

Act No. 227
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. Hoitenga, Steenland and Hauck

ENROLLED HOUSE BILL No. 6107

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 609a (MCL 436.1609a), as amended by 2020 PA 119, and by adding section 609f.

The People of the State of Michigan enact:

Sec. 609a. (1) A manufacturer or wholesaler shall file with the commission a schedule of net cash prices to the retailer for all brands of case and keg beer for its market area. If a person sells beer that has not received a registration number from the commission in violation of subrule (1)(d) of R 436.1611 of the Michigan Administrative Code and if a wholesaler files a schedule of net cash prices as required under this subsection, both of the following apply:

(a) The wholesaler is not considered to have violated subrule (1)(d) of R 436.1611 of the Michigan Administrative Code.

(b) A retailer is not considered to have violated subrule (1)(d) of R 436.1611 of the Michigan Administrative Code.

(2) A manufacturer or wholesaler shall file with the commission a beer package price change for its market area. The manufacturer or wholesaler shall file the price change before its effective date. A price reduction under this subsection must continue for at least 90 days after the effective date.

(3) The beer package price for a market area may be increased during the 90-day period described in subsection (2) for any of the following reasons:

- (a) To reflect a tax increase in the market area.
- (b) To reflect a general industry price increase in the market area.

(4) The beer package price for a market area may be decreased during the 90-day period described in subsection (2) if both of the following conditions are met:

- (a) The price reduction is not greater on a cents-per-case basis than the price reduction filed by the competition.
- (b) The price reduction continues for the balance of the 90 days filed by the competition.
- (5) A manufacturer or wholesaler shall not sell beer at a quantity discount.

(6) A net cash price filed under subsection (1) and a price change filed under subsection (2) are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243, until 1 year after the net cash price or price change is filed, as applicable.

(7) The commission shall periodically compare a manufacturer's or wholesaler's filing under subsection (1) or (2) with the manufacturer's or wholesaler's tax filing under section 409.

(8) This section does not apply to a brewpub.

(9) Beginning July 1, 2020, the commission shall not implement or enforce subrule (1)(c) and (d) of R 436.1611 of the Michigan Administrative Code for products manufactured by a brewer and for products that a micro brewer or brewer sell exclusively at its tasting room or to a beer festival. As used in this subsection, "beer festival" means that term as defined in section 526.

(10) A manufacturer or wholesaler shall file with the commission a schedule of the net cash prices to retailers for all wine, mixed wine drink, and mixed spirit drink by kind, type, size, and brand.

(11) A manufacturer or wholesaler shall file with the commission a wine, mixed wine drink, and mixed spirit drink price change for its market area. The manufacturer or wholesaler shall file the price change before its effective date. A price change under this subsection must continue for at least 2 weeks after the effective date.

(12) A manufacturer or wholesaler shall not charge a retailer a fee in addition to the net cash prices filed under this section, except for a split case fee. If a manufacturer or wholesaler charges a split case fee to a retailer, the fee must be at the same per unit rate, nondiscriminatory, and not be based on a sliding scale. A manufacturer or wholesaler shall file with the commission a split case fee charged under this subsection.

(13) A manufacturer or wholesaler shall not sell wine, mixed wine drink, and mixed spirit drink at a quantity discount.

(14) A net cash price filed under subsection (10) and a price change filed under subsection (11) are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243, until 1 year after the net cash price or price reduction is filed, as applicable.

(15) The commission shall periodically compare a manufacturer's or wholesaler's filing under subsections (10) and (11) with the manufacturer's or wholesaler's tax filing under section 301.

(16) The regulation described in this section is necessary for both of the following reasons:

- (a) To promote temperance and the public health and welfare.
- (b) To promote a stable 3-tier distribution system with orderly markets for wine and malt beverage products in which there is no price discrimination by a wholesaler in its sales to retailers within the wholesaler's sales territory.

Sec. 609f. (1) Notwithstanding section 609, a manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink may provide a wholesaler with technology to assist in sales, marketing, delivery, merchandising, or training.

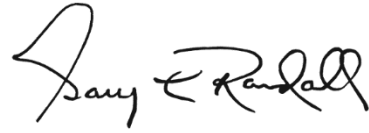
(2) A manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink that provides technology to a wholesaler under subsection (1) shall do both of the following:

- (a) Comply with this act, including, but not limited to, section 608, and the rules promulgated under this act.
- (b) Obtain approval by written order of the commission authorizing the technology before it is provided to a wholesaler.

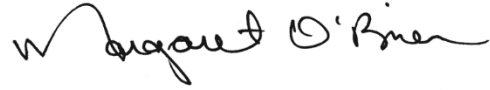
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:

- (a) House Bill No. 6105.
- (b) House Bill No. 6106.

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. 6105, referred to in enacting section 1, was filed with the Secretary of State October 14, 2022, and became 2022 PA 225, Imd. Eff. Oct. 14, 2022.

House Bill No. 6106, also 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.