

**SUBSTITUTE FOR
HOUSE BILL NO. 6106**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 105 and 603 (MCL 436.1105 and 436.1603), as
amended by 2021 PA 19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 105. (1) "Alcohol" means the product of distillation of
2 fermented liquid, whether or not rectified or diluted with water,
3 but does not mean ethyl or industrial alcohol, diluted or not, that
4 has been denatured or otherwise rendered unfit for beverage
5 purposes.

6 (2) "Alcohol vapor device" means any device that provides for
7 the use of air or oxygen bubbled through alcoholic liquor to
8 produce a vapor or mist that allows the user to inhale this



1 alcoholic vapor through the mouth or nose.

2 (3) "Alcoholic liquor" means any spirituous, vinous, malt, or
3 fermented liquor, powder, liquids, and compounds, whether or not
4 medicated, proprietary, patented, and by whatever name called,
5 containing 1/2 of 1% or more of alcohol by volume that are fit for
6 use for food purposes or beverage purposes as defined and
7 classified by the commission according to alcoholic content as
8 belonging to 1 of the varieties defined in this chapter.

9 (4) "Alternating proprietorship" means 1 of the following:

10 (a) An arrangement in which 2 or more wine makers or small
11 wine makers take turns using the same space and equipment to
12 manufacture wine under section 603(9)(a) and in accordance with 27
13 CFR 24.136.

14 (b) An arrangement in which 2 or more brewers or micro brewers
15 take turns using the same space and equipment to manufacture beer
16 ~~pursuant to~~**under** section 603(9)(b) and in accordance with 27 CFR
17 25.52.

18 (5) "Approved tasting room" means a tasting room that is
19 approved by the commission. A licensee with an approved tasting
20 room is not a retail licensee as that term is used in this act and
21 the rules promulgated under this act except for sections 701, 801,
22 803, 815, 905, and 906.

23 (6) "Authorized distribution agent" means a person approved by
24 the commission to do 1 or more of the following:

25 (a) To store spirits owned by a supplier of spirits or the
26 commission.

27 (b) To deliver spirits sold by the commission to retail
28 licensees.

29 (c) To perform any function needed to store spirits owned by a



1 supplier of spirits or by the commission or to deliver spirits sold
2 by the commission to retail licensees.

3 (7) "Bar" means a barrier or counter at which alcoholic liquor
4 is sold to, served to, or consumed by customers.

5 (8) "Beer" means a beverage obtained by alcoholic fermentation
6 of an infusion or decoction of barley, malt, hops, sugar, or other
7 cereal in potable water.

8 (9) "Bottle" or "bottling" means a process, separate from
9 manufacturing, using owned or leased equipment to fill and seal a
10 container, including a keg, with alcoholic liquor for sale at
11 wholesale or retail in accordance with this act. Bottle or bottling
12 does not include filling a growler for sale at retail.

13 (10) "Brand" means any word, name, group of letters, symbol,
14 trademark, or combination thereof adopted and used by a supplier to
15 identify a specific beer, malt beverage, wine, mixed wine drink, or
16 mixed spirit drink product and to distinguish that product from
17 another beer, malt beverage, wine, mixed wine drink, or mixed
18 spirit drink product that is produced or marketed by that or
19 another supplier. As used in this subsection, "supplier" means a
20 brewer, micro brewer, an outstate seller of beer, a wine maker, a
21 small wine maker, an outstate seller of wine, a manufacturer of
22 mixed wine drink, an outstate seller of a mixed wine drink, a mixed
23 spirit drink manufacturer, or an outstate seller of mixed spirit
24 drink.

25 (11) "Brand extension" means any brand that incorporates all
26 or a substantial part of the unique features of a preexisting
27 brand, ~~of the same supplier. As used in this subsection, "supplier"~~
28 ~~means a brewer, micro brewer, an outstate seller of beer, a wine~~
29 ~~maker, a small wine maker, an outstate seller of wine, a~~



1 ~~manufacturer of mixed wine drink, or an outstate seller of a mixed~~
2 ~~wine drink, a mixed spirit drink manufacturer, or an outstate~~
3 ~~seller of mixed spirit drink.~~ **regardless of whether the extension is**
4 **beer, wine, mixed wine drink, or mixed spirit drink.**

5 (12) "Brandy" means an alcoholic liquor as defined in 27 CFR
6 5.22(d).

7 (13) "Brandy manufacturer" means a wine maker or a small wine
8 maker licensed under this act to manufacture brandy. A wine maker
9 or small wine maker authorized to manufacture brandy shall not
10 manufacture any other spirits. The commission may approve a brandy
11 manufacturer to sell brandy that it manufactures at retail in
12 accordance with section 537.

13 (14) "Brewer" means a person located in this state that is
14 licensed to manufacture beer and sell at retail in accordance with
15 section 537 and to licensed wholesalers beer manufactured by the
16 person.

17 (15) "Brewpub" means a license issued in conjunction with a
18 class C, tavern, class A hotel, or class B hotel license that
19 authorizes the person licensed with the class C, tavern, class A
20 hotel, or class B hotel to manufacture and brew not more than
21 18,000 barrels of beer per calendar year in this state and sell at
22 its licensed premises the beer produced for consumption on or off
23 the licensed brewery premises in the manner provided for in
24 sections 405, 407, and 537.

25 Sec. 603. (1) Except as provided in subsections ~~(6) to (14)~~
26 ~~and (5) to (9)~~, **subsections (14) to (16), and** section 605, a
27 supplier, warehouser, or wholesaler shall not have any direct or
28 indirect financial interest in the establishment, maintenance,
29 operation, or promotion of the business of any other vendor.



1 (2) Except as provided in subsections ~~(6) to (14)~~ and ~~(5) to~~
 2 **(9), subsections (14) to (16), and** section 605, a supplier,
 3 warehouse, or wholesaler or a stockholder of a supplier,
 4 warehouse, or wholesaler shall not have any direct or indirect
 5 interest by ownership in fee, leasehold, mortgage, or otherwise in
 6 the establishment, maintenance, operation, or promotion of the
 7 business of any other vendor.

8 (3) Except as provided in subsections ~~(6) to (14)~~ and ~~(5) to~~
 9 **(9), subsections (14) to (16), and** section 605, a supplier,
 10 warehouse, or wholesaler shall not have any direct or indirect
 11 interest by interlocking directors in a corporation or by
 12 interlocking stock ownership in a corporation in the establishment,
 13 maintenance, operation, or promotion of the business of any other
 14 vendor.

15 (4) Except as provided in subsections ~~(6) to (14)~~ and ~~(5) to~~
 16 **(9), subsections (14) to (16), and** section 605, a person shall not
 17 buy the stocks of a supplier, warehouse, or wholesaler and place
 18 the stock in any portfolio under an arrangement, written trust
 19 agreement, or form of investment trust agreement, issue
 20 participating shares based ~~upon~~**on** the portfolio, trust agreement,
 21 or investment trust agreement, and sell the participating shares
 22 within this state.

23 (5) The commission may approve a brandy manufacturer or small
 24 distiller to sell brandy and spirits made by that brandy
 25 manufacturer or small distiller in a restaurant for consumption on
 26 or off the premises if the restaurant is owned by the brandy
 27 manufacturer or small distiller or operated by another person under
 28 an agreement approved by the commission and is located on premises
 29 where the brandy manufacturer or small distiller is licensed.



1 Brandy and spirits sold for consumption off the premises under this
2 subsection must be sold at the uniform price established by the
3 commission.

4 (6) The commission shall allow a small distiller to sell
5 brands of spirits it manufactures for consumption on the licensed
6 premises at that distillery.

7 (7) A brewpub may have an interest in up to 5 other brewpubs
8 if the combined production of all the locations in which the
9 brewpub has an interest does not exceed 18,000 barrels of beer per
10 calendar year.

11 (8) This section does not prohibit a supplier from having any
12 direct or indirect interest in any other supplier.

13 (9) The commission may approve the following under R
14 436.1023(3) of the Michigan Administrative Code, subject to the
15 written approval of the United States Department of Treasury
16 Alcohol and Tobacco Tax and Trade Bureau:

17 (a) A wine maker participating with 1 or more wine makers in
18 an alternating proprietor operation in accordance with 27 CFR
19 24.136.

20 (b) A brewer participating with 1 or more brewers in an
21 alternating proprietor operation in accordance with 27 CFR 25.52.

22 (10) A manufacturer shall not have any direct or indirect
23 interest in a wholesaler.

24 (11) A wine maker shall not collectively deliver wine, with
25 any other wine maker, to ~~retail licensees~~. **retailers**.

26 (12) Except for a ~~licensed~~ warehouse, all licensees in this
27 state must be separated into 3 distinct and independent tiers
28 composed of the following:

29 (a) Supplier tier, comprising suppliers.



1 (b) Wholesaler tier, comprising wholesalers.

2 (c) Retailer tier, comprising retailers.

3 (13) Except as otherwise provided in subsection (14),
4 ~~beginning April 30, 2011,~~ the commission shall not allow any of the
5 following:

6 (a) A retailer to hold, directly or indirectly, a license in
7 the wholesaler or supplier tier.

8 (b) A wholesaler to hold, directly or indirectly, a license in
9 the retailer or supplier tier.

10 (c) A supplier to hold, directly or indirectly, a license in
11 the wholesaler or retailer tier.

12 (14) Subsection (13) does not prohibit a class C, tavern,
13 class A hotel, or class B hotel licensee from receiving a brewpub
14 license or a micro brewer or brewer from having an on-site
15 restaurant.

16 (15) A person licensed in the supplier tier may manufacture a
17 private label of beer, wine, or mixed spirit drink for a retailer
18 if the commission determines that all the following requirements
19 are met:

20 (a) The supplier registers the private label with the
21 commission as required under R 436.1611, R 436.1719, and R 436.1829
22 of the Michigan Administrative Code.

23 (b) The supplier, independent of the retailer's involvement,
24 appoints 1 or more wholesalers to distribute the private label as
25 required under section 307 or 401, as applicable.

26 (c) The supplier complies with and does not violate section
27 305 or 403, as applicable.

28 (d) The wholesaler engages in commercially reasonable efforts
29 to make the private label available to a retailer that places an



1 order for the private label beer, wine, or mixed spirit drink.

2 (e) An appointed wholesaler remains the wholesaler for the
3 private label and any brand extensions of the private label
4 regardless of whether the retailer switches the supplier that
5 manufactures the private label, unless the wholesaler is terminated
6 under section 305 or 403, as applicable.

7 (16) The commission shall not issue a wholesaler license to a
8 producer of nonalcoholic beverages or an entity that the producer
9 of nonalcoholic beverages has a direct or indirect ownership or
10 financial interest in, if the producer of nonalcoholic beverages or
11 the entity the producer of nonalcoholic beverages has a direct or
12 indirect ownership or financial interest in has a direct or
13 indirect ownership or financial interest in a person licensed in
14 the supplier tier.

15 (17) ~~(15)~~—As used in this section:

16 (a) "Manufacturer" means, notwithstanding section 109(2), a
17 wine maker, small wine maker, brewer, micro brewer, manufacturer of
18 spirits, distiller, small distiller, brandy manufacturer, mixed
19 spirit drink manufacturer, direct shipper, a licensee with an
20 approved tasting room, or a person licensed by the commission to
21 perform substantially similar functions.

22 (b) "Private label" means a brand of beer, wine, or mixed
23 spirit drink that is manufactured by a supplier on behalf of a
24 retailer using the retailer's recipe or intellectual property.

25 (c) ~~(b)~~—"Supplier" means a manufacturer, mixed spirit drink
26 manufacturer, outstate seller of beer, outstate seller of wine,
27 outstate seller of mixed spirit drink, and vendor of spirits or a
28 person licensed by the commission to perform substantially similar
29 functions but does not include a master distributor.



1 Enacting section 1. R 436.1625 and R 436.1726 of the Michigan
2 Administrative Code are rescinded.

3 Enacting section 2. This amendatory act does not take effect
4 unless all of the following bills of the 101st Legislature are
5 enacted into law:

6 (a) House Bill No. 6105.

7 (b) House Bill No. 6107.

