HOUSE SUBSTITUTE FOR

SENATE BILL NO. 506

A bill to amend 1998 PA 58, entitled

"Michigan liquor control code of 1998,"

by amending section 409 (MCL 436.1409), as amended by 2000 PA 395.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 409. (1) Except as provided in this section, the commission shall levy and collect a tax on all beer manufactured or sold in this state at the rate of $6.30 per barrel if the beer is sold in bulk or in different quantities. ~~The~~ **BEFORE FEBRUARY 1, 2015, THE** tax shall be paid by the brewer or brewpub if manufactured in this state or by the wholesaler or the person from whom purchased if manufactured outside this state, whichever is designated by the commission. ~~The commission shall establish by rule a method for the collection of the tax levied in this~~

~~subsection. The rules shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.~~

(2) BEGINNING ON AND AFTER FEBRUARY 1, 2015, THE TAX SHALL BE PAID BY THE BREWER OR BREWPUB IF THE BEER IS MANUFACTURED IN THIS STATE OR IF THE BEER IS MANUFACTURED OUTSIDE THIS STATE THE TAX SHALL BE PAID BY THE WHOLESALER ASSIGNED TO DISTRIBUTE THAT BEER AND THE TAX SHALL BE LEVIED AND COLLECTED ON THE NUMBER OF BARRELS THE WHOLESALER ACTUALLY SOLD TO LICENSED RETAILERS IN THIS STATE. A BREWER MAY DESIGNATE A WHOLESALER TO PAY THE TAX ON BEHALF OF THE BREWER. IF A BREWER DESIGNATES A WHOLESALER TO PAY THE TAX ON ITS BEHALF, THE BREWER SHALL NOTIFY THE COMMISSION OF THE DESIGNATION AND PROVIDE THE COMMISSION WITH A COPY OF ITS BREWER'S REPORT OF OPERATIONS THAT IT FILED WITH THE ALCOHOL AND TOBACCO TAX AND TRADE BUREAU OF THE UNITED STATES DEPARTMENT OF TREASURY FOR EACH CALENDAR YEAR.

(3) THE COMMISSION SHALL ESTABLISH BY RULE A METHOD FOR THE COLLECTION OF THE TAX LEVIED UNDER SUBSECTION (1) AND REPORTING REQUIREMENTS FOR WHOLESALERS, BREWERS, BREWPUBS, AND OUTSTATE SELLERS OF BEER TO VERIFY THE REMISSION OF TAXES TO THIS STATE. THE COMMISSION SHALL NOT REQUIRE THAT THE TAX BE PAID IN LESS THAN MONTHLY INTERVALS. THE RULES SHALL BE PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

(4) ~~(2)~~ The tax levied in subsection (1) shall not be collected ~~with respect to~~ **ON** beer that is consumed on the premises of the manufacturer or is damaged in the process of brewing, packaging, ~~and~~ storage**, AND DISTRIBUTION** and is not offered for sale, except that beer sold by a brewpub for consumption on the premises or beer produced and consumed on the premises of a micro brewer is subject to the tax levied under subsection (1).

(5) ~~(3)~~ The tax levied under subsection (1) shall be rebated to the person ~~who~~ **THAT** paid the tax if that person provides satisfactory proof to the commission that the beer was shipped outside of this state for sale and consumption outside this state.

(6) ~~(4)~~ For the purposes of the tax levied under subsection (1), a barrel of beer contains 31 gallons.

(7) ~~(5)~~ The commission may promulgate a rule that designates the states or the laws or the rules of other states that require a licensed wholesaler of beer to pay an additional fee for the right to purchase, import, or sell beer manufactured in this state; that denies the issuance of a license authorizing the importation of beer to any ~~licensed~~ wholesaler of beer in that state who ~~may make application~~ **APPLIES** for the license; that prohibits ~~licensed~~ wholesalers of beer in that state from possessing or selling beer purchased in this state, unless the person from whom **THE BEER WAS** purchased has secured a license and paid a fee in that state, if the seller does not transport the beer into the state and does not sell the beer in the state; or that imposes any higher taxes or inspection fees upon beer manufactured in this state when transporting the beer into or selling the beer in that state than taxes or fees imposed upon beer manufactured and sold within that state. A rule promulgated under this subsection shall prohibit all licensees from purchasing, receiving, possessing, or selling any beer manufactured in any state designated in the rule. A rule promulgated under this subsection becomes effective as provided in section 47 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.247. Any licensee or person adversely affected by a rule promulgated under this subsection is entitled to review by leave to a court of competent jurisdiction regarding the question as to whether the commission acted illegally or in excess of its authority in making its finding under this subsection with respect to any state.

(8) ~~(6) An~~ **REGARDLESS OF WHETHER THE TAX WAS REMITTED TO THIS STATE BY THE ELIGIBLE BREWER OR A DESIGNATED WHOLESALER, AN** eligible brewer may claim a credit **OR REQUEST A REFUND, IN A MANNER AS DETERMINED BY THE COMMISSION,** against the tax levied under subsection (1) in the amount of $2.00 per barrel for the first 30,000 barrels. As used in this subsection, "eligible brewer" means a brewer, whether or not located in this state, or brewpub that manufactures not more than 50,000 barrels of beer during the tax year for which the credit is claimed. In determining the number of barrels for purposes of the credit, all brands and labels of a brewer shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 97th Legislature are enacted into law:

(a) Senate Bill No. 504.

(b) Senate Bill No. 505.

(c) Senate Bill No. 507.

(d) Senate Bill No. 650.

(e) House Bill No. 4277.

(f) House Bill No. 4709.

(g) House Bill No. 4710.

(h) House Bill No. 4711.