

HOUSE BILL No. 4959

June 16, 2005, Introduced by Reps. Ward, Byrum, Murphy, Kooiman, Moolenaar, Sak, Meyer, Farrah, Byrnes, Kahn, Caul, Hune, Mortimer, Jones, Vagnozzi, Green, Steil, Gonzales, Garfield, Miller, Marleau, Vander Veen, Clemente, Kehrl, Bennett, Angerer, Leland, Cushingberry, Waters, Virgil Smith, Sheltrown, Lemmons, Jr., Clack, Gleason, Williams, Anderson, Hood, Espinoza, McConico, Gillard, Accavitti, Hopgood, Emmons, Kathleen Law, Taub, Phillips, Meisner, LaJoy, Plakas, Lipsey, Zelenko, Hoogendyk, Hunter, Baxter, Gaffney, Brandenburg, Casperson and Lemmons, III and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 113, 203, and 607 (MCL 436.1113, 436.1203, and 436.1607), section 203 as amended by 2000 PA 289.

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.

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

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

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

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

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

18 (9) "Wine maker" means any person licensed by the commission
19 to manufacture wine, ~~and sell, at wholesale or retail, wine~~
20 ~~manufactured by that person~~ **TO SELL THAT WINE TO A WHOLESALER, AT**
21 **RETAIL ON THE LICENSED WINERY PREMISES, AND AS PROVIDED FOR IN**
22 **SECTIONS 537 AND 603.**

23 Sec. 203. (1) Except as provided in this section and section
24 301, a sale, delivery, or importation of alcoholic liquor,
25 including alcoholic liquor for personal use, shall not be made in
26 this state unless the sale, delivery, or importation is made by the
27 commission, the commission's authorized agent or distributor, an

1 authorized distribution agent approved by order of the commission,
2 a person licensed by the commission, or by prior written order of
3 the commission.

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

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

13 (b) Pay any applicable taxes to the commission.

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

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

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

26 (f) Stamp, print, or label on the outside of the shipping
27 container language that clearly establishes in a prominent fashion

1 that the package contains alcoholic liquor and that the recipient
2 at the time of the delivery is required to provide identification
3 verifying his or her age along with a signature.

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

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

12 (4) The person who delivers the alcoholic liquor shall verify
13 that the individual accepting delivery is of legal age and is
14 either the individual who placed the order or the designated
15 recipient residing at the same address or is otherwise authorized
16 through a rule promulgated under this act by the commission to
17 receive alcoholic liquor under this section. If the delivery
18 person, after a diligent inquiry, determines that the purchaser or
19 designated recipient is not of legal age, the delivery person shall
20 return the alcoholic liquor to the retailer. A delivery person who
21 returns alcoholic liquor to the retailer due to inability to obtain
22 the purchaser's or designated recipient's legal age is not liable
23 for any damages suffered by the purchaser or retailer.

24 (5) All spirits for sale, use, storage, or distribution in
25 this state, shall originally be purchased by and imported into the
26 state by the commission, or by prior written authority of the
27 commission.

1 (6) A WINE MAKER OR SMALL WINE MAKER SHALL NOT DIRECTLY SHIP
2 WINE TO ANY PERSON IN THIS STATE FOR PERSONAL CONSUMPTION OR FOR
3 ANY NONCOMMERCIAL PURPOSE.

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) ~~—(8)—~~ As used in this section:

22 (a) "Computer" means any connected, directly interoperable or
23 interactive device, equipment, or facility that uses a computer
24 program or other instructions to perform specific operations
25 including logical, arithmetic, or memory functions with or on
26 computer data or a computer program and that can store, retrieve,
27 alter, or communicate the results of the operations to a person,

1 computer program, computer, computer system, or computer network.

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

6 (c) "Computer program" means a series of internal or external
7 instructions communicated in a form acceptable to a computer that
8 directs the functioning of a computer, computer system, or computer
9 network in a manner designed to provide or produce products or
10 results from the computer, computer system, or computer network.

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

13 (e) "Device" includes, but is not limited to, an electronic,
14 magnetic, electrochemical, biochemical, hydraulic, optical, or
15 organic object that performs input, output, or storage functions by
16 the manipulation of electronic, magnetic, or other impulses.

17 (f) "Diligent inquiry" means a diligent good faith effort to
18 determine the age of a person, which includes at least an
19 examination of an official Michigan operator's or chauffeur's
20 license, an official Michigan personal identification card, or any
21 other bona fide picture identification which establishes the
22 identity and age of the person.

23 Sec. 607. (1) Except as provided in section 537(2), a
24 warehouser, mixed spirit drink manufacturer, wholesaler, outstate
25 seller of beer, outstate seller of wine, outstate seller of mixed
26 spirit drink, **WINE MAKER, SMALL WINE MAKER**, or vendor of spirits
27 shall not be licensed as a specially designated merchant or a

1 specially designated distributor or permitted to sell or deliver to
2 the consumer any quantity of alcoholic liquor at retail.

3 (2) A specially designated distributor or specially designated
4 merchant or any other retailer shall not hold a mixed spirit drink
5 manufacturer, wholesale, warehouse, outstate seller of beer,
6 outstate seller of mixed spirit drink, **WINE MAKER, SMALL WINE**
7 **MAKER,** or outstate seller of wine license.

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

13 (4) A wholesaler may sell or deliver beer and alcoholic liquor
14 to hospitals, military establishments, governments of federal
15 Indian reservations, and churches requiring sacramental wines and
16 may sell to the wholesaler's own employees to a limit of 2 cases of
17 24 12-ounce units or its equivalent of malt beverage per week, or 1
18 case of 12 1-liter units or its equivalent of wine or mixed spirit
19 drink per week.