

**SUBSTITUTE FOR
SENATE BILL NO. 625**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 203 (MCL 436.1203), as amended by 2000 PA 289.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203. (1) Except as provided in this section and section
2 301, a sale, delivery, or importation of alcoholic liquor,
3 including alcoholic liquor for personal use, shall not be made in
4 this state unless the sale, delivery, or importation is made by the
5 commission, the commission's authorized agent or distributor, an
6 authorized distribution agent approved by order of the commission,
7 a person licensed by the commission, or by prior written order of
8 the commission.

9 (2) For purposes of subsection (1), the sale, delivery, or

1 importation of alcoholic liquor, **EXCEPT AS OTHERWISE PROVIDED IN**
2 **SUBSECTION (3)**, includes, but is not limited to, the sale,
3 delivery, or importation of alcoholic liquor transacted or caused
4 to be transacted by means of any mail order, internet, telephone,
5 computer, device, or other electronic means. Subject to subsection
6 ~~(3)~~ **(4)**, if a retail sale, delivery, or importation of alcoholic
7 liquor occurs by any such means, the retailer must comply with all
8 of the following:

9 (a) Be appropriately licensed under the laws of this state.

10 (b) Pay any applicable taxes to the commission **OR THE**
11 **DEPARTMENT OF TREASURY**.

12 (c) Comply with all prohibitions of the laws of this state
13 including, but not limited to, sales to minors.

14 (d) Verify the age of the individual placing the order by
15 obtaining from him or her an affirmation that he or she is of legal
16 age to purchase alcoholic liquor. The person receiving and
17 accepting the order shall record the name, address, date of birth,
18 and telephone number of the person placing the order on the order
19 form or other verifiable record of a type and generated in a manner
20 approved by the commission.

21 (e) Upon request of the commission, make available to the
22 commission any document used to verify the age of the individual
23 ordering the alcoholic liquor from the retail seller.

24 (f) Stamp, print, or label on the outside of the shipping
25 container language that clearly establishes in a prominent fashion
26 that the package contains alcoholic liquor and that the recipient
27 at the time of the delivery is required to provide identification

1 verifying his or her age along with a signature.

2 (g) Place a label on the top panel of the shipping container
3 containing the name and address of the individual placing the order
4 and the name of the designated recipient, if any.

5 (3) FOR PURPOSES OF SUBSECTION (1), THE SALE, DELIVERY, OR
6 IMPORTATION OF WINE, TO CONSUMERS IN THIS STATE, BY A PERSON WHO
7 BOTH PRODUCES AND BOTTLES THE WINE OR WINE THAT IS MANUFACTURED BY
8 A WINE MAKER FOR ANOTHER WINE MAKER AND THAT IS TRANSACTED OR
9 CAUSED TO BE TRANSACTED BY MEANS OF ANY MAIL ORDER, INTERNET,
10 TELEPHONE, COMPUTER, DEVICE, OR OTHER ELECTRONIC MEANS, OR SOLD
11 DIRECTLY TO A CONSUMER ON THE WINERY PREMISES, SHALL ONLY BE DONE
12 BY A DIRECT SHIPPER. IF A RETAIL SALE, DELIVERY, OR IMPORTATION OF
13 WINE OCCURS BY ANY MEANS DESCRIBED IN THIS SUBSECTION, THE DIRECT
14 SHIPPER MUST COMPLY WITH ALL OF THE FOLLOWING:

15 (A) HOLD A DIRECT SHIPPER LICENSE.

16 (B) PAY ANY APPLICABLE TAXES TO THE COMMISSION AND PAY ANY
17 APPLICABLE TAXES TO THE DEPARTMENT OF TREASURY AS DIRECTED BY THE
18 DEPARTMENT OF TREASURY. UPON THE REQUEST OF THE DEPARTMENT OF
19 TREASURY, A DIRECT SHIPPER SHALL FURNISH AN AFFIDAVIT TO VERIFY
20 PAYMENT.

21 (C) COMPLY WITH ALL PROHIBITIONS OF THE LAWS OF THIS STATE,
22 INCLUDING, BUT NOT LIMITED TO, SALES TO MINORS.

23 (D) VERIFY THE AGE OF THE INDIVIDUAL PLACING THE ORDER BY
24 OBTAINING FROM HIM OR HER A COPY OF A PHOTO IDENTIFICATION ISSUED
25 BY THIS STATE, ANOTHER STATE, OR THE FEDERAL GOVERNMENT OR BY
26 UTILIZING AN IDENTIFICATION VERIFICATION SERVICE. THE PERSON
27 RECEIVING AND ACCEPTING THE ORDER ON BEHALF OF THE DIRECT SHIPPER

1 SHALL RECORD THE NAME, ADDRESS, DATE OF BIRTH, AND TELEPHONE NUMBER
2 OF THE PERSON PLACING THE ORDER ON THE ORDER FORM OR OTHER
3 VERIFIABLE RECORD OF A TYPE AND GENERATED IN A MANNER APPROVED BY
4 THE COMMISSION AND PROVIDE A DUPLICATE TO THE COMMISSION.

5 (E) UPON REQUEST OF THE COMMISSION, MAKE AVAILABLE TO THE
6 COMMISSION ANY DOCUMENT USED TO VERIFY THE AGE OF THE INDIVIDUAL
7 ORDERING OR RECEIVING THE WINE FROM THE DIRECT SHIPPER.

8 (F) STAMP, PRINT, OR LABEL ON THE OUTSIDE OF THE SHIPPING
9 CONTAINER THAT THE PACKAGE "CONTAINS ALCOHOL. MUST BE DELIVERED TO
10 A PERSON 21 YEARS OF AGE OR OLDER." THE RECIPIENT AT THE TIME OF
11 THE DELIVERY IS REQUIRED TO PROVIDE PHOTO IDENTIFICATION VERIFYING
12 HIS OR HER AGE ALONG WITH A SIGNATURE.

13 (G) PLACE A LABEL ON THE TOP PANEL OF THE SHIPPING CONTAINER
14 CONTAINING THE DIRECT SHIPPER LICENSE NUMBER, THE ORDER NUMBER, THE
15 NAME AND ADDRESS OF THE INDIVIDUAL PLACING THE ORDER, AND THE NAME
16 OF THE DESIGNATED RECIPIENT IF DIFFERENT FROM THE NAME OF THE
17 INDIVIDUAL PLACING THE ORDER.

18 (H) DIRECT SHIP NOT MORE THAN 1,500 9-LITER CASES, OR 13,500
19 LITERS IN TOTAL, OF WINE IN A CALENDAR YEAR TO MICHIGAN CONSUMERS.
20 IF A DIRECT SHIPPER, WHETHER LOCATED IN THIS STATE OR OUTSIDE THIS
21 STATE, OWNS, IN WHOLE OR IN PART, OR COMMONLY MANAGES 1 OR MORE
22 DIRECT SHIPPERS, IT SHALL NOT IN COMBINATION SHIP TO CONSUMERS IN
23 THIS STATE MORE THAN 13,500 LITERS OF WINE IN THE AGGREGATE.

24 (I) PAY WINE TAXES QUARTERLY AND REPORT TO THE COMMISSION
25 QUARTERLY THE TOTAL AMOUNT OF WINE, BY TYPE, BRAND, AND PRICE,
26 SHIPPED TO CONSUMERS IN THIS STATE DURING THE PRECEDING CALENDAR
27 QUARTER, AND THE ORDER NUMBERS.

1 (J) AUTHORIZE AND ALLOW THE COMMISSION AND THE DEPARTMENT OF
2 TREASURY TO CONDUCT AN AUDIT OF THE DIRECT SHIPPER'S RECORDS.

3 (K) CONSENT AND SUBMIT TO THE JURISDICTION OF THE COMMISSION,
4 THE DEPARTMENT OF TREASURY, AND THE COURTS OF THIS STATE CONCERNING
5 ENFORCEMENT OF THIS SECTION AND ANY RELATED LAWS, RULES, AND
6 REGULATIONS.

7 (4) ~~-(3)-~~ Notwithstanding subsection (2) **OR (3)**, in the case
8 of a retail sale, delivery, or importation of alcoholic liquor
9 occurring by any means described in subsection (2) **OR (3)**, a person
10 taking the order on behalf of the retailer must comply with
11 subsection (2)(c) through (g) **AND SUBSECTION (3)(C) THROUGH (G)**.

12 (5) ~~-(4)-~~ The person who delivers the alcoholic liquor shall
13 verify that the individual accepting delivery is of legal age and
14 is ~~either~~ the individual who placed the order or the designated
15 recipient, ~~residing at the same address~~ **IS AN INDIVIDUAL OF LEGAL**
16 **AGE CURRENTLY OCCUPYING OR PRESENT AT THE ADDRESS**, or is **AN**
17 **INDIVIDUAL** otherwise authorized through a rule promulgated under
18 this act by the commission to receive alcoholic liquor under this
19 section. If the delivery person, after a diligent inquiry,
20 determines that the purchaser or designated recipient is not of
21 legal age, the delivery person shall return the alcoholic liquor to
22 the retailer **OR DIRECT SHIPPER**. A delivery person who returns
23 alcoholic liquor to the retailer **OR DIRECT SHIPPER** due to inability
24 to obtain the purchaser's or designated recipient's legal age is
25 not liable for any damages suffered by the purchaser, ~~or~~
26 retailer, **OR DIRECT SHIPPER**.

27 (6) ~~-(5)-~~ All spirits for sale, use, storage, or distribution

1 in this state, shall originally be purchased by and imported into
2 the state by the commission, or by prior written authority of the
3 commission.

4 (7) ~~-(6)-~~ This section does not apply in the case of an
5 alcoholic liquor brought into this state for personal or household
6 use in an amount permitted by federal law by a person of legal age
7 to purchase alcoholic liquor at the time of reentry into this state
8 from without the territorial limits of the United States if the
9 person has been outside the territorial limits of the United States
10 for more than 48 hours and has not brought alcoholic liquor into
11 the United States during the preceding 30 days.

12 (8) ~~-(7)-~~ A person who is of legal age to purchase alcoholic
13 liquor may do either of the following in relation to alcoholic
14 liquor that contains less than 21% alcohol by volume:

15 (a) Personally transport from another state, once in a 24-hour
16 period, not more than 312 ounces of alcoholic liquor for that
17 person's personal use, notwithstanding subsection (1).

18 (b) Ship or import from another state alcoholic liquor for
19 that person's personal use so long as that personal importation is
20 done in compliance with subsection (1).

21 (9) A DIRECT SHIPPER SHALL NOT ENGAGE IN THE SALE, DELIVERY,
22 OR IMPORTATION OF WINE TO A CONSUMER UNLESS IT APPLIES FOR AND IS
23 GRANTED A DIRECT SHIPPER LICENSE FROM THE COMMISSION. THIS
24 SUBSECTION DOES NOT PROHIBIT WINE TASTING OR THE SELLING AT RETAIL
25 BY A WINE MAKER OF WINES HE OR SHE PRODUCED AND BOTTLED OR WINE
26 MANUFACTURED FOR THAT WINE MAKER BY ANOTHER WINE MAKER, IF DONE IN
27 COMPLIANCE WITH THIS ACT. ONLY THE FOLLOWING PERSONS QUALIFY FOR

1 THE ISSUANCE OF A DIRECT SHIPPER LICENSE:

2 (A) A LICENSED WINE MAKER.

3 (B) A WINE PRODUCER AND BOTTLER LOCATED INSIDE THIS COUNTRY
4 BUT OUTSIDE OF THIS STATE HOLDING BOTH A FEDERAL BASIC PERMIT
5 ISSUED BY THE ALCOHOL AND TOBACCO TAX AND TRADE BUREAU AND A
6 LICENSE TO MANUFACTURE WINE IN ITS STATE OF DOMICILE.

7 (10) AN APPLICANT FOR A DIRECT SHIPPER LICENSE SHALL SUBMIT AN
8 APPLICATION TO THE COMMISSION IN A WRITTEN OR ELECTRONIC FORMAT
9 PROVIDED BY THE COMMISSION AND ACCOMPANIED BY AN APPLICATION AND
10 INITIAL LICENSE FEE OF \$100.00. THE APPLICATION SHALL BE
11 ACCOMPANIED BY A COPY OR OTHER EVIDENCE OF THE EXISTING FEDERAL
12 BASIC PERMIT OR LICENSE, OR BOTH, HELD BY THE APPLICANT. THE DIRECT
13 SHIPPER MAY RENEW ITS LICENSE ANNUALLY BY SUBMISSION OF A LICENSE
14 RENEWAL FEE OF \$100.00 AND A COMPLETED RENEWAL APPLICATION. THE
15 COMMISSION SHALL USE THE FEES COLLECTED UNDER THIS SECTION TO
16 CONDUCT INVESTIGATIONS AND AUDITS OF DIRECT SHIPPERS. THE FAILURE
17 TO RENEW, OR THE REVOCATION OR SUSPENSION OF, THE APPLICANT'S
18 EXISTING MICHIGAN LICENSE, FEDERAL BASIC PERMIT, OR LICENSE TO
19 MANUFACTURE WINE IN ITS STATE OF DOMICILE IS GROUNDS FOR REVOCATION
20 OR DENIAL OF THE DIRECT SHIPPER LICENSE. IF A DIRECT SHIPPER IS
21 FOUND GUILTY OF VIOLATING THIS ACT OR A RULE PROMULGATED BY THE
22 COMMISSION, THE COMMISSION SHALL NOTIFY BOTH THE ALCOHOLIC LIQUOR
23 CONTROL AGENCY IN THE DIRECT SHIPPER'S STATE OF DOMICILE AND THE
24 ALCOHOL AND TOBACCO TAX AND TRADE BUREAU OF THE UNITED STATES
25 DEPARTMENT OF TREASURY OF THE VIOLATION.

26 (11) ~~-(8)-~~ As used in this section:

27 (a) "Computer" means any connected, directly interoperable or

1 interactive device, equipment, or facility that uses a computer
2 program or other instructions to perform specific operations
3 including logical, arithmetic, or memory functions with or on
4 computer data or a computer program and that can store, retrieve,
5 alter, or communicate the results of the operations to a person,
6 computer program, computer, computer system, or computer network.

7 (b) "Computer network" means the interconnection of hardwire
8 or wireless communication lines with a computer through remote
9 terminals, or a complex consisting of 2 or more interconnected
10 computers.

11 (c) "Computer program" means a series of internal or external
12 instructions communicated in a form acceptable to a computer that
13 directs the functioning of a computer, computer system, or computer
14 network in a manner designed to provide or produce products or
15 results from the computer, computer system, or computer network.

16 (d) "Computer system" means a set of related, connected or
17 unconnected, computer equipment, devices, software, or hardware.

18 **(E) "CONSUMER" MEANS AN INDIVIDUAL WHO PURCHASES WINE FOR**
19 **PERSONAL CONSUMPTION AND NOT FOR RESALE.**

20 **(F) —(e)—** "Device" includes, but is not limited to, an
21 electronic, magnetic, electrochemical, biochemical, hydraulic,
22 optical, or organic object that performs input, output, or storage
23 functions by the manipulation of electronic, magnetic, or other
24 impulses.

25 **(G) —(f)—** "Diligent inquiry" means a diligent good faith
26 effort to determine the age of a person, which includes at least an
27 examination of an official Michigan operator's or chauffeur's

1 license, an official Michigan personal identification card, or any
2 other bona fide picture identification ~~which~~ **THAT** establishes the
3 identity and age of the person.

4 (H) "DIRECT SHIPPER" MEANS A PERSON WHO ENGAGES IN THE SALE,
5 DELIVERY, OR IMPORTATION OF WINE, TO CONSUMERS IN THIS STATE, THAT
6 HE OR SHE PRODUCES AND BOTTLES OR WINE THAT IS MANUFACTURED BY A
7 WINE MAKER FOR ANOTHER WINE MAKER AND THAT IS TRANSACTED OR CAUSED
8 TO BE TRANSACTED THROUGH THE USE OF ANY MAIL ORDER, INTERNET,
9 TELEPHONE, COMPUTER, DEVICE, OR OTHER ELECTRONIC MEANS, OR SELLS
10 DIRECTLY TO CONSUMERS ON THE WINERY PREMISES.

11 (I) "IDENTIFICATION VERIFICATION SERVICE" MEANS ANY INTERNET-
12 BASED SERVICE APPROVED BY THE COMMISSION SPECIALIZING IN AGE AND
13 IDENTITY VERIFICATION.

14 Enacting section 1. This amendatory act does not take effect
15 unless House Bill No. 4959 of the 93rd Legislature is enacted into
16 law.

17 Enacting section 2. If an appellate court declares this
18 amendatory act unconstitutional, then it is the intent of the
19 legislature that a good faith effort be made to amend section 305
20 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
21 436.1305, to make it less burdensome for a small winery to
22 terminate an agreement with a wholesaler.