

SUBSTITUTE FOR
HOUSE BILL NO. 4961

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
(MCL 436.1101 to 436.2303) by adding section 608.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 608. (1) The purpose of this section is to exercise this
2 state's authority under section 2 of Amendment XXI of the
3 Constitution of the United States to ensure an orderly market for
4 the distribution and sale of alcoholic beverages.

5 (2) It is the intent of this state to provide access to this
6 state's alcoholic beverage market to all licensed manufacturers of
7 alcoholic beverages by ensuring the independence of wholesalers to
8 distribute the brands of beer, wine, mixed spirit drinks, and mixed
9 wine drinks of multiple manufacturers free from the interference or



1 control of any 1 manufacturer.

2 (3) A manufacturer shall not do any of the following:

3 (a) Subject to subsection (5), require a wholesaler to provide
4 financial records directly or indirectly related to any of the
5 following:

6 (i) The wholesaler's distribution of the brands manufactured or
7 sold to the wholesaler by another manufacturer.

8 (ii) The compensation of a wholesaler's employees.

9 (iii) The wholesaler's business operations not directly related
10 to the distribution of the brands manufactured or sold to the
11 wholesaler by the manufacturer.

12 (b) Request a wholesaler to submit any of the wholesaler's
13 financial records as a requirement for renewing or retaining an
14 agreement.

15 (c) Require a wholesaler to spend a set amount of resources
16 marketing or promoting the brands manufactured or sold by the
17 manufacturer to the wholesaler that is based on the sales revenue
18 derived by the wholesaler's distribution of the brands manufactured
19 or sold to the wholesaler by the manufacturer.

20 (d) Intentionally ship beer, wine, mixed spirit drink, or
21 mixed wine drink to a wholesaler that exceeds the order placed by
22 the wholesaler or the forecast submitted by the wholesaler. For
23 purposes of this subdivision, a manufacturer is considered to have
24 intentionally taken an action described in this subdivision if the
25 manufacturer has invoiced or initiated an electronic funds transfer
26 for the amount shipped in excess.

27 (e) Prohibit a wholesaler from distributing the brands the
28 manufacturer manufactured or sold to the wholesaler in licensed
29 vehicles that have markings or logos of brands manufactured or sold



1 to the wholesaler by other manufacturers.

2 (f) Prohibit a wholesaler from distributing the brands
3 manufactured or sold to the wholesaler by another manufacturer on a
4 licensed vehicle that has the marking or logos of brands
5 manufactured or sold to the wholesaler by the manufacturer.

6 (g) Require a distributor to pay for the development,
7 installation, or use of reporting software owned or mandated by the
8 manufacturer. This subdivision does not prohibit a manufacturer
9 from requiring a distributor to maintain electronic information
10 systems that are compatible with systems and standards adopted by
11 the manufacturer.

12 (h) Require a wholesaler to pay a fee or penalty, of any
13 description, for noncompliance with a manufacturer requirement.
14 This subdivision does not prohibit a wholesaler from paying damages
15 to a supplier as provided in section 305 or 403.

16 (i) Set or attempt to set the rates of compensation for
17 wholesaler employees, including incentives.

18 (j) Prohibit a wholesaler from utilizing any wholesaler-owned,
19 leased, or controlled property or equipment to market, promote,
20 deliver, or distribute the brands manufactured or sold by another
21 manufacturer to the wholesaler.

22 (4) A manufacturer that violates this section may be ordered
23 to pay a civil fine as follows:

24 (a) For a first violation, a civil fine of not more than
25 \$1,000.00.

26 (b) For a second violation, a civil fine of not more than
27 \$2,000.00.

28 (c) For a third or subsequent violation, a civil fine of not
29 more than \$5,000.00.



1 (5) A manufacturer may request and a wholesaler may provide
2 financial records if any of the following circumstances apply:

3 (a) The wholesaler is attempting to purchase the
4 manufacturer's brands from another wholesaler.

5 (b) The wholesaler and manufacturer are entering into an
6 initial distribution agreement.

7 (c) The financial records are solely related to the brands
8 sold by the manufacturer to the wholesaler.

9 (6) As used in this section, "manufacturer" includes a brewer,
10 micro brewer, wine maker, small wine maker, mixed spirit drink
11 manufacturer, outstate seller of beer, outstate seller of wine, or
12 outstate seller of mixed spirit drink.

13 Enacting section 1. This amendatory act does not take effect
14 unless House Bill No. 4960 of the 100th Legislature is enacted into
15 law.

