

Act No. 225
Public Acts of 2022
Approved by the Governor
October 14, 2022
Filed with the Secretary of State
October 14, 2022
EFFECTIVE DATE: October 14, 2022

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

Introduced by Reps. Hauck and Steenland

ENROLLED HOUSE BILL No. 6105

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 609c (MCL 436.1609c), as amended by 2020 PA 126, and by adding sections 609g, 609h, 609i, and 609j.

The People of the State of Michigan enact:

Sec. 609c. (1) A manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may refund to a retailer the amount the retailer paid for beer, wine, or mixed spirit drink, as applicable, or a manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may replace that beer, wine, or mixed spirit drink for any of the following reasons:

- (a) The beer, wine, or mixed spirit drink is outdated.
- (b) The beer, wine, or mixed spirit drink is defective.
- (c) An error in the beer, wine, or mixed spirit drink delivered.
- (d) The beer, wine, or mixed spirit drink may no longer be lawfully sold.
- (e) The termination of the retailer’s business.
- (f) The formula, proof, label, or container of the beer, wine, or mixed spirit drink is changed.
- (g) The beer, wine, or mixed spirit drink is discontinued.
- (h) The retailer is only open a portion of the year and the beer, wine, or mixed spirit drink is likely to spoil during the off-season.

(2) If beer is within 30 days of its out-of-date code, a manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may refund to a retailer the amount the retailer paid for the beer.

(3) A manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may only issue a refund or replacement under this section for beer, wine, or mixed spirit drink that the manufacturer or wholesaler sold to the retailer.

(4) Beginning March 1, 2020, a manufacturer may refund to a wholesaler up to the amount the wholesaler paid for beer, wine, or mixed spirit drink, as applicable, or a manufacturer may replace that beer, wine, or mixed spirit drink for either of the following reasons:

(a) The wholesaler purchased the beer, wine, or mixed spirit drink from the manufacturer and the wholesaler refunded to the retailer the amount the retailer paid for that beer, wine, or mixed spirit drink or replaced that beer, wine, or mixed spirit drink under subsection (1) or (2).

(b) The beer, wine, or mixed spirit drink that the wholesaler purchased from the manufacturer has gone out of date while in possession of the wholesaler.

Sec. 609g. (1) If a wholesaler sells nonalcoholic products to a retailer, this act does not apply to the sale, marketing, merchandising, or distribution of the nonalcoholic products except the following:

(a) The wholesaler shall comply with section 609.

(b) The wholesaler shall not do either of the following:

(i) Provide free nonalcoholic products to a retailer.

(ii) Provide credit to a retailer.

(2) If a wholesaler separately owns or has a direct or indirect financial interest in a company that sells nonalcoholic products, this act does not apply to the company that sells nonalcoholic products if all of the following conditions are met:

(a) The company that sells nonalcoholic products is not a wholesaler.

(b) The company that sells nonalcoholic products and the wholesaler have separate sales and delivery employees.

(c) The company that sells nonalcoholic products and the wholesaler use separate delivery vehicles.

(d) The company that sells nonalcoholic products and the wholesaler keep separate finances.

(e) The company that sells nonalcoholic products does not engage in an activity on behalf of the wholesaler that would violate section 609.

(3) If a wholesaler separately owns or has a direct or indirect financial interest in a company that sells nonalcoholic products, the wholesaler and the company that sells nonalcoholic products may do all of the following:

(a) Share human resources departments.

(b) Have a joint payroll.

(c) Lease warehouse space to each other.

(d) Have joint vehicle maintenance.

(e) Jointly recycle beverage containers.

(f) Share warehouse employees and equipment.

Sec. 609h. A manufacturer or supplier may offer electronic rebate coupons directly to a retail customer after the retail customer purchases alcoholic liquor from a retailer. An electronic rebate coupon issued under this section must comply with all the following:

(a) A manufacturer or supplier shall only issue coupons that state a specific expiration date and specific cash refund value on the coupons. The refund may be paid by cash, by check, by debit card, through electronic funds transfer to a bank account, or through an internet or mobile payment account.

(b) A manufacturer or supplier shall not issue coupons that result in the retail customer's purchase of alcoholic liquor being below the retailer's cost.

(c) A manufacturer or supplier may issue coupons that can be applied to more than 1 specific product sold by that manufacturer or supplier but must state the manufacturer or supplier to which they apply.

(d) A manufacturer or supplier shall issue coupons that require the retail customer to purchase at least 1 product of alcoholic liquor to redeem a coupon. A manufacturer or supplier may issue coupons that require the retail customer to purchase 2 or more alcoholic liquor products from the same manufacturer or supplier to redeem the coupon.

(e) A manufacturer or supplier shall not issue coupons that require the purchase of a product other than alcoholic liquor.

(f) A wholesaler shall not pay for or participate in the offering of coupons except for providing signs that promote the electronic rebate coupon in accordance with section 610a.

(g) A manufacturer shall only issue coupons that may be redeemable after a purchase of alcoholic liquor at all retail locations where that alcoholic liquor is sold.

Sec. 609i. If demands exceed supply for a beer, wine, mixed wine drink, or mixed spirit drink product, a manufacturer, supplier, or wholesaler must do both of the following:

(a) Engage in commercially reasonable efforts to make the beer, wine, mixed wine drink, or mixed spirit drink product available to purchase by a wholesaler that places an order.

(b) Engage in commercially reasonable efforts to make the beer, wine, mixed wine drink, or mixed spirit drink product available to purchase by a retailer that places the order.

Sec. 609j. (1) If a manufacturer recalls a beer, wine, or mixed spirit drink product or determines that it is necessary for a wholesaler to remove a beer, wine, or mixed spirit drink product from a sales territory, the manufacturer shall notify the commission and the affected wholesaler within 2 business days after the recall or determination.

(2) If a manufacturer recalls a beer, wine, or mixed spirit drink product or determines that it is necessary for a wholesaler to remove a beer, wine, or mixed spirit drink product from a sales territory, the manufacturer shall, within 7 business days after the recall or determination, notify the commission of all of the following:

(a) The products recalled or determined to be removed and the number of cases of each product.

(b) The reason why each product was recalled or determined to be removed.

(c) The location where the affected product was manufactured.

(d) The areas of this state that are affected by the recall or determined removal.

(3) If a manufacturer recalls a beer, wine, or mixed spirit drink product or determines that it is necessary for a wholesaler to remove a beer, wine, or mixed spirit drink product from a sales territory, the affected wholesaler shall, within 7 business days after the recall or determination, notify the commission when the removal and destruction of the affected product began and the expected completion date.

(4) The wholesaler shall notify the commission on the completion and destruction of an affected product described in subsection (3).

(5) If the affected wholesaler removes and destroys an affected product under subsection (3), the manufacturer shall reimburse the wholesaler for all costs reasonably associated with removal and destruction of the affected product within 30 days after the affected product is removed and destroyed.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:

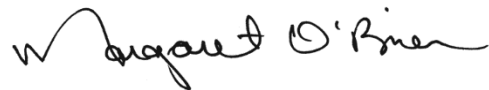
(a) House Bill No. 6106.

(b) House Bill No. 6107.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 6106, referred to in enacting section 1, was filed with the Secretary of State October 14, 2022, and became 2022 PA 226, Imd. Eff. Oct. 14, 2022.

House Bill No. 6107, also referred to in enacting section 1, was filed with the Secretary of State October 14, 2022, and became 2022 PA 227, Imd. Eff. Oct. 14, 2022.