTRIBUTOR LICENSE ON THE EFFECTIVE DATE**
15 **OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE MAY CONTINUE TO HOLD**
16 **A SPECIALLY DESIGNATED MERCHANT OR SPECIALLY DESIGNATED DISTRIBUTOR**
17 **LICENSE.**

18 (2) A specially designated distributor or specially designated
19 merchant or any other retailer shall not hold a mixed spirit drink
20 manufacturer, wholesale, warehouse, outstate seller of beer,
21 outstate seller of mixed spirit drink, or outstate seller of wine
22 license. **BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
23 **ADDED THIS SENTENCE, A SPECIALLY DESIGNATED DISTRIBUTOR OR**
24 **SPECIALLY DESIGNATED MERCHANT SHALL NOT HOLD A WINE MAKER OR SMALL**
25 **WINE MAKER LICENSE IN ADDITION TO BEING PROHIBITED FROM HOLDING ANY**
26 **OTHER LICENSE DESCRIBED IN THIS SUBSECTION. ANY SPECIALLY**
27 **DESIGNATED DISTRIBUTOR OR SPECIALLY DESIGNATED MERCHANT HOLDING A**

1 WINE MAKER OR SMALL WINE MAKER LICENSE ON THE EFFECTIVE DATE OF THE
2 AMENDATORY ACT THAT ADDED THIS SENTENCE MAY CONTINUE TO HOLD A WINE
3 MAKER OR SMALL WINE MAKER LICENSE.

4 (3) A brewer, warehouser, or wholesaler shall not be licensed
5 as a specially designated merchant. ~~—, except for brewers who~~
6 ~~manufacture less than 200,000 barrels of beer per year.—~~ This
7 subsection ~~shall~~ DOES not affect the operation of a brewery
8 hospitality room.

9 (4) A wholesaler may sell or deliver beer and alcoholic liquor
10 to hospitals, military establishments, governments of federal
11 Indian reservations, and churches requiring sacramental wines and
12 may sell to the wholesaler's own employees to a limit of 2 cases of
13 24 12-ounce units or its equivalent of malt beverage per week, or 1
14 case of 12 1-liter units or its equivalent of wine or mixed spirit
15 drink per week.

16 Enacting section 1. This amendatory act does not take effect
17 unless Senate Bill No. 625 of the 93rd Legislature is enacted into
18 law.

19 Enacting section 2. (1) If any provision of section 113 of the
20 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, as
21 amended by this amendatory act, is held to be unconstitutional by a
22 court of competent jurisdiction and the allowable time for filing
23 an appeal has expired or the appellant has exhausted all of his or
24 her avenues of appeal, section 113 of the Michigan liquor control
25 code of 1998, 1998 PA 58, MCL 436.1113, is repealed.

26 (2) Section 113a of the Michigan liquor control code of 1998,
27 1998 PA 58, as added by this amendatory act, shall not take effect

1 unless section 113 of the Michigan liquor control code of 1998,
2 1998 PA 58, MCL 436.1113, is held unconstitutional or repealed
3 pursuant to subsection (1).

4 Enacting section 3. If an appellate court declares this
5 amendatory act unconstitutional, then it is the intent of the
6 legislature that a good faith effort be made to amend section 305
7 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
8 436.1305, to make it less burdensome for a small winery to
9 terminate an agreement with a wholesaler.