

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

***** 436.1109.amended THIS AMENDED SECTION IS EFFECTIVE AUGUST 23, 2021 *****

436.1109.amended Definitions; M to O.

Sec. 109. (1) "Manufacture" means to distill, rectify, ferment, brew, make, produce, filter, mix, concoct, process, or blend an alcoholic liquor or to complete a portion of 1 or more of these activities. Manufacture does not include bottling or the mixing or other preparation of drinks for serving by those persons authorized under this act to serve alcoholic liquor for consumption on the licensed premises. In addition, manufacture does not include attaching a label to a shiner. All containers or packages of alcoholic liquor must state clearly the name, city, and state of the bottler.

(2) "Manufacturer" means, except as provided in section 603, a person that manufactures alcoholic liquor, whether located in or out of this state, including, but not limited to, a distiller, a small distiller, a rectifier, a mixed spirit drink manufacturer, a mixed wine drink manufacturer, a wine maker, a small wine maker, a brewer, and a micro brewer.

(3) "Manufacturing premises" means the licensed premises of a manufacturer where the manufacturer manufactures alcoholic liquor or, for a small wine maker only, bottles wine.

(4) "Master distributor" means, except as provided in section 307, a wholesaler that acts in the same or similar capacity as a brewer, wine maker, mixed spirit drink manufacturer, outstate seller of wine, outstate seller of beer, or outstate seller of mixed spirit drink for a brand or brands of beer, wine, or mixed spirit drink to other wholesalers on a regular basis in the normal course of business.

(5) "Micro brewer" means a brewer that manufactures in total less than 60,000 barrels of beer per year and that may sell the beer manufactured to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers as provided in section 203a. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether manufactured in this state or outside this state, must be combined and all facilities for the manufacturing of beer that are owned or controlled by the same person must be treated as a single facility.

(6) "Minor" means an individual less than 21 years of age.

(7) "Mixed spirit drink" means a drink manufactured and packaged or sold by a mixed spirit drink manufacturer or sold by an outstate seller of mixed spirit drink to a wholesaler that meets either of the following conditions:

(a) Contains 10% or less alcohol by volume consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials and that may also contain 1 or more of the following:

- (i) Water.
- (ii) Fruit juices.
- (iii) Fruit adjuncts.
- (iv) Sugar.
- (v) Carbon dioxide.
- (vi) Preservatives.

(b) Meets both of the following conditions:

(i) Contains more than 10% and not more than 13.5% alcohol by volume consisting of spirits mixed with nonalcoholic beverages and flavoring or coloring materials and that may also contain 1 or more ingredients listed in subdivision (a).

(ii) Is filled in a metal container that meets all of the following conditions:

(A) The container has the general shape and design of a can that has a liquid capacity that does not exceed 24 ounces.

(B) The container has a closure that is an integral part of the container.

(C) The container cannot be readily closed after opening.

(8) "Mixed spirit drink manufacturer" means a person licensed under this act to manufacture mixed spirit drink in this state and to sell mixed spirit drink at retail in accordance with section 537, or to a wholesaler, or to a retailer as provided in section 203b. For purposes of rules promulgated by the commission, a mixed spirit drink manufacturer is treated as a wine manufacturer but is subject to the rules applicable to spirits for manufacturing and labeling.

(9) "Mixed wine drink" means a drink or similar product marketed as a wine cooler that contains less than 7% alcohol by volume, consists of wine and plain, sparkling, or carbonated water, and contains any 1 or more of the following:

(a) Nonalcoholic beverages.

- (b) Flavoring.
- (c) Coloring materials.
- (d) Fruit juices.
- (e) Fruit adjuncts.
- (f) Sugar.
- (g) Carbon dioxide.
- (h) Preservatives.

(10) "Outstate self-distributor" means a person located in another state that is the substantial equivalent of a micro brewer, small distiller, mixed spirit drink manufacturer, or small wine maker licensed by the commission to sell alcoholic liquor that the person manufactured outside this state directly to a retailer under sections 203(20), 203a, and 203b in accordance with rules promulgated by the commission. An applicant for an outstate self-distributor license must submit a copy of its federal basic permit or brewer's notice and its manufacturing license from the state of issuance.

(11) "Outstate seller of beer" means a person licensed by the commission to sell beer that has not been manufactured in this state, or beer that the person purchased from a limited production manufacturer, to a wholesaler in this state in accordance with rules promulgated by the commission. As used in this subsection, "limited production manufacturer" means a person licensed under section 504.

(12) "Outstate seller of mixed spirit drink" means a person licensed by the commission to sell mixed spirit drink that has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission. For purposes of rules promulgated by the commission, an outstate seller of mixed spirit drink is treated as an outstate seller of wine but is subject to the rules applicable to spirits for manufacturing and labeling.

(13) "Outstate seller of wine" means a person licensed by the commission to sell wine that has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission and to sell sacramental wine as provided in section 301.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010;—Am. 2014, Act 42, Imd. Eff. Mar. 25, 2014;—Am. 2018, Act 409, Imd. Eff. Dec. 19, 2018;—Am. 2020, Act 80, Imd. Eff. Apr. 2, 2020;—Am. 2020, Act 120, Imd. Eff. July 1, 2020;—Am. 2021, Act 19, Eff. Aug. 23, 2021.

Constitutionality: In *Granholm v Heald*, 544 US 460 (2005), the United States Supreme Court held that Michigan laws regulating direct shipment of alcohol to in-state consumers discriminated against interstate commerce in violation of clause 3 of section 8 of article 1 of the United States Constitution, and that the powers granted to states under the 21st Amendment to the United States Constitution do not authorize violation of other constitutional provisions.