

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 505

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 609 (MCL 436.1609), as amended by 2010 PA 175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 609. (1) Except as provided in **THIS SECTION AND** sections
2 605 and 1029, a manufacturer, mixed spirit drink manufacturer,
3 warehouser, wholesaler, outstate seller of beer, outstate seller of
4 wine, outstate seller of mixed spirit drink, or vendor of spirits
5 shall not aid or assist any other vendor by gift, loan of money or
6 property of any description, or other valuable thing, or by the
7 giving of premiums or rebates, and a vendor shall not accept the
8 same. However, if manufacturers of spirits reduce the price of
9 their products, the manufacturer of spirits may refund the amount

1 of the price reductions to specially designated distributor
2 licensees in a manner prescribed by the commission.

3 (2) A MANUFACTURER, MIXED SPIRIT DRINK MANUFACTURER,
4 WAREHOUSER, WHOLESALER, OUTSTATE SELLER OF BEER, OUTSTATE SELLER OF
5 WINE, OUTSTATE SELLER OF MIXED SPIRIT DRINK, OR VENDOR OF SPIRITS
6 MAY, IN A MANNER CONSISTENT WITH RULES, REGULATIONS, AND ORDERS
7 MADE BY THE COMMISSION, PROVIDE ANOTHER LICENSEE WITH ADVERTISING
8 ITEMS THAT PROMOTE THE BRANDS AND PRICES OF ALCOHOLIC LIQUOR
9 PRODUCED BY THE MANUFACTURER; SOLD BY THE OUTSTATE SELLER OF BEER,
10 THE OUTSTATE SELLER OF WINE, OR THE OUTSTATE SELLER OF MIXED SPIRIT
11 DRINK; OR DISTRIBUTED BY THE WHOLESALER. EXCEPT AS OTHERWISE
12 PROVIDED UNDER SUBSECTION (3) OR (4), THE ADVERTISING ITEMS SHALL
13 NOT HAVE ANY USE OR VALUE BEYOND THE ACTUAL ADVERTISING OF BRANDS
14 AND PRICES OF THE ALCOHOLIC LIQUOR.

15 (3) EXCEPT FOR THOSE ORDERS THAT WERE APPROVED FOR SPECIFIC
16 SPONSORSHIPS OR FESTIVALS, A MANUFACTURER, MIXED SPIRIT DRINK
17 MANUFACTURER, WAREHOUSER, WHOLESALER, OUTSTATE SELLER OF BEER,
18 OUTSTATE SELLER OF WINE, OUTSTATE SELLER OF MIXED SPIRIT DRINK, OR
19 VENDOR OF SPIRITS MAY PROVIDE GOODS AND SERVICES TO ANOTHER
20 LICENSEE THAT WERE APPROVED BY THE COMMISSION PURSUANT TO RULES OR
21 ORDERS ADOPTED PRIOR TO JANUARY 1, 2014 AND THE FOLLOWING
22 ADVERTISING ITEMS:

23 (A) ALCOHOLIC LIQUOR RECIPES LITERATURE.

24 (B) CALENDARS AND MATCHBOOKS.

25 (C) REMOVABLE TAP MARKERS OR SIGNS.

26 (D) TABLE TENTS.

27 (E) SHELF TALKERS.

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(F) BOTTLE NECKERS.

(G) COOLER STICKERS.

(H) BUTTONS, BLINKING AND NONBLINKING.

(I) MENU CLIP-ONS.

(J) MIRRORS.

(K) NAPKIN HOLDERS.

(L) SPIRITS COLD SHOT TAP MACHINES.

[(M) ALCOHOLIC LIQUOR DRINK MENUS.]

(4) A RETAILER SHALL NOT USE OR POSSESS, AT ITS LICENSED

PREMISES, ADVERTISING ITEMS THAT HAVE A USE OR VALUE BEYOND THE

ACTUAL ADVERTISING OF BRANDS AND PRICES OF ALCOHOLIC LIQUOR EXCEPT

FOR THOSE ALLOWED IN SUBSECTION (3) OR AS OTHERWISE PROVIDED IN

THIS SUBSECTION. A RETAILER MAY POSSESS AND USE BRAND LOGOED

BARWARE THAT ADVERTISES SPIRITS AS LONG AS THOSE ITEMS ARE

PURCHASED FROM A MANUFACTURER OF SPIRITS, VENDOR OF SPIRITS,

SALESPERSON, BROKER, OR BARWARE RETAILER. A RETAILER MAY POSSESS

AND USE BRAND LOGOED BARWARE THAT ADVERTISES BEER OR WINE AS LONG

AS THOSE ITEMS ARE PURCHASED FROM A BARWARE RETAILER. A RETAILER

SHALL MAINTAIN THE RECEIPTS OF ALL PURCHASED BRAND LOGOED BARWARE

FOR AT LEAST 3 YEARS AND SHALL MAKE THOSE RECEIPTS AVAILABLE FOR

INSPECTION BY THE COMMISSION AS PROVIDED IN SECTION 217. BEGINNING

IN THE 2015 LICENSING YEAR, A RETAILER SHALL DISCLOSE, IN A MANNER

AS PRESCRIBED BY THE COMMISSION ON THE APPLICATION FOR RENEWAL OF

AN EXISTING LICENSE, IF ANY BARWARE WAS PURCHASED BY THE RETAILER

DURING THE IMMEDIATELY PRECEDING LICENSE YEAR.

(5) IN ADDITION TO THE PENALTIES PROVIDED UNDER SECTION 903, A

MANUFACTURER OF BEER OR WINE, MIXED SPIRIT DRINK MANUFACTURER,

WAREHOUSER, WHOLESALER, OUTSTATE SELLER OF BEER, OUTSTATE SELLER OF

1 WINE, OR OUTSTATE SELLER OF MIXED SPIRIT DRINK THAT PROVIDES OR
2 SELLS BARWARE AND IS NOT AUTHORIZED TO PROVIDE OR SELL BARWARE IS
3 SUBJECT TO A FINE IN AN AMOUNT OF UP TO \$2,500.00 AS DETERMINED BY
4 THE COMMISSION. MULTIPLE VIOLATIONS RESULTING FROM THE SAME
5 INCIDENT MAY BE TREATED AS A SINGLE VIOLATION FOR PURPOSES OF
6 ISSUANCE OF ANY PENALTY IMPOSED UNDER THIS ACT.

7 (6) AN ON-PREMISES RETAILER THAT HOSTS AN ON-PREMISES BRAND
8 PROMOTIONAL EVENT CONDUCTED BY A WHOLESALE OR SUPPLIER HAS 14 DAYS
9 AFTER THE EVENT TO REMOVE FROM THE PREMISES ANY BRAND LOGOED
10 MERCHANDISE FROM THE EVENT TO MAINTAIN COMPLIANCE WITH THIS
11 SECTION.

12 (7) THIS ACT AND RULES PROMULGATED UNDER THIS ACT DO NOT
13 PREVENT A RETAILER THAT HOLDS AN OFF-PREMISES LICENSE ONLY FROM
14 PURCHASING BRAND LOGOED INVENTORY AND SELLING THAT INVENTORY TO ITS
15 CUSTOMERS.

16 (8) NOT SOONER THAN 18 MONTHS AFTER THE EFFECTIVE DATE OF THE
17 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE COMMISSION MAY, BY
18 RULE, ADD AN ITEM TO OR REMOVE AN ITEM FROM THE DEFINITION OF
19 BARWARE. THE COMMISSION SHALL NOT ADD OR REMOVE MORE THAN 1 ITEM
20 PER RULE AND SHALL NOT PROMULGATE MORE THAN 1 RULE AT A TIME ON THE
21 DEFINITION OF BARWARE. THE COMMISSION SHALL NOT ISSUE A RULE THAT
22 ADDS REFRIGERATOR SYSTEMS, DRAFT SYSTEMS, OR FURNITURE TO THE
23 DEFINITION OF BARWARE. A RULE, REGULATION, OR ORDER ADOPTED AFTER
24 JANUARY 1, 2014 THAT IS NOT ADOPTED IN ACCORDANCE WITH THIS
25 SUBSECTION AND THAT IS NOT CONSISTENT WITH THIS SECTION OR IS IN
26 CONFLICT WITH THIS SECTION IS VOID AND UNENFORCEABLE.

27 (9) AS USED IN THIS SECTION:

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(A) "BARWARE" MEANS THE FOLLOWING BRAND LOGOED ITEMS:

(i) TRAYS.

(ii) COASTERS.

(iii) NAPKINS.

(iv) SHIRTS.

(v) HATS.

(vi) PITCHERS.

(vii) DRINKWARE THAT IS INTENDED TO BE REUSED.

(viii) BAR MATS.

(ix) BUCKETS.

(x) BOTTLE OPENERS.

(xi) STIR RODS.

[

(xii)] PATIO UMBRELLAS.

[(xiii)] ANY PACKAGING USED TO HOLD AND DELIVER THE ALCOHOLIC

LIQUOR PURCHASED BY THE RETAILER.

(xiv) ANY OTHER ITEMS THAT HAVE BEEN ADDED BY THE COMMISSION

PURSUANT TO SUBSECTION (8).

(B) "BARWARE RETAILER" MEANS A PERSON THAT OFFERS BRAND LOGOED

BARWARE FOR SALE TO RETAILERS, WHETHER OR NOT IT IS IN THEIR

ORDINARY COURSE OF BUSINESS, AND THAT IS NOT LICENSED AS, OR

DIRECTLY OR INDIRECTLY AFFILIATED WITH, A MANUFACTURER OF BEER OR

WINE, MIXED SPIRIT DRINK MANUFACTURER, WAREHOUSER, WHOLESALER,

OUTSTATE SELLER OF BEER, OUTSTATE SELLER OF WINE, OR OUTSTATE

SELLER OF MIXED SPIRIT DRINK. FOR PURPOSES OF THIS SUBDIVISION, A

LICENSING AGREEMENT THAT AUTHORIZES USE OF A BRAND LOGO DOES NOT

CONSTITUTE A DIRECT OR INDIRECT AFFILIATION.

1 (C) "BROKER" MEANS A PERSON, OTHER THAN AN INDIVIDUAL, THAT IS
2 LICENSED BY THE COMMISSION AND THAT IS EMPLOYED OR OTHERWISE
3 RETAINED BY A MANUFACTURER OF SPIRITS OR A VENDOR OF SPIRITS TO
4 SELL, PROMOTE, OR OTHERWISE ASSIST IN THE SALE OR PROMOTION OF
5 SPIRITS.

6 (D) "INDIRECTLY AFFILIATED" MEANS, FOR PURPOSES OF THIS
7 SECTION ONLY, THAT A PERSON OWNS 5% OR MORE OF THE VOTING INTEREST
8 OF ANOTHER PERSON.

9 (E) "OTHER VALUABLE THING" MEANS ANY GOODS, SERVICES, OR
10 INTANGIBLE GOODS THAT ARE GIVEN, LOANED, LEASED, OR SOLD TO ANOTHER
11 LICENSEE THAT HAVE VALUE REGARDLESS OF WHETHER THE VALUE IS NOMINAL
12 AND INCLUDES, BUT IS NOT LIMITED TO, GOODS, SERVICES, OR INTANGIBLE
13 GOODS THAT PROVIDED ANY BENEFIT, REGARDLESS OF HOW NOMINAL, TO THE
14 LICENSEE OTHER THAN ADVERTISING THE BRANDS AND PRICES OF ALCOHOLIC
15 LIQUOR PRODUCED BY THE MANUFACTURER, SOLD BY THE OUTSTATE SELLER OF
16 BEER, THE OUTSTATE SELLER OF WINE, OR THE OUTSTATE SELLER OF MIXED
17 SPIRIT DRINK, OR DISTRIBUTED BY THE WHOLESALER, EXCEPT THOSE GOODS,
18 SERVICES, OR INTANGIBLE GOODS APPROVED BY RULE OR ORDER OF THE
19 COMMISSION PRIOR TO JANUARY 1, 2014.

20 (F) "SALESPERSON" MEANS A PERSON WHO IS EMPLOYED BY A VENDOR
21 OF SPIRITS OR A BROKER AND WHO IS LICENSED BY THE COMMISSION TO
22 SELL, DELIVER, OR PROMOTE, OR OTHERWISE ASSIST IN THE SALE OF,
23 SPIRITS IN THIS STATE.

24 Enacting section 1. This amendatory act does not take effect
25 unless all of the following bills of the 97th Legislature are
26 enacted into law:

27 (a) Senate Bill No. 504.

- 1 (b) Senate Bill No. 506.
- 2 (c) Senate Bill No. 507.
- 3 (d) Senate Bill No. 650.
- 4 (e) House Bill No. 4277.
- 5 (f) House Bill No. 4709.
- 6 (g) House Bill No. 4710.
- 7 (h) House Bill No. 4711.