

SENATE BILL NO. 934

May 21, 2020, Introduced by Senators SCHMIDT and IRWIN 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 203 and 537 (MCL 436.1203 and 436.1537),
section 203 as amended by 2016 PA 520 and section 537 as amended by
2018 PA 560.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203. (1) Except as provided in this section and section
2 301, a person shall not sell, deliver, or import alcoholic liquor,
3 including alcoholic liquor for personal use, in this state unless

the sale, delivery, or importation is made by the commission, the commission's authorized agent or distributor, an authorized distribution agent approved by order of the commission, a person licensed by the commission, or by prior written order of the commission.

(2) Notwithstanding R 436.1011(7)(b) and R 436.1527 of the Michigan Administrative Code and except as provided in subsections (3), (12), (13), (14), (15), and (16), a retailer shall not deliver alcoholic liquor to a consumer in this state at the home or business of the consumer or at any location away from the licensed premises of the retailer. The purpose of this subsection is to exercise this state's authority under section 2 of ~~amendment~~ **Amendment** XXI of the ~~constitution~~ **Constitution** of the United States, to maintain the inherent police powers to regulate the transportation and delivery of alcoholic liquor, and to promote a transparent system for the transportation and delivery of alcoholic liquor. The regulation described in this subsection is considered necessary for both of the following reasons:

(a) To promote the public health, safety, and welfare.

(b) To maintain strong, stable, and effective regulation by having beer and wine sold by retailers to consumers in this state by passing through the 3-tier distribution system established under this act.

(3) For purposes of subsection (1), a retailer that holds a specially designated merchant license located in this state may use a common carrier to deliver wine to a consumer in this state. A retailer that uses a common carrier to deliver wine to a consumer under this subsection shall comply with all of the following:

(a) Pay any applicable taxes to the commission and pay any

1 applicable taxes to the department of treasury as directed by the
2 department of treasury. On the request of the department of
3 treasury, a retailer shall furnish an affidavit to verify payment.

4 (b) Comply with all laws of this state, including, but not
5 limited to, the prohibition on sales to minors.

6 (c) Verify the age of the individual placing the order by
7 obtaining from him or her a copy of a photo identification issued
8 by this state, another state, or the federal government or by using
9 an identification verification service. The person receiving and
10 accepting the order on behalf of the retailer shall record the
11 name, address, date of birth, and telephone number of the
12 individual placing the order on the order form or other verifiable
13 record of a type and generated in a manner approved by the
14 commission and provide a duplicate to the commission.

15 (d) On request of the commission, make available to the
16 commission any document used to verify the age of the individual
17 ordering or receiving the wine from the retailer.

18 (e) Stamp, print, or label on the outside of the shipping
19 container that the package "Contains Alcohol. Must be delivered to
20 a person 21 years of age or older". The recipient at the time of
21 the delivery shall provide identification verifying his or her age
22 and sign for the delivery.

23 (f) Place a label on the top panel of the shipping container
24 containing the name and address of the individual placing the order
25 and the name of the designated recipient if different from the name
26 of the individual placing the order.

27 (4) For purposes of subsection (1), a direct shipper may sell,
28 deliver, or import wine to consumers in this state by means of any
29 mail order, internet, telephone, computer, device, or other

1 electronic means, or sell directly to a consumer on the winery
2 premises. A direct shipper that sells, delivers, or imports wine to
3 a consumer under this subsection shall comply with all of the
4 following:

5 (a) Hold a direct shipper license.

6 (b) Pay any applicable taxes to the commission and pay any
7 applicable taxes to the department of treasury as directed by the
8 department of treasury. On the request of the department of
9 treasury, a direct shipper shall furnish an affidavit to verify
10 payment.

11 (c) Comply with all laws of this state, including, but not
12 limited to, the prohibition on sales to minors.

13 (d) Verify the age of the individual placing the order by
14 obtaining from him or her a copy of a photo identification issued
15 by this state, another state, or the federal government or by using
16 an identification verification service. The person receiving and
17 accepting the order on behalf of the direct shipper shall record
18 the name, address, date of birth, and telephone number of the
19 individual placing the order on the order form or other verifiable
20 record of a type and generated in a manner approved by the
21 commission and provide a duplicate to the commission.

22 (e) On request of the commission, make available to the
23 commission any document used to verify the age of the individual
24 ordering or receiving the wine from the direct shipper.

25 (f) Stamp, print, or label on the outside of the shipping
26 container that the package "Contains Alcohol. Must be delivered to
27 a person 21 years of age or ~~older.~~**older**". The recipient at the
28 time of the delivery shall provide photo identification verifying
29 his or her age and sign for the delivery.

1 (g) Place a label on the top panel of the shipping container
2 containing the name and address of the individual placing the order
3 and the name of the designated recipient if different from the name
4 of the individual placing the order. The direct shipper must have
5 received a registration number of approval from the commission for
6 any wine imported into this state. However, the registration number
7 of approval from the commission is not required to be on the
8 invoice or on the label of the wine that the direct shipper sells,
9 delivers, or imports to a consumer in this state.

10 (h) Direct ship not more than 1,500 9-liter cases, or 13,500
11 liters in total, of wine in a calendar year to consumers in this
12 state. If a direct shipper, whether located in this state or
13 outside this state, owns, in whole or in part, or commonly manages
14 1 or more direct shippers, it shall not in combination ship to
15 consumers in this state more than 13,500 liters of wine in the
16 aggregate.

17 (i) Pay wine taxes quarterly and report to the commission
18 quarterly the total amount of wine, by type, brand, and price,
19 shipped to consumers in this state during the preceding calendar
20 quarter, and the order numbers.

21 (j) Authorize and allow the commission and the department of
22 treasury to conduct an audit of the direct shipper's records.

23 (k) Consent and submit to the jurisdiction of the commission,
24 the department of treasury, and the courts of this state concerning
25 enforcement of this section and any related laws, rules, and
26 regulations.

27 (5) For a delivery of wine through the use of a common carrier
28 under subsection (3), a person taking the order on behalf of the
29 retailer shall comply with subsection (3) (b) to (f). For a sale,

1 delivery, or importation of wine occurring by any means described
 2 in subsection (4), a person taking the order on behalf of the
 3 direct shipper shall comply with subsection (4)(c) to (g).

4 (6) A person that delivers the wine for a direct shipper **or**
 5 **that delivers the spirits for a spirits shipper** under this section
 6 shall verify that the individual accepting delivery is 21 years of
 7 age or older and is the individual who placed the order or the
 8 designated recipient, is an individual 21 years of age or older
 9 currently occupying or present at the address, or is an individual
 10 otherwise authorized through a rule promulgated under this act by
 11 the commission to receive alcoholic liquor under this section. If
 12 the delivery person, after a diligent inquiry, determines that the
 13 purchaser or designated recipient is not 21 years of age or older,
 14 the delivery person shall return the wine to the direct shipper **or**
 15 **return the spirits to the spirits shipper, as applicable.** A
 16 delivery person who returns wine to the direct shipper **or returns**
 17 **spirits to the spirits shipper, as applicable,** because the
 18 purchaser or designated recipient is not 21 years of age or older
 19 is not liable for any damages suffered by the purchaser, ~~or direct~~
 20 shipper, **or spirits shipper, as applicable.**

21 (7) ~~All~~ **Except as otherwise provided in this section, all**
 22 spirits for sale, use, storage, or distribution in this state shall
 23 originally be purchased by and imported into the state by the
 24 commission, or by prior written authority of the commission.

25 (8) This section does not apply to alcoholic liquor brought
 26 into this state for personal or household use in an amount
 27 permitted by federal law by an individual 21 years of age or older
 28 at the time of reentry into this state from ~~without~~ **outside** the
 29 territorial limits of the United States if the individual has been

1 outside the territorial limits of the United States for more than
2 48 hours and has not brought alcoholic liquor into the United
3 States during the preceding 30 days.

4 (9) An individual 21 years of age or older may do either of
5 the following in relation to alcoholic liquor that contains less
6 than 21% alcohol by volume:

7 (a) Personally transport from another state, once in a 24-hour
8 period, not more than 312 ounces of alcoholic liquor for that
9 individual's personal use, notwithstanding subsection (1).

10 (b) Ship or import from another state alcoholic liquor for
11 that individual's personal use if that personal importation is done
12 in compliance with subsection (1).

13 (10) A direct shipper shall not sell, deliver, or import wine
14 to a consumer unless it applies for and is granted a direct shipper
15 license from the commission. This subsection does not prohibit wine
16 tasting or the selling at retail by a wine maker of wines he or she
17 produced and bottled or wine manufactured for that wine maker by
18 another wine maker, if done in compliance with this act. Only the
19 following persons qualify for the issuance of a direct shipper
20 license:

21 (a) A wine maker.

22 (b) A wine producer and bottler located inside this country
23 but outside of this state holding both a federal basic permit
24 issued by the Alcohol and Tobacco Tax and Trade Bureau of the
25 United States Department of Treasury and a license to manufacture
26 wine in its state of domicile.

27 (11) An applicant for a direct shipper license shall submit an
28 application to the commission in a written or electronic format
29 provided by the commission and accompanied by an application and

1 initial license fee of \$100.00. The application must be accompanied
2 by a copy or other evidence of the existing federal basic permit or
3 license, or both, held by the applicant. The direct shipper may
4 renew its license annually by submission of a license renewal fee
5 of \$100.00 and a completed renewal application. The commission
6 shall use the fees collected under this section to conduct
7 investigations and audits of direct shippers. The failure to renew,
8 or the revocation or suspension of, the applicant's existing
9 Michigan license, federal basic permit, or license to manufacture
10 wine in its state of domicile is grounds for revocation or denial
11 of the direct shipper license. If a direct shipper is found guilty
12 of violating this act or a rule promulgated by the commission, the
13 commission shall notify both the alcoholic liquor control agency in
14 the direct shipper's state of domicile and the Alcohol and Tobacco
15 Tax and Trade Bureau of the United States Department of Treasury of
16 the violation.

17 (12) A retailer that holds a specially designated merchant
18 license, a brewpub, a micro brewer, or an out-of-state entity that
19 is the substantial equivalent of a brewpub or micro brewer may
20 deliver beer and wine to the home or other designated location of a
21 consumer in this state if all of the following conditions are met:

22 (a) The beer or wine, or both, is delivered by the retailer's,
23 brewpub's, or micro brewer's employee.

24 (b) The retailer, brewpub, or micro brewer or its employee who
25 delivers the beer or wine, or both, verifies that the individual
26 accepting delivery is at least 21 years of age.

27 (c) If the retailer, brewpub, or micro brewer or its employee
28 intends to provide service to consumers, the retailer, brewpub, or
29 micro brewer or its employee providing the service has received

1 alcohol server training through a server training program approved
2 by the commission.

3 (13) A retailer that holds a specially designated merchant
4 license may use a third party that provides delivery service to
5 municipalities in this state that are surrounded by water and
6 inaccessible by motor vehicle to deliver beer and wine to the home
7 or other designated location of that consumer if the delivery
8 service is approved by the commission and agrees to verify that the
9 individual accepting delivery of the beer and wine is at least 21
10 years of age.

11 (14) A retailer that holds a specially designated distributor
12 license may deliver spirits to the home or other designated
13 location of a consumer in this state if all of the following
14 conditions are met:

15 (a) The spirits are delivered by the retailer's employee.

16 (b) The retailer or its employee who delivers the spirits
17 verifies that the individual accepting delivery is at least 21
18 years of age.

19 (c) If the retailer or its employee intends to provide service
20 to consumers, the retailer or its employee providing the service
21 has received alcohol server training through a server training
22 program approved by the commission.

23 (15) A retailer that holds a specially designated merchant
24 license located in this state may use a third party facilitator
25 service by means of the internet or mobile application to
26 facilitate the sale of beer or wine to be delivered to the home or
27 designated location of a consumer as provided in subsection (12) or
28 this subsection, and a third party facilitator service may deliver
29 beer or wine to a consumer on behalf of a retailer that holds a

1 specially designated merchant license located in this state, if all
2 of the following conditions are met:

3 (a) If the third party facilitator service delivers beer or
4 wine under this subsection, the third party facilitator service
5 verifies that the individual accepting the delivery of the beer or
6 wine is at least 21 years of age.

7 (b) A manufacturer, warehouser, wholesaler, outstate seller of
8 beer, outstate seller of wine, supplier of spirits, or outstate
9 seller of mixed spirit ~~drinks~~**drink** does not have a direct or
10 indirect interest in the third party facilitator service.

11 (c) A manufacturer, warehouser, wholesaler, outstate seller of
12 beer, outstate seller of wine, supplier of spirits, or outstate
13 seller of mixed spirit ~~drinks~~**drink** does not aid or assist a third
14 party facilitator service by gift, loan of money or property of any
15 description, or other valuable thing as defined in section 609, and
16 a third party facilitator service does not accept the same.

17 (d) The retailer or consumer pays the fees associated with
18 deliveries provided for under this subsection.

19 (e) The third party facilitator service offers services for
20 all brands available at the retail location.

21 (16) A retailer that holds a specially designated distributor
22 license located in this state may use a third party facilitator
23 service by means of the internet or mobile application to
24 facilitate the sale of spirits to be delivered to the home or
25 designated location of a consumer as provided in subsection (14) or
26 this subsection, and a third party facilitator service may deliver
27 spirits to a consumer on behalf of a retailer that holds a
28 specially designated distributor license located in this state, if
29 all of the following conditions are met:

1 (a) If the third party facilitator service delivers spirits
2 under this subsection, the third party facilitator service verifies
3 that the individual accepting the delivery of the spirits is at
4 least 21 years of age.

5 (b) A manufacturer, warehouser, wholesaler, outstate seller of
6 beer, outstate seller of wine, supplier of spirits, or outstate
7 seller of mixed spirit ~~drinks~~**drink** does not have a direct or
8 indirect interest in the third party facilitator service.

9 (c) A manufacturer, warehouser, wholesaler, outstate seller of
10 beer, outstate seller of wine, supplier of spirits, or outstate
11 seller of mixed spirit ~~drinks~~**drink** does not aid or assist a third
12 party facilitator service by gift, loan of money or property of any
13 description, or other valuable thing as defined in section 609, and
14 a third party facilitator service does not accept the same.

15 (d) The retailer or consumer pays the fees associated with
16 deliveries provided for under this subsection.

17 (e) The third party facilitator service offers services for
18 all brands available at the retail location.

19 (17) A third party facilitator service shall not deliver beer,
20 wine, or spirits to a consumer under subsection (15) or (16), as
21 applicable, and shall not facilitate the sale of beer, wine, or
22 spirits under subsection (15) or (16), as applicable, unless it
23 applies for and is granted a third party facilitator service
24 license by the commission. The commission may charge a reasonable
25 application fee, initial license fee, and annual license renewal
26 fee. The commission shall establish a fee under this subsection by
27 written order.

28 (18) If a third party facilitator service used by a retailer
29 that holds a specially designated merchant or specially designated

1 distributor license under subsection (15) or (16), as applicable,
2 violates this section, the commission shall not treat the third
3 party facilitator service's violation as a violation by the
4 retailer.

5 (19) For purposes of subsection (1), a qualified micro brewer
6 or an out-of-state entity that is the substantial equivalent of a
7 qualified micro brewer may sell and deliver beer to a retailer in
8 this state if all of the following conditions are met:

9 (a) The retailer is not located in a sales territory for which
10 the qualified micro brewer has granted exclusive sales rights to a
11 wholesaler under sections 401 and 403 for the sale of any brand or
12 brands of beer produced by that micro brewer.

13 (b) The beer is sold and delivered by an employee of the
14 qualified micro brewer, not an agent, and is transported and
15 delivered using a vehicle owned by the qualified micro brewer.

16 (c) The qualified micro brewer is in compliance with
17 applicable state and federal law and applicable regulatory
18 provisions of this act and rules adopted by the commission under
19 this act including, but not limited to, those requirements related
20 to each of the following:

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

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

23 (iii) Price schedules and temporary price reductions.

24 (20) A common carrier that carries or transports alcoholic
25 liquor into this state to a person in this state shall submit
26 quarterly reports to the commission. A report required under this
27 subsection must include all of the following about each delivery to
28 a consumer in this state during the preceding calendar quarter:

29 (a) The name and business address of the person that ships

1 alcoholic liquor.

2 (b) The name and address of the recipient of alcoholic liquor.

3 (c) The weight of alcoholic liquor delivered to a consignee.

4 (d) The date of the delivery.

5 (21) A common carrier described in subsection (20) shall
6 maintain the books, records, and documents supporting a report
7 submitted under subsection (20) for 3 years unless the commission
8 notifies the common carrier in writing that the books, records, and
9 supporting documents may be destroyed. Within 30 days after the
10 commission's request, the common carrier shall make the books,
11 records, and documents available for inspection during normal
12 business hours. Within 30 days after a local law enforcement
13 agency's or local governmental unit's request, the common carrier
14 shall also make the books, records, and documents available for
15 inspection to a local law enforcement agency or local governmental
16 unit where the carrier resides or does business.

17 (22) A third party facilitator service that delivers beer,
18 wine, or spirits to a consumer under subsection (15) or (16), as
19 applicable, shall submit quarterly reports to the commission. A
20 report required under this subsection must include all of the
21 following about each delivery to a consumer in this state during
22 the preceding calendar quarter:

23 (a) The name and business address of the person that ships
24 beer, wine, or spirits.

25 (b) The name and address of the recipient of beer, wine, or
26 spirits.

27 (c) The weight of beer, wine, or spirits delivered to a
28 consignee.

29 (d) The date of the delivery.

1 (23) A third party facilitator service shall maintain the
2 books, records, and documents supporting a report submitted under
3 subsection (22) for 3 years unless the commission notifies the
4 third party facilitator service in writing that the books, records,
5 and supporting documents may be destroyed. Within 30 days after the
6 commission's request, the third party facilitator service shall
7 make the books, records, and documents available for inspection
8 during normal business hours. Within 30 days after a local law
9 enforcement agency's or local governmental unit's request, the
10 third party facilitator service shall also make the books, records,
11 and documents available for inspection to a local law enforcement
12 agency or local governmental unit where the third party facilitator
13 service resides or does business.

14 (24) A report submitted under subsection (20) or (22) is
15 subject to disclosure under the freedom of information act, 1976 PA
16 442, MCL 15.231 to 15.246.

17 **(25) For purposes of subsection (1), a small distiller or out-**
18 **of-state entity that is the substantial equivalent of a small**
19 **distiller may sell and deliver spirits to a retailer if all of the**
20 **following conditions are met:**

21 **(a) The small distiller or out-of-state entity that is the**
22 **substantial equivalent of a small distiller sells and delivers,**
23 **under this subsection, not more than 1,500 9-liter cases, or 13,500**
24 **liters in total, of spirits in a calendar year to retailers.**

25 **(b) The spirits are sold and delivered by an employee of the**
26 **small distiller or out-of-state entity that is the substantial**
27 **equivalent of a small distiller, not an agent, and are transported**
28 **and delivered using a vehicle owned by the small distiller or out-**
29 **of-state entity that is the substantial equivalent of a small**

1 distiller.

2 (c) The small distiller or out-of-state entity that is the
3 substantial equivalent of a small distiller is in compliance with
4 applicable state and federal law and applicable regulatory
5 provisions of this act and rules adopted by the commission under
6 this act including, but not limited to, those requirements related
7 to each of the following:

8 (i) Employees that sell and deliver spirits to retailers.

9 (ii) Vehicles used to deliver spirits to retailers.

10 (iii) Uniform prices for the sale of alcoholic liquor
11 established by the commission under section 233.

12 (26) For purposes of subsection (1), a spirits shipper may
13 sell, deliver, or import spirits to consumers in this state by
14 means of any mail order, internet, telephone, computer, device, or
15 other electronic means. A spirits shipper that sells, delivers, or
16 imports spirits to a consumer under this subsection shall comply
17 with all of the following:

18 (a) Hold a spirits shipper license.

19 (b) Pay any applicable taxes to the commission and pay any
20 applicable taxes to the department of treasury as directed by the
21 department of treasury. On the request of the department of
22 treasury, a spirits shipper shall furnish an affidavit to verify
23 payment.

24 (c) Comply with all laws of this state, including, but not
25 limited to, the prohibition on sales to minors.

26 (d) Verify the age of the individual placing the order by
27 obtaining from him or her a copy of a photo identification issued
28 by this state, another state, or the federal government or by using
29 an identification verification service. The person receiving and

1 accepting the order on behalf of the spirits shipper shall record
2 the name, address, date of birth, and telephone number of the
3 individual placing the order on the order form or other verifiable
4 record of a type and generated in a manner approved by the
5 commission and provide a duplicate to the commission.

6 (e) On request of the commission, make available to the
7 commission any document used to verify the age of the individual
8 ordering or receiving the spirits from the spirits shipper.

9 (f) Stamp, print, or label on the outside of the shipping
10 container that the package "Contains Alcohol. Must be delivered to
11 a person 21 years of age or older". The recipient at the time of
12 the delivery shall provide photo identification verifying his or
13 her age and sign for the delivery.

14 (g) Place a label on the top panel of the shipping container
15 containing the name and address of the individual placing the order
16 and the name of the designated recipient if different from the name
17 of the individual placing the order. The spirits shipper must have
18 received a registration number of approval from the commission for
19 any spirits imported into this state. However, the registration
20 number of approval from the commission is not required to be on the
21 invoice or on the label of the spirits that the spirits shipper
22 sells, delivers, or imports to a consumer in this state.

23 (h) Direct ship not more than 1,500 9-liter cases, or 13,500
24 liters in total, of spirits in a calendar year to consumers in this
25 state. If a spirits shipper, whether located in this state or
26 outside this state, owns, in whole or in part, or commonly manages
27 1 or more spirits shippers, it shall not in combination ship to
28 consumers in this state more than 13,500 liters of spirits in the
29 aggregate.

1 (i) Authorize and allow the commission and the department of
2 treasury to conduct an audit of the spirits shipper's records.

3 (j) Consent and submit to the jurisdiction of the commission,
4 the department of treasury, and the courts of this state concerning
5 enforcement of this section and any related laws, rules, and
6 regulations.

7 (27) A spirits shipper shall not sell, deliver, or import
8 spirits to a consumer unless it applies for and is granted a
9 spirits shipper license from the commission. This subsection does
10 not prohibit spirits tasting or the selling at retail by a
11 distiller of spirits he or she produced and bottled or spirits
12 manufactured for that distiller by another distiller, if done in
13 compliance with this act. Only the following persons qualify for
14 the issuance of a spirits shipper license:

15 (a) A small distiller.

16 (b) An out-of-state entity that is the substantial equivalent
17 of a small distiller.

18 (28) An applicant for a spirits shipper license shall submit
19 an application to the commission in a written or electronic format
20 provided by the commission and accompanied by an application and
21 initial license fee of \$100.00. The application must be accompanied
22 by a copy or other evidence of the existing federal basic permit or
23 license, or both, held by the applicant. The spirits shipper may
24 renew its license annually by submission of a license renewal fee
25 of \$100.00 and a completed renewal application. The commission
26 shall use the fees collected under this section to conduct
27 investigations and audits of spirits shippers. The failure to
28 renew, or the revocation or suspension of, the applicant's existing
29 Michigan license, federal basic permit, or license to manufacture

1 spirits in its state of domicile is grounds for revocation or
2 denial of the spirits shipper license. If a spirits shipper is
3 found guilty of violating this act or a rule promulgated by the
4 commission, the commission shall notify both the alcoholic liquor
5 control agency in the spirits shipper's state of domicile and the
6 Alcohol and Tobacco Tax and Trade Bureau of the United States
7 Department of Treasury of the violation.

8 (29) ~~(25)~~—As used in this section:

9 (a) "Common carrier" means a company that transports goods, on
10 reasonable request, on regular routes and at set rates.

11 (b) "Computer" means any connected, directly interoperable or
12 interactive device, equipment, or facility that uses a computer
13 program or other instructions to perform specific operations
14 including logical, arithmetic, or memory functions with or on
15 computer data or a computer program and that can store, retrieve,
16 alter, or communicate the results of the operations to a person,
17 computer program, computer, computer system, or computer network.

18 (c) "Computer network" means the interconnection of hardwire
19 or wireless communication lines with a computer through remote
20 terminals, or a complex consisting of 2 or more interconnected
21 computers.

22 (d) "Computer program" means a series of internal or external
23 instructions communicated in a form acceptable to a computer that
24 directs the functioning of a computer, computer system, or computer
25 network in a manner designed to provide or produce products or
26 results from the computer, computer system, or computer network.

27 (e) "Computer system" means a set of related, connected or
28 unconnected, computer equipment, devices, software, or hardware.

29 (f) "Consumer" means an individual who purchases beer, wine,

1 or spirits for personal consumption and not for resale.

2 (g) "Device" includes, but is not limited to, an electronic,
3 magnetic, electrochemical, biochemical, hydraulic, optical, or
4 organic object that performs input, output, or storage functions by
5 the manipulation of electronic, magnetic, or other impulses.

6 (h) "Diligent inquiry" means a diligent good faith effort to
7 determine the age of an individual, that includes at least an
8 examination of an official Michigan operator's or chauffeur's
9 license, an official Michigan personal identification card, or any
10 other bona fide picture identification that establishes the
11 identity and age of the individual.

12 (i) "Direct shipper" means a person who sells, delivers, or
13 imports wine, to consumers in this state, that he or she produces
14 and bottles or wine that is manufactured by a wine maker for
15 another wine maker and that is transacted or caused to be
16 transacted through the use of any mail order, internet, telephone,
17 computer, device, or other electronic means, or sells directly to
18 consumers on the winery premises.

19 (j) "Identification verification service" means an internet-
20 based service approved by the commission specializing in age and
21 identity verification.

22 (k) "Mobile application" means a specialized software program
23 downloaded onto a wireless communication device.

24 (l) "Qualified micro brewer" means a micro brewer that produces
25 in total less than 1,000 barrels of beer per year. In determining
26 the 1,000-barrel threshold, all brands and labels of a micro
27 brewer, whether brewed in this state or outside this state, must be
28 combined.

29 (m) "Spirits shipper" means a person who sells, delivers, or

1 imports spirits, to consumers in this state, that he or she
 2 produces and bottles, or spirits that are manufactured by a
 3 distiller for another distiller and that are transacted or caused
 4 to be transacted through the use of any mail order, internet,
 5 telephone, computer, device, or other electronic means.

6 (n) ~~(m)~~—"Third party facilitator service" means a person
 7 licensed by the commission to do any of the following:

8 (i) Facilitate the sale of beer or wine to a consumer as
 9 provided in subsection (15) on behalf of a retailer that holds a
 10 specially designated merchant license located in this state.

11 (ii) Facilitate the sale of spirits to a consumer as provided
 12 in subsection (16) on behalf of a retailer that holds a specially
 13 designated distributor license located in this state.

14 (iii) Deliver beer or wine to a consumer as provided in
 15 subsection (15) on behalf of a retailer that holds a specially
 16 designated merchant license located in this state.

17 (iv) Deliver spirits to a consumer as provided in subsection
 18 (16) on behalf of a retailer that holds a specially designated
 19 distributor license located in this state.

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

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

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

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

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

3 (e) **Spirit shippers, where spirits may be sold and shipped**
4 **directly to the consumer.**

5 (f) ~~(e)~~—Hotels of class A, where beer and wine may be sold for
6 consumption on the premises and in the rooms of bona fide
7 registered guests. Hotels of class B where beer, wine, mixed spirit
8 drink, and spirits may be sold for consumption on the premises and
9 in the rooms of bona fide registered guests.

10 (g) ~~(f)~~—Specially designated merchants, where beer and wine
11 may be sold for consumption off the premises only.

12 (h) ~~(g)~~—Specially designated distributors, where spirits and
13 mixed spirit drink may be sold for consumption off the premises
14 only.

15 (i) ~~(h)~~—Special licensee, where beer and wine or beer, wine,
16 mixed spirit drink, and spirits may be sold for consumption on the
17 premises only.

18 (j) ~~(i)~~—Dining cars or other railroad or Pullman cars,
19 watercraft, or aircraft, where alcoholic liquor may be sold for
20 consumption on the premises only, subject to rules promulgated by
21 the commission.

22 (k) ~~(j)~~—Brewpubs, where beer manufactured on the premises by
23 the licensee may be sold for consumption on or off the premises by
24 any of the following licensees:

25 (i) Class C.

26 (ii) Tavern.

27 (iii) Class A hotel.

28 (iv) Class B hotel.

29 (l) ~~(k)~~—Micro brewers and brewers, where beer manufactured by

1 the micro brewer or brewer may be sold in an approved tasting room
 2 under section 536 to a consumer for consumption on or off the
 3 manufacturing premises.

4 (m) ~~(l)~~—Class G-1 licensee, where beer, wine, mixed spirit
 5 drink, and spirits may be sold for consumption on the premises only
 6 to members required to pay an annual membership fee and consumption
 7 is limited to these members and their bona fide guests.

8 (n) ~~(m)~~—Class G-2 licensee, where beer and wine may be sold
 9 for consumption on the premises only to members required to pay an
 10 annual membership fee and consumption is limited to these members
 11 and their bona fide guests.

12 (o) ~~(n)~~—Motorsports event licensee, where beer and wine may be
 13 sold for consumption on the premises during sanctioned motorsports
 14 events only.

15 (p) ~~(o)~~—Wine maker or small wine maker, where wine
 16 manufactured by the wine maker or small wine maker may be sold by
 17 direct shipment as provided in section 203, at retail for
 18 consumption on or off the premises in an approved tasting room
 19 under section 536, or as otherwise provided for in this act.

20 (q) ~~(p)~~—Small wine maker, where wine bottled by the small wine
 21 maker may be sold by direct shipment as provided in section 203, at
 22 retail for consumption on or off the premises in an approved
 23 tasting room under section 536, or as otherwise provided for in
 24 this act.

25 (r) ~~(q)~~—Wine maker or small wine maker, where shiners ~~as that~~
 26 ~~term is defined in section 111~~ may be sold by direct shipment as
 27 provided in section 203, at retail for consumption on or off the
 28 premises in an approved tasting room under section 536, or as
 29 otherwise provided for in this act.

1 **(s)** ~~(r)~~ Distiller or small distiller, where spirits
 2 manufactured by the distiller or small distiller may be sold to the
 3 consumer at retail for consumption on or off the premises in an
 4 approved tasting room under section 536.

5 **(t)** ~~(s)~~ Nonpublic continuing care retirement center license,
 6 where beer, wine, mixed spirit drink, mixed wine drink, and spirits
 7 may be sold at retail and served on the licensed premises to
 8 residents and bona fide guests accompanying the resident for
 9 consumption only on the licensed premises.

10 **(u)** ~~(t)~~ A small wine maker or an out-of-state entity that is
 11 the substantial equivalent of a small wine maker, that holds a
 12 farmer's market permit, where wine manufactured or bottled by the
 13 small wine maker and shiners ~~as that term is defined in section 111~~
 14 may be sampled and sold at a farmers' market for consumption off
 15 the licensed premises.

16 **(v)** ~~(u)~~ A brandy manufacturer where brandy manufactured by the
 17 brandy manufacturer may be sold at retail for consumption on or off
 18 the premises in an approved tasting room under section 536 located
 19 on the manufacturing premises of the brandy manufacturer.

20 **(w)** ~~(v)~~ A mixed spirit drink manufacturer where mixed spirit
 21 drink manufactured by the mixed spirit drink manufacturer may be
 22 sold at retail for consumption on or off the premises in an
 23 approved tasting room under section 536.

24 (2) Notwithstanding section 1025(1), an outstate seller of
 25 beer, an outstate seller of wine, a wine maker, a brewer, a micro
 26 brewer, or a specially designated merchant, or an agent of any of
 27 those persons, that does not hold a license allowing the
 28 consumption of alcoholic liquor on the premises at the same
 29 licensed address, may conduct beer and wine tastings on the

1 licensed premises of a specially designated merchant under the
2 following conditions:

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

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

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

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

16 (3) While a beer or wine tasting is conducted under subsection
17 (2), a specially designated merchant, outstate seller of beer,
18 outstate seller of wine, wine maker, micro brewer, or brewer, or
19 its agent or employee who has successfully completed a server
20 training program as provided for in section 906, shall devote full
21 time to the beer and wine tasting activity and shall not perform
22 other duties, including the sale of alcoholic liquor for
23 consumption off the licensed premises. Beer and wine used for the
24 tasting must come from the specially designated merchant's
25 inventory, and all open bottles must be removed from the premises
26 on the same business day or resealed and stored in a locked,
27 separate storage compartment on the licensed premises when not
28 being used for the activities allowed by the permit.

29 (4) A wholesaler shall not conduct or participate in beer and

1 wine tastings allowed under a permit issued under subsection (2).

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

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

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

10 (b) The growler is sealed and has a label affixed to it that
11 includes at least the brand name of the beer, the class of the
12 beer, the net contents of the container, and the name of the
13 retailer filling the growler. The label conditions described in
14 this subdivision do not apply to either of the following:

15 (i) A brewpub described in subsection ~~(1)(j)~~, **(1)(k)**, but only
16 as to beer that the brewpub produces.

17 (ii) A micro brewer or brewer described in subsection
18 ~~(1)(k)~~, **(1)(l)**.

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

21 (d) The eligible merchant or his or her agent or employee
22 shall only use containers that have a capacity of 5 gallons or more
23 to fill a growler.

24 (e) The beer to be dispensed has received a registration
25 number from the commission and has been approved for sale by the
26 commission.

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

29 (7) A wine maker, brandy manufacturer, small distiller, micro

1 brewer, brewer, or brewpub shall provide water, and may, in the
2 sole discretion of the wine maker, brandy manufacturer, small
3 distiller, micro brewer, brewer, or brewpub, sell or provide other
4 nonalcoholic beverages, for consumption on or off the premises
5 where the wine maker, brandy manufacturer, small distiller, micro
6 brewer, brewer, or brewpub is licensed.

7 (8) As used in this section:

8 (a) "Eligible merchant" means a person that holds a specially
9 designated merchant license.

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