

# HOUSE BILL No. 5427

March 25, 2014, Introduced by Reps. Schor, Daley, Lauwers, Kowall, Graves, Bumstead, Potvin, Yonker, Denby, Pscholka, Haveman, Haines, Slavens, Haugh, LaFontaine, Pettalia, Rogers, Singh, Irwin, Lipton, Abed, Knezek, Darany, Roberts, Lamonte, Cochran, LaVoy, Geiss, Segal, Faris, Lane, Brinks, Kivela, Dianda, Driskell, Switalski, Hobbs, Dillon, Brown, Kosowski, Lund, Kelly, Victory, Pagel and MacGregor 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 109 and 537 (MCL 436.1109 and 436.1537),  
 section 109 as amended by 2010 PA 213 and section 537 as amended by  
 2013 PA 101.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 109. (1) "Manufacturer" means a person engaged in the  
 2 manufacture of alcoholic liquor, including, but not limited to, a  
 3 distiller, a rectifier, a wine maker, and a brewer.

4           (2) "Master distributor" means a wholesaler ~~who~~ **THAT** acts in  
 5 the same or similar capacity as a brewer, wine maker, outstate  
 6 seller of wine, or outstate seller of beer for a brand or brands of  
 7 beer or wine to other wholesalers on a regular basis in the normal  
 8 course of business.

1           (3) "Micro brewer" means a brewer that produces in total less  
2 than 30,000 barrels of beer per year and that may sell the beer  
3 produced to consumers at the licensed brewery premises for  
4 consumption on or off the licensed brewery premises **OR AT A**  
5 **FARMER'S MARKET PURSUANT TO A FARMER'S MARKET PERMIT**. In  
6 determining the 30,000-barrel threshold, all brands and labels of a  
7 brewer, whether brewed in this state or outside this state, shall  
8 be combined and all facilities for the production of beer that are  
9 owned or controlled by the same person shall be treated as a single  
10 facility.

11           (4) "Minor" means ~~a person~~ **AN INDIVIDUAL** less than 21 years of  
12 age.

13           (5) "Mixed spirit drink" means a drink produced and packaged  
14 or sold by a mixed spirit drink manufacturer or an outstate seller  
15 of mixed spirit drink ~~which~~ **THAT** contains 10% or less alcohol by  
16 volume consisting of ~~distilled~~ spirits mixed with nonalcoholic  
17 beverages or flavoring or coloring materials and ~~which~~ **THAT** may  
18 also contain 1 or more of the following:

- 19           (a) Water.  
20           (b) Fruit juices.  
21           (c) Fruit adjuncts.  
22           (d) Sugar.  
23           (e) Carbon dioxide.  
24           (f) Preservatives.

25           (6) "Mixed spirit drink manufacturer" means any person  
26 licensed under this act to manufacture mixed spirit drink in this  
27 state and to sell mixed spirit drink to a wholesaler. For purposes

1 of rules promulgated by the commission, a mixed spirit drink  
2 manufacturer shall be treated as a wine manufacturer but is subject  
3 to the rules applicable to spirits for ~~purposes of~~ manufacturing  
4 and labeling.

5 (7) "Mixed wine drink" means a drink or similar product  
6 marketed as a wine cooler ~~and containing~~ **THAT CONTAINS** less than 7%  
7 alcohol by volume, ~~consisting~~ **CONSISTS** of wine and plain,  
8 sparkling, or carbonated water, and ~~containing~~ **CONTAINS** any 1 or  
9 more of the following:

10 (a) Nonalcoholic beverages.

11 (b) Flavoring.

12 (c) Coloring materials.

13 (d) Fruit juices.

14 (e) Fruit adjuncts.

15 (f) Sugar.

16 (g) Carbon dioxide.

17 (h) Preservatives.

18 (8) "Outstate seller of beer" means a person licensed by the  
19 commission to sell beer ~~which~~ **THAT** has not been manufactured in  
20 this state to a wholesaler in this state in accordance with rules  
21 promulgated by the commission.

22 (9) "Outstate seller of mixed spirit drink" means a person  
23 licensed by the commission to sell mixed spirit drink ~~which~~ **THAT**  
24 has not been manufactured in this state to a wholesaler in this  
25 state in accordance with rules promulgated by the commission. For  
26 purposes of rules promulgated by the commission, an outstate seller  
27 of mixed spirit drink shall be treated as an outstate seller of

1 wine but is subject to the rules applicable to spirits for ~~purposes~~  
2 ~~of~~ manufacturing and labeling.

3 (10) "Outstate seller of wine" means a person licensed by the  
4 commission to sell wine ~~which~~ **THAT** has not been manufactured in  
5 this state to a wholesaler in this state in accordance with rules  
6 promulgated by the commission and to sell sacramental wine as  
7 provided in section 301.

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

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

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

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

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

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

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

27 (g) Specially designated distributors, where spirits and mixed

1 spirit drink may be sold for consumption off the premises only.

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

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

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

11 (i) Class C.

12 (ii) Tavern.

13 (iii) Class A hotel.

14 (iv) Class B hotel.

15 (k) Micro brewers and brewers, where beer produced by the  
16 micro brewer or brewer may be sold to a consumer for consumption on  
17 or off the brewery premises.

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

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

26 (n) Motorsports event licensee, where beer and wine may be  
27 sold for consumption on the premises during sanctioned motorsports

1 events only.

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

5 (p) Small distiller selling not more than 60,000 gallons of  
6 spirits manufactured by that licensee to the consumer at retail for  
7 consumption on or off the licensed premises in the manner provided  
8 for in section 534.

9 (q) Nonpublic continuing care retirement center license, where  
10 beer, wine, mixed spirit drink, mixed wine drink, and spirits may  
11 be sold at retail and served on the licensed premises to residents  
12 and bona fide guests accompanying the resident for consumption only  
13 on the licensed premises.

14 (r) A small wine maker or an out-of-state entity that is the  
15 substantial equivalent of a small wine maker, that holds a farmer's  
16 market permit, where wine may be sampled and sold at a farmer's  
17 market for consumption off the licensed premises.

18 **(S) A MICRO BREWER OR AN OUT-OF-STATE ENTITY THAT IS THE**  
19 **SUBSTANTIAL EQUIVALENT OF A MICRO BREWER, THAT HOLDS A FARMER'S**  
20 **MARKET PERMIT, WHERE BEER MAY BE SAMPLED AND SOLD AT A FARMER'S**  
21 **MARKET FOR CONSUMPTION OFF THE LICENSED PREMISES.**

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

27 (3) A wine maker, with the prior written approval of the

1 commission, may conduct wine tastings of wines made by that wine  
2 maker on the premises where the wine maker is licensed to  
3 manufacture wine. The wine maker may charge for the samples.

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

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

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

14 (c) The wine tasting locations are considered licensed  
15 premises, and the wine maker may include a charge for the samples.

16 (d) The wine tasting takes place during the legal hours for  
17 the sale of alcoholic liquor by the licensee.

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

20 (5) Notwithstanding section 1025(1), an outstate seller of  
21 beer, an outstate seller of wine, a wine maker, a brewer, a micro  
22 brewer, or a specially designated merchant, or an agent of any of  
23 those persons, who does not hold a license allowing the consumption  
24 of alcoholic liquor on the premises at the same licensed address,  
25 may conduct beer and wine tastings on the licensed premises of a  
26 specially designated merchant under the following conditions:

27 (a) A customer is not charged for the tasting of beer or wine.

1 (b) The tasting samples provided to a customer do not exceed 3  
2 servings at up to 3 ounces per serving of beer or 3 servings at up  
3 to 2 ounces of wine. A customer shall not be provided more than a  
4 total of 3 samples of beer or wine within a 24-hour period per  
5 licensed premises.

6 (c) The specially designated merchant, outstate seller of  
7 beer, outstate seller of wine, wine maker, micro brewer, or brewer  
8 has first obtained an annual beer and wine tasting permit approved  
9 by the commission.

10 (d) The commission is notified, in writing, a minimum of 10  
11 working days before the event, regarding the date, time, and  
12 location of the event.

13 (6) During the time a beer or wine tasting is conducted under  
14 subsection (5), a specially designated merchant, outstate seller of  
15 beer, outstate seller of wine, wine maker, micro brewer, or brewer,  
16 or its agent or employee who has successfully completed a server  
17 training program as provided for in section 906, shall devote full  
18 time to the beer and wine tasting activity and shall perform no  
19 other duties, including the sale of alcoholic liquor for  
20 consumption off the licensed premises. Beer and wine used for the  
21 tasting must come from the specially designated merchant's  
22 inventory, and all open bottles must be removed from the premises  
23 on the same business day or resealed and stored in a locked,  
24 separate storage compartment on the licensed premises when not  
25 being used for the activities allowed by the permit.

26 (7) A wholesaler shall not conduct or participate in beer and  
27 wine tastings allowed under a permit issued under subsection (5).

1 (8) A beer and wine tasting under subsection (5) may only be  
2 conducted during the legal hours for the sale of alcoholic liquor  
3 by the licensee.

4 (9) A brandy manufacturer or small distiller, with the prior  
5 written approval of the commission, may conduct tastings of brandy  
6 and spirits made by that brandy manufacturer or small distiller and  
7 may sell the brandy and spirits made by that brandy manufacturer or  
8 small distiller for consumption off the licensed premises at a  
9 location other than the licensed premises where the brandy  
10 manufacturer or small distiller is licensed to manufacture brandy  
11 or spirits under the following conditions:

12 (a) The premises upon which the brandy and spirits tastings  
13 occur conform to local and state sanitation requirements.

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

16 (c) The brandy and spirits tasting locations are considered  
17 licensed premises.

18 (d) The brandy and spirits tasting takes place during the  
19 legal hours for the sale of alcoholic liquor by the licensee.

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

22 (10) An eligible merchant may fill and sell growlers with beer  
23 for consumption off the premises under the following conditions:

24 (a) The premises where the filling of growlers takes place  
25 comply with the requirements for food service establishments under  
26 the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

27 (b) The growler is sealed and has a label affixed to it that

1 includes at least the brand name of the beer, the class of the  
2 beer, the net contents of the container, and the name of the  
3 retailer filling the growler.

4 (c) The eligible merchant or his or her agent or employee  
5 shall not fill a growler in advance of the sale.

6 (d) The eligible merchant or his or her agent or employee  
7 shall only utilize containers that have a capacity of 5 gallons or  
8 more to fill a growler.

9 (e) The beer to be dispensed has received a registration  
10 number from the commission and has been approved for sale by the  
11 commission.

12 (f) The eligible merchant complies with all applicable rules  
13 promulgated by the commission.

14 (11) As used in this section:

15 (a) "Eligible merchant" means a person that holds a specially  
16 designated merchant license and a class C, tavern, class A hotel,  
17 class B hotel, club, class G-1, or class G-2 license.

18 (b) "Growler" means any clean, refillable, resealable  
19 container that is exclusively intended, and used only, for the sale  
20 of beer for consumption off the premises and that has a liquid  
21 capacity that does not exceed 1 gallon.

22 Enacting section 1. This amendatory act does not take effect  
23 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5426 (request no.  
24 04418'13 \*) of the 97th Legislature is enacted into law.