

Act No. 269
Public Acts of 2005
Approved by the Governor
December 15, 2005
Filed with the Secretary of State
December 16, 2005
EFFECTIVE DATE: December 16, 2005

STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 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, Clemente, Kehrl, Bennett, Angerer, Leland, Cushingberry, Waters, Virgil Smith, Sheltroun, Lemmons, Jr., Clack, Gleason, Williams, Anderson, Hood, Espinoza, McConico, Gillard, Accavitti, Hopgood, Kathleen Law, Taub, Phillips, Meisner, LaJoy, Plakas, Lipsey, Zelenko, Hunter, Baxter, Gaffney, Brandenburg, Casperson and Lemmons, III

ENROLLED HOUSE BILL No. 4959

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," 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:

Sec. 113. (1) "Tavern" means any place licensed to sell at retail beer and wine for consumption on the premises only.

(2) "Vehicle" means any means of transportation by land, by water, or by air.

(3) "Vendor" means a person licensed by the commission to sell alcoholic liquor.

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

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

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

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

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

(9) "Wine maker" means any person licensed by the commission to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, to sell that wine to a retailer, and as provided for in section 537.

Sec. 113a. (1) "Tavern" means any place licensed to sell at retail beer and wine for consumption on the premises only.

(2) "Vehicle" means any means of transportation by land, by water, or by air.

(3) "Vendor" means a person licensed by the commission to sell alcoholic liquor.

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

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

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

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

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

(9) "Wine maker" means any person licensed by the commission to manufacture wine, to sell that wine to a wholesaler, to sell that wine by direct shipment to a consumer, at retail on the licensed winery premises, and as provided for in section 537 but not to sell wine to a retailer.

Sec. 537. (1) The following classes of vendors may sell alcoholic liquors at retail as provided in this section:

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

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

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

(d) Direct shippers where wine may be sold and shipped directly to the consumer.

(e) Hotels of class A where beer and wine may be sold for consumption on the premises and in the rooms of bona fide registered guests. Hotels of class B where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

(f) Specially designated merchants, where beer and wine may be sold for consumption off the premises only.

(g) Specially designated distributors where spirits and mixed spirit drink may be sold for consumption off the premises only.

(h) Special licenses where beer and wine or beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only.

(i) Dining cars or other railroad or Pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.

(j) Brewpubs where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:

(i) Class C.

(ii) Tavern.

(iii) Class A hotel.

(iv) Class B hotel.

(k) Micro brewers and brewers selling less than 200,000 barrels of beer per year where beer produced by the micro brewer or brewer may be sold to a consumer for consumption on or off the brewery premises.

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

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

(n) Motorsports event license where beer and wine may be sold for consumption on the premises during sanctioned motorsports events only.

(o) Wine maker where wine may be sold by direct shipment, at retail on the licensed premises, and as provided for in subsections (2) and (3).

(2) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and located on the premises where the wine maker is licensed.

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

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

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

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

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

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

Sec. 543. (1) Quarterly, upon recommendation of the commission, the state shall pay pursuant to appropriation in the manner prescribed by law to the city, village, or township in which a full-time police department or full-time ordinance enforcement department is maintained or, if a police department or full-time ordinance enforcement department is not maintained, to the county, to be credited to the sheriff's department of the county in which the licensed premises are located, 55% of the amount of the proceeds of the retailers' license fees and license renewal fees collected in that jurisdiction, for the specific purpose of enforcing this act and the rules promulgated under this act. Forty-one and one-half percent of the amount of the proceeds of retailers' license and license renewal fees collected shall be deposited in a special fund to be annually appropriated to the commission for carrying out the licensing and enforcement provisions of this act. Any unencumbered or uncommitted money in the special fund shall revert to the general fund of the state 12 months after the end of each fiscal year in which the funds were collected. The legislature shall appropriate 3-1/2% of the amount of the proceeds of retailers' license and license renewal fees collected to be credited to a special fund in the state treasury for the purposes of promoting and sustaining programs for the prevention, rehabilitation, care, and treatment of alcoholics. This subsection does not apply to retail license fees collected for railroad or Pullman cars, watercraft, or aircraft, or to the transfer fees provided in section 529.

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

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

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

(5) The license fee imposed on direct shipper licenses and any violation fines imposed by the commission shall be deposited into the direct shipper enforcement revolving fund. The direct shipper enforcement revolving fund is created within the state treasury. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The commission shall expend money from the fund, upon appropriation, only for enforcement of the provisions of section 203 and related projects.

(6) As used in this section, "license fee enhancement" means the money representing the difference between the license fee imposed for a license under section 525(1) and the additional amount imposed for resort and resort economic development licenses under section 525(2).

Sec. 607. (1) Except as provided in section 537(2), a warehouser, mixed spirit drink manufacturer, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not be licensed as a specially designated merchant or a specially designated distributor. Beginning on the effective date of the amendatory act that added this sentence and in addition to the persons described in this subsection, a wine maker and a small wine maker shall also not be licensed as a specially designated merchant or a specially designated distributor. Any wine maker or small wine maker holding a specially designated merchant or specially designated distributor license

on the effective date of the amendatory act that added this sentence may continue to hold a specially designated merchant or specially designated distributor license.

(2) A specially designated distributor or specially designated merchant or any other retailer shall not hold a mixed spirit drink manufacturer, wholesale, warehouse, outstate seller of beer, outstate seller of mixed spirit drink, or outstate seller of wine license. Beginning on the effective date of the amendatory act that added this sentence, a specially designated distributor or specially designated merchant shall not hold a wine maker or small wine maker license in addition to being prohibited from holding any other license described in this subsection. Any specially designated distributor or specially designated merchant holding a wine maker or small wine maker license on the effective date of the amendatory act that added this sentence may continue to hold a wine maker or small wine maker license.

(3) A brewer, warehouser, or wholesaler shall not be licensed as a specially designated merchant. This subsection does not affect the operation of a brewery hospitality room.

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

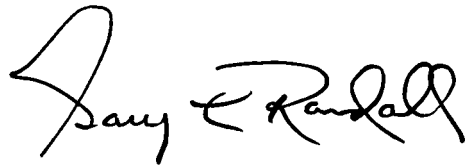
Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 625 of the 93rd Legislature is enacted into law.

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

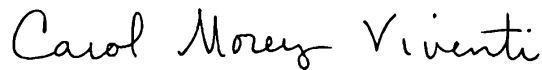
(2) Section 113a of the Michigan liquor control code of 1998, 1998 PA 58, as added by this amendatory act, shall not take effect unless section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, is held unconstitutional or repealed pursuant to subsection (1).

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor