

**SUBSTITUTE FOR
HOUSE BILL NO. 5343**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
(MCL 436.1101 to 436.2303) by adding section 203a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203a. (1) The legislature finds that the 3-tier system is
2 necessary to protect public health and safety of Michigan residents
3 and to promote competition and access to market for all alcoholic
4 beverage suppliers.

5 (2) The legislature further finds that vertical integration of
6 the alcoholic beverage industry is contrary to this state's
7 interest in protecting public health and safety of Michigan
8 residents and leads to anti-competitive behavior by beverage
9 alcohol suppliers.



1 (3) The legislature further finds that the 3-tier system and
2 the prohibitions under section 603 achieve the following public
3 policy goals:

4 (a) Promote consumer choice and product variety by providing a
5 platform that provides all suppliers access to Michigan's beverage
6 alcohol market.

7 (b) Encourage wholesalers to invest in their businesses and
8 all the brands they distribute, free from undue interference from
9 the suppliers of the brands they distribute.

10 (c) Create a transparent and accountable alcohol distribution
11 system that allows the commission to prevent the manufacture,
12 distribution, or sale of counterfeit, adulterated, unregistered,
13 recalled, or prohibited alcoholic beverages.

14 (4) This state has an interest in creating market access for
15 all sizes of suppliers and finds that micro brewers create
16 competition and variety in Michigan's beer market.

17 (5) For the purposes of creating access to Michigan's beer
18 market while also preserving the 3-tier system and limiting
19 vertical integration, a micro brewer or an out-of-state entity that
20 is the substantial equivalent of a micro brewer may sell and
21 deliver beer to a retailer in this state only if all of the
22 following conditions are met:

23 (a) The retailer is not located in a sales territory for which
24 the micro brewer or out-of-state entity that is the substantial
25 equivalent of a micro brewer has granted exclusive sales rights to
26 a wholesaler under sections 401 and 403 for the sale of any brand
27 or brands of beer produced by the micro brewer or out-of-state
28 entity that is the substantial equivalent of a micro brewer.

29 (b) The beer is sold and delivered by an employee of the micro



1 brewer or out-of-state entity that is the substantial equivalent of
2 a micro brewer, not an agent, and is transported and delivered
3 using a vehicle owned by the micro brewer or out-of-state entity
4 that is the substantial equivalent of a micro brewer.

5 (c) The micro brewer or out-of-state entity that is the
6 substantial equivalent of a micro brewer is in compliance with
7 applicable state and federal law and applicable regulatory
8 provisions of this act and rules promulgated by the commission
9 under this act, including, but not limited to, those requirements
10 related to each of the following:

11 (i) Employees that sell and deliver beer to retailers.

12 (ii) Vehicles used to deliver beer to retailers.

13 (iii) Price schedules and temporary price reductions.

14 (iv) 1976 IL 1, MCL 445.571 to 445.576.

15 (d) The micro brewer or out-of-state entity that is the
16 substantial equivalent of a micro brewer sells not more than 2,000
17 barrels of beer total per year. In determining the 2,000-barrel
18 threshold under this subdivision, all brands and labels of a micro
19 brewer or out-of-state equivalent of a micro brewer, whether sold
20 to a wholesaler or a retailer in this state or outside of this
21 state, must be combined. Sales to consumers on the licensed
22 premises of the micro brewer or out-of-state entity that is the
23 substantial equivalent of a micro brewer are not included in
24 determining the 2,000-barrel threshold under this subdivision.

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 100th Legislature are
27 enacted into law:

28 (a) House Bill No. 5341.

29 (b) House Bill No. 5342.



- 1 (c) House Bill No. 5344.
- 2 (d) House Bill No. 5345.
- 3 (e) House Bill No. 5346.
- 4 (f) House Bill No. 5347.
- 5 (g) House Bill No. 5348.
- 6 (h) House Bill No. 5349.
- 7 (i) House Bill No. 5350.
- 8 (j) House Bill No. 5351.
- 9 (k) House Bill No. 5352.
- 10 (l) House Bill No. 5353.
- 11 (m) House Bill No. 5354.
- 12 (n) House Bill No. 5355.
- 13 (o) House Bill No. 5400.

