

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)
Act 58 of 1998

436.1608 Distribution and sale of alcoholic beverages; prohibited conduct by manufacturers; violation; civil fine; financial records.

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

(2) It is the intent of this state to provide access to this state's alcoholic beverage market to all licensed manufacturers of alcoholic beverages by ensuring the independence of wholesalers to distribute the brands of beer, wine, mixed spirit drinks, and mixed wine drinks of multiple manufacturers free from the interference or control of any 1 manufacturer.

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

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

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

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

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

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

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

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

(e) Prohibit a wholesaler from distributing the brands the manufacturer manufactured or sold to the wholesaler in licensed vehicles that have markings or logos of brands manufactured or sold to the wholesaler by other manufacturers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: Add. 2019, Act 127, Imd. Eff. Nov. 21, 2019.