

# SENATE BILL No. 1490

September 14, 2010, Introduced by Senator GILBERT and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending sections 205, 901, 903, 909, and 1027 (MCL 436.1205,  
436.1901, 436.1903, 436.1909, and 436.2027), section 205 as amended  
by 2001 PA 274, section 901 as amended by 2008 PA 11, section 903  
as amended by 2000 PA 431, and section 1027 as amended by 2008 PA  
218, and by adding section 1029.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 205. (1) ~~If the commission privatizes any portion of the~~  
2 ~~system existing on December 19, 1996 under which spirits are~~  
3 ~~warehoused or distributed, the~~ **THE** commission shall, as provided in  
4 section 203(1), by order appoint authorized distribution agents to  
5 engage in the warehousing and delivery of spirits in this state so  
6 as to ensure that all retail licensees continue to be properly

1 serviced with spirits. An authorized distribution agent is subject  
2 to uniform requirements, including business operating procedures,  
3 that the commission may prescribe by rule, subject to this section.

4 (2) A person is eligible for appointment by the commission as  
5 an authorized distribution agent if the following circumstances  
6 exist:

7 (a) The person satisfies all applicable commission rules  
8 prescribing qualifications for licensure promulgated under section  
9 215.

10 (b) The person has entered into a written agreement or  
11 contract with a supplier of spirits for the purposes of warehousing  
12 and delivering a brand or brands of spirits of that supplier of  
13 spirits.

14 (c) The person has an adequate warehousing facility located in  
15 this state for the storing of spirits from which all delivery of  
16 spirits to retail licensees shall be made.

17 (3) An authorized distribution agent shall not have a direct  
18 or indirect interest in a supplier of spirits or in a retailer. A  
19 supplier of spirits or a retailer shall not have a direct or  
20 indirect interest in an authorized distribution agent. An  
21 authorized distribution agent shall not hold title to spirits.  
22 After September 24, 1996, an authorized distribution agent or an  
23 applicant to become an authorized distribution agent who directly  
24 or indirectly becomes licensed subsequently as a wholesaler shall  
25 not be appointed to sell a brand of wine in a county or part of a  
26 county for which a wholesaler has been appointed to sell that brand  
27 under an agreement required by this act. A wholesaler who directly

1 or indirectly becomes an authorized distribution agent shall not  
2 sell or be appointed to sell a brand of wine to a retailer in a  
3 county or part of a county for which another wholesaler has been  
4 appointed to sell that brand under an agreement required by this  
5 act, unless that wholesaler was appointed to sell and was actively  
6 selling that brand to retailers in that county or part of that  
7 county prior to September 24, 1996, or unless the sale and  
8 appointment is the result of an acquisition, purchase, or merger  
9 with the existing wholesaler who was selling that brand to a  
10 retailer in that county or part of that county prior to September  
11 24, 1996.

12 (4) An authorized distribution agent shall deliver to each  
13 retailer located in its assigned distribution area on at least a  
14 weekly basis if the order meets the minimum requirements. Except  
15 that in those weeks that accompany a state holiday, the commission  
16 may order a modified delivery schedule provided that a retailer  
17 waits not longer than 9 days between deliveries due to a modified  
18 delivery schedule. ~~Until the system established by the commission~~  
19 ~~under section 206 is activated, the authorized distribution agent~~  
20 ~~shall provide retailers access to a computer application that~~  
21 ~~includes the capability to determine whether certain spirits are~~  
22 ~~currently available for delivery. Beginning on the date the system~~  
23 ~~is established by the commission under section 206, the~~ **THE**  
24 commission shall provide for an integrated on-line ordering system  
25 for spirits and shall require the continuance of any ordering  
26 system in existence on the ~~effective~~ **ACTIVATION** date of **THE SYSTEM**  
27 **ESTABLISHED UNDER** section 206. The minimum requirements shall be

1 set by the commission and shall be a sufficient number of bottles  
2 to comprise not more than 2 cases. A retailer may pick up the  
3 product at the authorized distribution agent's warehouse. To avoid  
4 occasional emergency outages of spirits, a retail licensee may make  
5 up to 12 special emergency orders to an authorized distribution  
6 agent per calendar year which order shall be made available to the  
7 retail licensee within 18 hours of the placing of the order. A  
8 special emergency order placed on Saturday or Sunday shall be made  
9 available to the retail licensee before noon on the following  
10 Monday. An authorized distribution agent may impose a fee of up to  
11 \$20.00 to deliver a special emergency order to a retail licensee.

12 (5) In locations inaccessible to a motor vehicle as that term  
13 is defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to  
14 257.923, the authorized distribution agent shall arrange that a  
15 delivery of spirits to a retailer be in compliance with the  
16 following procedures:

17 (a) After processing an order from a retailer, an authorized  
18 distribution agent shall contact a retailer to confirm the quantity  
19 of cases or bottles, or both, and the exact dollar total of the  
20 order.

21 (b) The authorized distribution agent shall have the  
22 responsibility to coordinate with the retailer the date and time a  
23 driver is scheduled to deliver the order to a ferry transport dock,  
24 shall arrange any ferry, drayage, or other appropriate service, and  
25 shall pick up the retailer's payment at that time.

26 (c) The ferry transport company or company representing any  
27 other form of conveyance shall take the retailer's payment to the

1 mainland dock and give that payment to the authorized distribution  
2 agent's driver.

3 (d) The ferry transport company or company representing any  
4 other form of conveyance shall transport the order to the drayage  
5 or other appropriate company at the island dock for immediate  
6 delivery to the retailer.

7 (e) The drayage or other appropriate company shall deliver the  
8 order to the retailer.

9 (6) The authorized distribution agent is responsible for the  
10 payment of all transportation and delivery charges imposed by the  
11 ferry, drayage, or other conveyance company and is responsible for  
12 all breakage and any shortages, whether attributable to the ferry,  
13 drayage, or other conveyance company or any combination of those  
14 companies, until the order is delivered to the retailer's  
15 establishment. This subsection does not in any way prevent the  
16 authorized distribution agent from seeking reimbursement or damages  
17 from any company conveying the authorized distribution agent's  
18 product.

19 (7) Except as otherwise provided in subsection (4), an  
20 authorized distribution agent shall not charge a delivery fee or a  
21 split-case fee for delivery of spirits sold by the commission to a  
22 retailer.

23 (8) An authorized distribution agent or prospective authorized  
24 distribution agent shall maintain and make available to the  
25 commission or its representatives, upon notice, any contract or  
26 written agreement it may have with a supplier of spirits or other  
27 authorized distribution agent for the warehousing and delivery of

1 spirits in this state.

2 (9) For any violation of this act, rules promulgated under  
3 this act, or the terms of an order appointing an authorized  
4 distribution agent, an authorized distribution agent shall be  
5 subject to the suspension, revocation, forfeiture, and penalty  
6 provisions of sections 903(1) and 907 in the same manner in which a  
7 licensee would be subject to those provisions. An authorized  
8 distribution agent aggrieved by a penalty imposed by the commission  
9 may invoke the hearing and appeal procedures of section 903(2) and  
10 rules promulgated under that section.

11 (10) A specially designated distributor may sell to an on-  
12 premises licensee up to 9 liters of spirits during any 1-month  
13 period and an on-premises licensee may purchase, collectively from  
14 specially designated distributors, up to that amount during any 1-  
15 month period. Notwithstanding any other provision of this act or  
16 rule promulgated under this act, a specially designated distributor  
17 is only liable for knowingly violating this section. Records  
18 verifying these purchases shall be maintained by the on-premises  
19 licensee and be available to the commission upon request.

20 (11) An authorized distribution agent shall demonstrate that  
21 it has made a good faith effort to provide employment to those  
22 former state employees who were terminated due to the privatization  
23 of the liquor distribution system. A good faith effort is  
24 demonstrated by the authorized distribution agent performing at  
25 least the following actions:

26 (a) Seeking from the commission a list of names and resumes of  
27 all such former state employees who have indicated a desire for

1 continued employment in the distribution of liquor in Michigan.

2 (b) Providing a list of employment opportunities created by  
3 the authorized distribution agent in the distribution of liquor in  
4 Michigan to each individual whose name and resume is transmitted  
5 from the commission.

6 (c) Providing an opportunity for application and interview to  
7 any terminated state worker who indicates an interest in pursuing a  
8 job opportunity with the authorized distribution agent.

9 (d) Providing a priority in hiring for those individuals who  
10 apply and interview under this process.

11 (12) Any former state employees terminated due to  
12 privatization who have reason to believe that an authorized  
13 distribution agent has not made a good faith effort to provide him  
14 or her with employment opportunities as described in subsection  
15 (11) may file a complaint with the commission who shall hear the  
16 complaint and make a determination on its validity. If the  
17 commission determines that the complaint is valid, the violation  
18 may be treated as a violation of this act and the authorized  
19 distribution agent may be subject to the suspension, revocation,  
20 forfeiture, and penalty provisions of sections 903(1) and 907.

21 (13) In addition to paying a vendor of spirits the acquisition  
22 price for purchasing spirits, the commission may pay a vendor of  
23 spirits an additional amount of not less than \$4.50 and not more  
24 than \$7.50 for each case of spirits purchased as an offset to the  
25 costs being incurred by that vendor of spirits in contracting with  
26 an authorized distribution agent for the warehousing and delivery  
27 of spirits to retailers. The payment described in this subsection

1 shall not be included in the cost of purchasing spirits by the  
2 commission and shall not be subject to the commission's markup,  
3 special taxes, or state sales tax. The per-case offset established  
4 by this subsection may be increased by the state administrative  
5 board each January to reflect reasonable increases in the  
6 authorized distribution agent's cost of warehousing and delivery.  
7 As used in this subsection, "case" means a container holding twelve  
8 750 ml bottles of spirits or other containers containing spirits  
9 which are standard to the industry.

10       Sec. 901. (1) A person, directly or indirectly, himself or  
11 herself or by his or her clerk, agent, or employee, shall not  
12 manufacture, manufacture for sale, sell, offer or keep for sale,  
13 barter, furnish, import, import for sale, transport for hire,  
14 transport, or possess any alcoholic liquor unless the person  
15 complies with this act.

16       (2) A licensee shall not allow unlawful gambling on the  
17 licensed premises and shall not allow on the licensed premises any  
18 gaming devices prohibited by law.

19       (3) A licensee shall not sell, offer or keep for sale,  
20 furnish, possess, or allow a customer to consume alcoholic liquor  
21 that is not authorized by the license issued to the licensee by the  
22 commission.

23       **(4) A PERSON, WHETHER OR NOT A LICENSEE, SHALL NOT SELL,**  
24 **DELIVER, OR IMPORT SPIRITS UNLESS THE SALE, DELIVERY, OR**  
25 **IMPORTATION IS MADE BY THE COMMISSION, THE COMMISSION'S AUTHORIZED**  
26 **AGENT OR DISTRIBUTOR, AN AUTHORIZED DISTRIBUTION AGENT APPROVED BY**  
27 **ORDER OF THE COMMISSION, A PERSON LICENSED BY THE COMMISSION, OR BY**

1 PRIOR WRITTEN ORDER OF THE COMMISSION. A PERSON WHO VIOLATES THIS  
 2 SUBSECTION IS SUBJECT TO THE SANCTIONS AND PENALTIES CONTAINED IN  
 3 SECTION 909(4) AND, IN THE CASE OF A VIOLATION OF SECTION  
 4 909(4) (A), IS SUBJECT TO FORFEITURE OF PROCEEDS OR AN  
 5 INSTRUMENTALITY AS PROVIDED FOR IN CHAPTER XXVA OF THE MICHIGAN  
 6 PENAL CODE, 1931 PA 328, MCL 750.159F TO 750.159X.

7 (5) ~~(4)~~—A licensee shall not sell or furnish alcoholic liquor  
 8 to a person who maintains, operates, or leases premises that are  
 9 not licensed by the commission and upon which other persons  
 10 unlawfully engage in the sale or consumption of alcoholic liquor  
 11 for consideration as prohibited by section 913.

12 (6) ~~(5)~~—A retail licensee shall not, on his or her licensed  
 13 premises, sell, offer for sale, accept, furnish, possess, or allow  
 14 the consumption of alcoholic liquor that has not been purchased by  
 15 the retail licensee from the commission, **THE COMMISSION'S**  
 16 **AUTHORIZED AGENT OR DISTRIBUTOR, AN AUTHORIZED DISTRIBUTION AGENT**  
 17 **APPROVED BY ORDER OF THE COMMISSION,** or ~~from~~ a licensee of the  
 18 commission authorized to sell that alcoholic liquor to a retail  
 19 licensee. This subsection does not apply to the consumption of  
 20 alcoholic liquor in the bedrooms or suites of registered guests of  
 21 licensed hotels or in the bedrooms or suites of bona fide members  
 22 of licensed clubs.

23 Sec. 903. (1) The commission or any commissioner or duly  
 24 authorized agent of the commission designated by the chairperson of  
 25 the commission, upon due notice and proper hearing, may suspend or  
 26 revoke any license upon a violation of this act or any of the rules  
 27 promulgated by the commission under this act. The commission or any

1 commissioner or duly authorized agent of the commission designated  
2 by the chairperson of the commission, may assess a penalty of not  
3 more than \$300.00 for each violation of this act or rules  
4 promulgated under this act, or not more than \$1,000.00 for each  
5 violation of section 801(2), in addition to or in lieu of  
6 revocation or suspension of the license, which penalty shall be  
7 paid to the commission and deposited with the state treasurer and  
8 shall be credited to the general fund of the state. The commission  
9 shall hold a hearing and order the suspension or revocation of a  
10 license if the licensee has been found liable for 3 or more  
11 separate violations of section 801(2) which violations occurred on  
12 different occasions within a 24-month period unless such violations  
13 for the sale, furnishing, or giving alcoholic liquor to a minor  
14 were discovered by the licensee and disclosed to an appropriate law  
15 enforcement agency immediately upon discovery. **A RETAIL LICENSEE**  
16 **WHO SELLS, OFFERS TO SELL, ACCEPTS, FURNISHES, POSSESSES, OR ALLOWS**  
17 **THE CONSUMPTION OF SPIRITS IN VIOLATION OF SECTION 901(6) IS**  
18 **SUBJECT TO AN ADMINISTRATIVE FINE OF NOT MORE THAN \$2,500.00 PER**  
19 **OCCURRENCE AND THE FOLLOWING LICENSE SANCTIONS AFTER NOTICE AND**  
20 **OPPORTUNITY FOR AN ADMINISTRATIVE HEARING UNDER THE ADMINISTRATIVE**  
21 **PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328:**

22 (A) FOR A FIRST VIOLATION, A LICENSE SUSPENSION FOR BETWEEN 1  
23 AND 30 DAYS.

24 (B) FOR A SECOND VIOLATION, A LICENSE SUSPENSION FOR BETWEEN  
25 31 AND 89 DAYS.

26 (C) FOR A THIRD VIOLATION, A LICENSE SUSPENSION FOR 90 DAYS.

27 (D) FOR A FOURTH OR SUBSEQUENT VIOLATION, REVOCATION OF THE

1 **LICENSE.**

2       (2) The commission shall provide a procedure by which a  
3 licensee who is aggrieved by any penalty imposed under subsection  
4 (1) and any suspension or revocation of a license ordered by the  
5 commission, a commissioner, or a duly authorized agent of the  
6 commission may request a hearing for the purpose of presenting any  
7 facts or reasons to the commission as to why the penalty,  
8 suspension, or revocation should be modified or rescinded. Any such  
9 request shall be in writing and accompanied by a fee of \$25.00. The  
10 commission, after reviewing the record made before a commissioner  
11 or a duly authorized agent of the commission, may allow or refuse  
12 to allow the hearing in accordance with the commission's rules. The  
13 right to a hearing provided in this subsection, however, shall not  
14 be interpreted by any court as curtailing, removing, or annulling  
15 the right of the commission to suspend or revoke licenses as  
16 provided for in this act. A licensee does not have a right of  
17 appeal from the final determination of the commission, except by  
18 leave of the circuit court. Notice of the order of suspension or  
19 revocation of a license or of the assessment of a penalty, or both,  
20 shall be given in the manner prescribed by the commission. The  
21 suspension or revocation of a license or the assessment of a  
22 penalty, or both, by the commission or a duly authorized agent of  
23 the commission does not prohibit the institution of a criminal  
24 prosecution for a violation of this act. The institution of a  
25 criminal prosecution for a violation of this act or the acquittal  
26 or conviction of a person for a violation of this act does not  
27 prevent the suspension or revocation of a license or the assessment

1 of a penalty, or both, by the commission. In a hearing for the  
2 suspension or revocation of a license issued under this act, proof  
3 that the defendant licensee or an agent or employee of the licensee  
4 demanded and was shown, before furnishing any alcoholic liquor to a  
5 minor, a motor vehicle operator or chauffeur license or a  
6 registration certificate issued by the federal selective service,  
7 or other bona fide documentary evidence of majority and identity of  
8 the person, may be offered as evidence in a defense to a proceeding  
9 for the suspension or revocation of a license issued under this  
10 act. A licensee who has reason to believe that a minor has used  
11 fraudulent identification to purchase alcoholic liquor in violation  
12 of section 703 shall file a police report concerning the violation  
13 with a local law enforcement agency and shall also present the  
14 alleged fraudulent identification to the local law enforcement  
15 agency at the time of filing the report if the identification is in  
16 the possession of the licensee. The commission may promulgate rules  
17 pursuant to the administrative procedures act of 1969, 1969 PA 306,  
18 MCL 24.201 to 24.328, regarding the utilization by licensees of  
19 equipment designed to detect altered or forged driver licenses,  
20 state identification cards, and other forms of identification.

21 (3) In addition to the hearing commissioners provided for in  
22 section 209, the chairperson of the commission may designate not  
23 more than 2 duly authorized agents to hear violation cases. A  
24 person appointed under this subsection shall be a member in good  
25 standing of the state bar of Michigan.

26 (4) A duly authorized agent who has been designated by the  
27 chairperson pursuant to subsection (3) shall have, in the hearing

1 of violation cases, the same authority and responsibility as does a  
2 hearing commissioner under this act and the rules promulgated under  
3 this act.

4 (5) A duly authorized agent who has been designated by the  
5 chairperson pursuant to subsection (3) shall be ineligible for  
6 appointment to the commission for a period of 1 year after the  
7 person ceases to serve as a duly authorized agent.

8 Sec. 909. (1) Except as otherwise provided in this act, a  
9 person, other than a person required to be licensed under this act,  
10 who violates this act is guilty of a misdemeanor.

11 (2) Except as otherwise provided in this act, a licensee who  
12 violates this act, or a rule or regulation promulgated under this  
13 act, is guilty of a misdemeanor punishable by imprisonment for not  
14 more than 6 months or a fine of not more than \$500.00, or both.

15 (3) A person who performs any act for which a license is  
16 required under this act without first obtaining that license or who  
17 sells alcoholic liquor in a county that has prohibited the sale of  
18 alcoholic liquor under section 1107 is guilty of a felony  
19 punishable by imprisonment for not more than 1 year or by a fine of  
20 not more than \$1,000.00, or both.

21 (4) A PERSON, WHETHER OR NOT A LICENSEE, WHO VIOLATES SECTION  
22 901(4) IS SUBJECT TO THE FOLLOWING PENALTIES OR SANCTIONS:

23 (A) A PERSON WHO SELLS, DELIVERS, OR IMPORTS SPIRITS IN  
24 VIOLATION OF SECTION 901(4) IN THE AMOUNT OF AT LEAST 80,000  
25 MILLILITERS IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR  
26 NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR  
27 BOTH.

1 (B) A PERSON WHO SELLS, DELIVERS, OR IMPORTS SPIRITS IN  
2 VIOLATION OF SECTION 901(4) IN THE AMOUNT OF 8,000 MILLILITERS BUT  
3 LESS THAN 80,000 MILLILITERS IS GUILTY OF A MISDEMEANOR PUNISHABLE  
4 BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE  
5 THAN \$2,500.00, OR BOTH.

6 (C) A PERSON WHO SELLS, DELIVERS, OR IMPORTS SPIRITS IN  
7 VIOLATION OF SECTION 901(4) IN THE AMOUNT OF LESS THAN 8,000  
8 MILLILITERS IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE  
9 ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$1,000.00.

10 (5) THE REMEDIES UNDER THIS ACT ARE CUMULATIVE AND  
11 INDEPENDENT. THE USE OF 1 REMEDY BY A PERSON DOES NOT BAR THE USE  
12 OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL  
13 REMEDY BY ANOTHER PERSON.

14 (6) ~~(4)~~—It is the intent of the legislature that the court, in  
15 imposing punishment under this section, should discriminate between  
16 casual or slight violations and habitual sales of alcoholic liquor  
17 or attempts to commercialize violations of this act or the rules or  
18 regulations promulgated under this act.

19 Sec. 1027. (1) Unless otherwise provided by rule of the  
20 commission, a person shall not conduct samplings or tastings of any  
21 alcoholic liquor for a commercial purpose except at premises that  
22 are licensed by the commission for the sale and consumption of  
23 alcoholic liquor on the premises.

24 (2) This section does not prevent either of the following:

25 (a) A vendor of spirits, brewer, wine maker, mixed spirit  
26 drink manufacturer, small wine maker, outstate seller of beer,  
27 outstate seller of wine, or outstate seller of mixed spirit drink,

1 or a bona fide market research organization retained by 1 of the  
2 persons named in this subsection, from conducting samplings or  
3 tastings of an alcoholic liquor product before it is approved for  
4 sale in this state if the sampling or tasting is conducted pursuant  
5 to prior written approval of the commission.

6 (b) An on-premises licensee from giving a sampling or tasting  
7 of alcoholic liquor to an employee of the licensee during the legal  
8 hours for consumption for the purpose of educating the employee  
9 regarding 1 or more types of alcoholic liquor so long as the  
10 employee is at least 21 years of age.

11 (c) A small distiller licensee from giving a sampling or  
12 tasting of brands it manufactures on the licensed premises.

13 (3) A SUPPLIER OF SPIRITS OR AN AUTHORIZED REPRESENTATIVE MAY  
14 CONDUCT A CONSUMER SAMPLING EVENT ON THE PREMISES OF A HOLDER OF A  
15 SPECIALLY DESIGNATED DISTRIBUTOR LICENSE, SUBJECT TO THE FOLLOWING  
16 TERMS:

17 (A) THE COMMISSION MUST BE NOTIFIED IN WRITING A MINIMUM OF 5  
18 WORKING DAYS PRIOR TO THE EVENT WITH THE DATE, TIME, AND LOCATION  
19 OF THE EVENT.

20 (B) SAMPLING EVENTS MUST BE LIMITED TO 3 PER SPECIALLY  
21 DESIGNATED DISTRIBUTOR LICENSEE WITHIN A CALENDAR MONTH.

22 (C) THE SUPPLIER OF SPIRITS OR AN AUTHORIZED REPRESENTATIVE  
23 CONDUCTING THE SAMPLING EVENT MUST HAVE A LICENSED REPRESENTATIVE  
24 PRESENT AT THE SPECIALLY DESIGNATED DISTRIBUTOR'S ESTABLISHMENT.

25 (D) LICENSED REPRESENTATIVES OR AN AUTHORIZED REPRESENTATIVE  
26 MAY DISTRIBUTE MERCHANDISE, NOT TO EXCEED \$100.00 IN VALUE, TO  
27 CONSUMERS 21 YEARS OF AGE OR OLDER DURING THE EVENT.

1 (E) PARTICIPATING SPECIALLY DESIGNATED DISTRIBUTOR LICENSEES  
2 DO NOT RECEIVE ANY FEE OR OTHER VALUABLE CONSIDERATION FOR  
3 PARTICIPATING IN THE EVENT.

4 (F) EACH CONSUMER IS LIMITED TO 3 SAMPLES, WHICH TOTAL NO MORE  
5 THAN 1/3 OUNCE OF DISTILLED SPIRITS PER SERVING.

6 (G) THE CONSUMER SHALL NOT BE CHARGED FOR ANY SAMPLE.

7 (H) THE ALCOHOLIC LIQUOR USED IN THE CONSUMER SAMPLING EVENT  
8 IS PROVIDED BY THE SUPPLIER OF SPIRITS OR AN AUTHORIZED  
9 REPRESENTATIVE, AND PURCHASED AT THE REGULAR SALE PRICE FROM THE  
10 SPECIALLY DESIGNATED DISTRIBUTOR ON WHOSE PREMISES THE EVENT IS  
11 LOCATED. THE SUPPLIER OF SPIRITS SHALL REMOVE ANY UNFINISHED  
12 PRODUCT FROM THE PREMISES AT WHICH THE EVENT IS HELD UPON  
13 COMPLETION OF THE EVENT.

14 (I) A CONSUMER SAMPLING EVENT SHALL NOT BE ALLOWED WHEN THE  
15 SALE OF ALCOHOLIC LIQUOR IS OTHERWISE PROHIBITED ON THE PREMISES AT  
16 WHICH THE EVENT IS CONDUCTED.

17 (J) SAMPLES ARE NOT TO BE OFFERED TO, OR ALLOWED TO BE  
18 CONSUMED BY, ANY PERSON UNDER THE LEGAL AGE FOR CONSUMING ALCOHOLIC  
19 LIQUOR.

20 (K) A CONSUMER SAMPLING EVENT MAY BE ADVERTISED IN ANY TYPE OF  
21 MEDIA AND THE ADVERTISEMENTS MAY INCLUDE THE DATE, TIME, LOCATION,  
22 AND OTHER INFORMATION REGARDING THE EVENT.

23 (L) THE PARTICIPATING SUPPLIER OF SPIRITS OR AN AUTHORIZED  
24 REPRESENTATIVE AND SPECIALLY DESIGNATED DISTRIBUTOR LICENSEES MUST  
25 COMPLY WITH THIS ACT AND COMMISSION RULES.

26 (M) THE SUPPLIER OF SPIRITS OR AN AUTHORIZED REPRESENTATIVE  
27 MUST DEMONSTRATE SUFFICIENT SERVER TRAINING OF THE INDIVIDUAL

1 ACTUALLY CONDUCTING THE SAMPLING IN THE MANNER PROVIDED FOR IN  
2 SECTION 906 AND RULES PROMULGATED BY THE COMMISSION.

3 (4) VIOLATION OF THIS SUBSECTION SUBJECTS THE SUPPLIER OF  
4 SPIRITS OR AUTHORIZED REPRESENTATIVE TO THE FOLLOWING SANCTIONS:

5 (A) FOR A FIRST VIOLATION, DENIAL OF AN APPLICATION FOR A  
6 CONSUMER SAMPLING EVENT FOR UP TO 14 DAYS.

7 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, DENIAL OF A SPIRIT  
8 SAMPLING LICENSE FOR AT LEAST 14 DAYS OR LONGER, AS DETERMINED BY  
9 THE COMMISSION.

10 (5) ~~(3)~~—A sampling or tasting of any alcoholic liquor in a  
11 home or domicile for other than a commercial purpose is not subject  
12 to this section.

13 (6) ~~(4)~~—For purposes of this section, "commercial purpose"  
14 means a purpose for which monetary gain or other remuneration could  
15 reasonably be expected.

16 SEC. 1029. (1) THE COMMISSION, BY PROMULGATION OF A RULE,  
17 ISSUANCE OF AN ORDER, OR EXECUTION OF A MEMORANDUM OF UNDERSTANDING  
18 WITH THE DEPARTMENT OF TREASURY, OR ANY COMBINATION THEREOF, SHALL  
19 ALLOW THE CONDUCT BY A MANUFACTURER OR OUT-STATE SELLER OF SPIRITS  
20 OF A PREAPPROVED PROGRAM FOR MARKETING SPIRITS BY INCLUSION OF  
21 NONALCOHOLIC CARBONATED BEVERAGES TO BE PACKAGED WITH SPIRITS. THE  
22 COMMISSION SHALL ADOPT A PROGRAM THAT DISALLOWS THE REDEMPTION OF  
23 RETURNABLE CONTAINERS FROM THE COMMISSION BUT OTHERWISE ALLOWS  
24 REDEMPTION OF MICHIGAN-SOLD RETURNABLE CONTAINERS AT OTHER VENUES,  
25 AND SHALL ALLOW FOR A SYSTEM OF APPROPRIATE ALLOCATION OF FUNDS  
26 UNDER 1976 IL 1, MCL 445.571 TO 445.576.

27 (2) THE COMMISSION SHALL PROMULGATE RULES TO PROVIDE FOR A

1 SYSTEM OF NON-MAIL-IN OR INSTANT COUPON TRANSACTIONS THAT DOES NOT  
2 DIMINISH THE SPIRIT PRODUCT MARGINS ALLOCATED TO THE STATE UNDER  
3 THIS ACT.

4 Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No. 1489  
6 of the 95th Legislature is enacted into law.