

# HOUSE BILL No. 4987

June 22, 2005, Introduced by Reps. Elsenheimer, Vander Veen, Huizenga, Kolb, Pastor, Palmer, Drolet, Proos, Nitz and Palsrok and referred to the Committee on Regulatory Reform.

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       OR a person licensed by the commission — or by prior written  
8       order of the commission.

(2) ALL SPIRITS FOR SALE, USE, STORAGE, OR DISTRIBUTION IN THIS STATE SHALL ORIGINALLY BE PURCHASED BY AND IMPORTED INTO THE STATE BY THE COMMISSION OR BY PRIOR WRITTEN AUTHORITY OF THE COMMISSION.

(3) THIS SECTION DOES NOT APPLY IN THE CASE OF AN ALCOHOLIC LIQUOR BROUGHT INTO THIS STATE FOR PERSONAL OR HOUSEHOLD USE IN AN AMOUNT PERMITTED BY FEDERAL LAW BY A PERSON OF LEGAL AGE TO PURCHASE ALCOHOLIC LIQUOR AT THE TIME OF REENTRY INTO THIS STATE FROM WITHOUT THE TERRITORIAL LIMITS OF THE UNITED STATES IF THE PERSON HAS BEEN OUTSIDE THE TERRITORIAL LIMITS OF THE UNITED STATES FOR MORE THAN 48 HOURS AND HAS NOT BROUGHT ALCOHOLIC LIQUOR INTO THE UNITED STATES DURING THE PRECEDING 30 DAYS.

(4) ~~-(2)-~~ For purposes of subsection (1), the sale, delivery, or importation of alcoholic liquor includes, but is not limited to, the sale, delivery, or importation of ~~alcoholic liquor~~ **WINE** transacted or caused to be transacted by means of any mail order, internet, telephone, computer, device, or other electronic means. ~~Subject to subsection (3), if~~ **IF** a retail sale, delivery, or importation of ~~alcoholic liquor~~ **WINE** occurs by any ~~such~~ means **DESCRIBED IN THIS SUBSECTION**, the ~~retailer~~ **PERSON MAKING THE RETAIL SALE** must comply with all of the following:

(a) ~~Be appropriately licensed under the laws of this state~~  
**HOLD A DIRECT SHIPPER PERMIT.**

(b) ~~Pay~~ **ANNUALLY PAY** any applicable taxes to the commission.

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

(d) Verify the age of the individual placing the order by

1 obtaining from him or her an affirmation that he or she is of legal  
2 age to purchase alcoholic liquor. The person receiving and  
3 accepting the order shall record the name, address, date of birth,  
4 and telephone number of the person placing the order on the order  
5 form or other verifiable record of a type and generated in a manner  
6 approved by the commission.

7 (e) Upon request of the commission, make available to the  
8 commission any document used to verify the age of the individual  
9 ordering the ~~alcoholic liquor~~ **WINE** from the ~~retail seller~~  
10 **DIRECT SHIPPER.**

11 (f) Stamp, print, or label on the outside of the shipping  
12 container language that clearly establishes in a prominent fashion  
13 that the package contains ~~alcoholic liquor~~ **WINE** and that the  
14 recipient at the time of the delivery is required to provide  
15 identification verifying his or her age along with a signature.

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

19 (H) **SHIP NOT MORE THAN 24 CASES OF WINE, CONTAINING NOT MORE**  
20 **THAN 9 LITERS IN TOTAL PER CASE, ANNUALLY TO ANY RETAIL CUSTOMER.**

21 (I) **REPORT TO THE COMMISSION QUARTERLY THE TOTAL AMOUNT OF**  
22 **WINE, BY TYPE, BRAND, AND PRICE, SHIPPED TO RETAIL CUSTOMERS IN**  
23 **THIS STATE DURING THE PRECEDING CALENDAR YEAR, AND THE NAMES,**  
24 **ADDRESSES, AND AMOUNT OF WINE ORDERED BY AND SHIPPED TO SPECIFIC**  
25 **RETAIL CUSTOMERS.**

26 (J) **AUTHORIZE AND ALLOW THE COMMISSION AND THE DEPARTMENT OF**  
27 **TREASURY TO CONDUCT AN AUDIT OF THE DIRECT SHIPPER'S RECORDS, UPON**

1 REQUEST.

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

6 (5) ~~-(3)-~~ Notwithstanding subsection ~~-(2)-~~ (4), in the case of  
7 a retail sale, delivery, or importation of ~~alcoholic liquor~~ WINE  
8 occurring by any means described in subsection ~~-(2)-~~ (4), a person  
9 taking the order on behalf of the ~~retailer~~ DIRECT SHIPPER must  
10 comply with subsection ~~-(2)(c)-~~ (4)(C) through (g).

11 (6) ~~-(4)-~~ The person who delivers the ~~alcoholic liquor~~ WINE  
12 shall verify that the individual accepting delivery is of legal age  
13 and is either the ~~individual who placed the order~~ RETAIL CUSTOMER  
14 or the designated recipient residing at the same address or is  
15 otherwise authorized through a rule promulgated under this act by  
16 the commission to receive ~~alcoholic liquor~~ WINE under this  
17 section. If the delivery person, after a diligent inquiry,  
18 determines that the ~~purchaser~~ RETAIL CUSTOMER or designated  
19 recipient is not of legal age, the delivery person shall return the  
20 ~~alcoholic liquor~~ WINE to the ~~retailer~~ DIRECT SHIPPER. A delivery  
21 person who returns ~~alcoholic liquor~~ WINE to the ~~retailer~~ DIRECT  
22 SHIPPER due to inability to obtain the ~~purchaser's~~ RETAIL  
23 CUSTOMER'S or designated recipient's legal age is not liable for  
24 any damages suffered by the ~~purchaser~~ RETAIL CUSTOMER or  
25 ~~retailer~~ DIRECT SHIPPER.

26 ~~— (5) All spirits for sale, use, storage, or distribution in~~  
27 ~~this state, shall originally be purchased by and imported into the~~

1 ~~state by the commission, or by prior written authority of the~~  
2 ~~commission.~~

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

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

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

~~computer program, computer, computer system, or computer network.~~

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

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

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

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

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

**(8) A DIRECT SHIPPER SHALL NOT ENGAGE IN THE SALE, DELIVERY, OR IMPORTATION OF WINE TO A RETAIL CUSTOMER UNLESS IT APPLIES FOR AND IS GRANTED A DIRECT SHIPPER PERMIT FROM THE COMMISSION. ONLY THE FOLLOWING PERSONS QUALIFY FOR THE ISSUANCE OF A DIRECT SHIPPER PERMIT:**

1 (A) A WINE MAKER CURRENTLY HOLDING A WINE MAKER LICENSE IN  
2 THIS STATE.

3 (B) A WINE MAKER LOCATED OUTSIDE OF THIS STATE AND CURRENTLY  
4 HOLDING AN OUTSTATE SELLER OF WINE LICENSE.

5 (C) A WINE MAKER LOCATED OUTSIDE OF THIS STATE AND NOT  
6 CURRENTLY LICENSED AS AN OUTSTATE SELLER OF WINE BUT HOLDING BOTH A  
7 FEDERAL BASIC PERMIT ISSUED BY THE BUREAU OF ALCOHOL, TOBACCO, AND  
8 FIREARMS AND LICENSED TO MANUFACTURE WINE IN ITS STATE OF DOMICILE.

9 (9) AN APPLICANT FOR A DIRECT SHIPPER PERMIT SHALL SUBMIT AN  
10 APPLICATION TO THE COMMISSION IN A WRITTEN OR ELECTRONIC FORMAT  
11 PROVIDED BY THE COMMISSION AND ACCOMPANIED BY AN APPLICATION FEE OF  
12 \$100.00 AND AN INITIAL PERMIT FEE OF \$100.00. IF THE APPLICATION IS  
13 DENIED, THE COMMISSION SHALL REFUND ONLY THE INITIAL PERMIT FEE.  
14 THE APPLICATION SHALL BE ACCOMPANIED BY A COPY OR OTHER EVIDENCE OF  
15 THE EXISTING FEDERAL BASIC PERMIT OR LICENSE, OR BOTH, HELD BY THE  
16 APPLICANT. THE DIRECT SHIPPER MAY RENEW ITS PERMIT ANNUALLY BY  
17 SUBMISSION OF A \$100.00 PERMIT RENEWAL FEE AND A RENEWAL  
18 APPLICATION. THE FAILURE TO RENEW OR THE REVOCATION OR SUSPENSION  
19 OF THE APPLICANT'S EXISTING MICHIGAN LICENSE, FEDERAL BASIC PERMIT,  
20 OR LICENSE TO MANUFACTURE WINE IN ITS STATE OF DOMICILE IS GROUNDS  
21 FOR REVOCATION OR DENIAL OF THE DIRECT SHIPPER PERMIT. THE  
22 COMMISSION SHALL PROMULGATE RULES TO PROVIDE FOR THE QUARTERLY  
23 REPORTING OF ALL SHIPMENTS MADE BY DIRECT SHIPPERS UNDER THIS  
24 SECTION.

25 Enacting section 1. This amendatory act does not take effect  
26 unless all of the following bills of the 93rd Legislature are  
27 enacted into law:

1           (a) Senate Bill No.\_\_\_\_ or House Bill No. 4990(request no.  
2 03814'05).

3           (b) Senate Bill No.\_\_\_\_ or House Bill No. 4989(request no.  
4 03815'05).

5           (c) Senate Bill No.\_\_\_\_ or House Bill No. 4988(request no.  
6 03816'05).