

Act No. 135
Public Acts of 2022
Approved by the Governor
July 5, 2022
Filed with the Secretary of State
July 7, 2022
EFFECTIVE DATE: October 5, 2022

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. Outman, Rendon, Eisen, Hertel, Steenland, Liberati, Coleman, Garza, Witwer, Hoitenga, Beeler, Bellino, Bezotte, Beson, Martin, Ellison, Peterson, Hood, O'Malley, Paquette, Wakeman, Wendzel, Filler, Damoose, Whitsett, Brann, Jones and Yancey

ENROLLED HOUSE BILL No. 4842

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 233 (MCL 436.1233), as amended by 2020 PA 126.

The People of the State of Michigan enact:

Sec. 233. (1) The commission shall establish uniform prices for the sale of alcoholic liquor by specially designated distributors. Except as otherwise provided in this section, the prices must return a gross profit to the commission of not less than 51% and not greater than 65%. If alcoholic liquor purchased by the commission has not met sales standards established by the commission for 6 months, the commission may sell the alcoholic liquor at a price to be approved by the state administrative board.

(2) Notwithstanding subsection (1), the commission may establish by rule prices for the sale of alcoholic liquor to hospitals, charitable institutions, and military establishments located in this state.

(3) Except as otherwise provided in this subsection, specially designated distributors and on-premises licensees are entitled to a 17% discount from the uniform prices described in subsection (1) on alcoholic liquor purchased from this state. Beginning July 1, 2020 until July 1, 2021, on-premises licensees are entitled to a 23% discount from the uniform prices described in subsection (1) on alcoholic liquor purchased from this state.

(4) Beginning on the effective date of the amendatory act that added this subsection, and July 1 of each year after that date, a small distiller or an out-of-state entity that is the substantial equivalent of a small distiller may file an application with the department of agriculture and rural development to be certified as a qualified small distiller. An application under this subsection must be on a form prescribed and furnished by the department of

agriculture and rural development. The department of agriculture and rural development may charge a reasonable certification fee. The certification fee received by the department of agriculture and rural development under this subsection must be deposited in the Michigan craft beverage council fund created under section 303a.

(5) Beginning January 1, 2023, the price for each bottle of qualified distilled spirits manufactured by a qualified small distiller must return a gross profit to the commission of 32.5%.

(6) The department of agriculture and rural development shall certify that an applicant under subsection (4) is a qualified small distiller if the department of agriculture and rural development determines that the base distillate of the small distiller or the out-of-state entity that is the substantial equivalent of a small distiller is at least 40% distilled from qualified grain grown and harvested in this state.

(7) Not later than November 1, 2022, and each November 1 thereafter, the department of agriculture and rural development shall submit a report to the commission. A report under this subsection must include the name of each qualified small distiller certified under subsection (6).

(8) A qualified small distiller certificate expires on July 1 following the date of issuance.

(9) A small distiller or an out-of-state entity that is the substantial equivalent of a small distiller that knowingly supplies false information to the department of agriculture and rural development or the commission under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$3,000.00, or both. A small distiller or an out-of-state entity that is the substantial equivalent of a small distiller that knowingly supplies false information as described in this subsection shall pay the commission the difference between the gross profit the commission would have received under subsection (1) if the small distiller or the out-of-state entity that is the substantial equivalent of a small distiller was not a qualified small distiller, as determined by the commission.

(10) A qualified small distiller shall keep a complete and accurate set of records and accounts of all transactions pertaining to the operation of its distillery, including, but not limited to, records and accounts of all qualified grain received in or withdrawn from the distillery, all acknowledgment forms and Michigan certification of origination statements in the qualified small distiller's possession, copies of all contracts, and acknowledgment forms returned to and settled by the qualified small distiller. The department of agriculture and rural development and the commission may examine the records and accounts pertaining to the qualified small distiller's qualified grain handling business at any time during normal business hours.

(11) As used in this section:

(a) "Acknowledgment form" means a scale weight ticket, a load slip, or any other evidence of deposit issued by a small distiller, an out-of-state entity that is the substantial equivalent of a small distiller, or the authorized representative of a small distiller or out-of-state entity that is the substantial equivalent of a small distiller to a depositor that identifies the qualified grain being transferred from possession of the depositor to the possession of the small distiller or the out-of-state entity that is the substantial equivalent of a small distiller.

(b) "Depositor" means either of the following:

(i) A person that delivers qualified grain to a small distiller or an out-of-state entity that is the substantial equivalent of a small distiller for storage, processing, shipment, or sale and that has title to qualified grain at the time of delivery.

(ii) A person that owns or that is the legal holder of an acknowledgment form issued by a depositor for qualified grain.

(c) "Michigan certification of origination statement" means a signed statement from a depositor or producer on an acknowledgement form that deposited qualified grain was grown and harvested in this state.

(d) "Qualified distilled spirits" means distilled spirits manufactured by a qualified small distiller of which at least 40% of the base distillate is distilled from qualified grain grown and harvested in this state.

(e) "Qualified grain" means any of the following:

(i) Dry barley.

(ii) Malted barley.

(iii) Oats.

(iv) A small grain.

(v) A cereal grain.

(vi) Potato.

(vii) Corn.

(viii) Fruit.

(ix) Sugar beets.

(x) Honey.

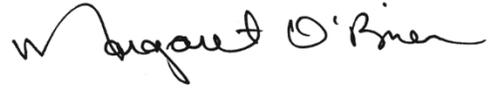
(f) "Qualified small distiller" means a small distiller or an out-of-state entity that is the substantial equivalent of a small distiller certified by the department of agriculture and rural development under this section as having at least 40% of the base distillate used to manufacture spirits that are distilled from qualified grain grown and harvested in this state. The base distillates may be distilled by the small distiller or the out-of-state entity that is the substantial equivalent of a small distiller or may be distillates purchased or received and further manufactured in compliance with section 204a.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor