

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6105

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
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:

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

8 (a) The beer, ~~or~~ wine, **or mixed spirit drink** is outdated.

1 (b) The beer, ~~or~~ wine, **or mixed spirit drink** is defective.

2 (c) An error in the beer, ~~or~~ wine, **or mixed spirit drink**
3 delivered.

4 (d) The beer, ~~or~~ wine, **or mixed spirit drink** may no longer be
5 lawfully sold.

6 (e) The termination of the retailer's business.

7 (f) The formula, proof, label, or container of the beer, ~~or~~
8 wine, **or mixed spirit drink** is changed.

9 (g) The beer, ~~or~~ wine, **or mixed spirit drink** is discontinued.

10 (h) The retailer is only open a portion of the year and the
11 beer, ~~or~~ wine, **or mixed spirit drink** is likely to spoil during the
12 off-season.

13 (2) If beer is within 30 days of its out-of-date code, a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

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

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

26 (a) The wholesaler purchased the beer, ~~or~~ wine, **or mixed**
27 **spirit drink** from the manufacturer and the wholesaler refunded to
28 the retailer the amount the retailer paid for that beer, ~~or~~ wine,
29 **or mixed spirit drink** or replaced that beer, ~~or~~ wine, **or mixed**

1 **spirit drink** under subsection (1) or (2).

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

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

9 (a) The wholesaler shall comply with section 609.

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

11 (i) Provide free nonalcoholic products to a retailer.

12 (ii) Provide credit to a retailer.

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

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

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

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

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

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

28 (3) If a wholesaler separately owns or has a direct or
29 indirect financial interest in a company that sells nonalcoholic

1 products, the wholesaler and the company that sells nonalcoholic
2 products may do all of the following:

- 3 (a) Share human resources departments.
- 4 (b) Have a joint payroll.
- 5 (c) Lease warehouse space to each other.
- 6 (d) Have joint vehicle maintenance.
- 7 (e) Jointly recycle beverage containers.
- 8 (f) Share warehouse employees and equipment.

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

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

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

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

26 (d) A manufacturer or supplier shall issue coupons that
27 require the retail customer to purchase at least 1 product of
28 alcoholic liquor to redeem a coupon. A manufacturer or supplier may
29 issue coupons that require the retail customer to purchase 2 or

1 more alcoholic liquor products from the same manufacturer or
2 supplier to redeem the coupon.

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

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

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

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

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

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

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

26 (2) If a manufacturer recalls a beer, wine, or mixed spirit
27 drink product or determines that it is necessary for a wholesaler
28 to remove a beer, wine, or mixed spirit drink product from a sales
29 territory, the manufacturer shall, within 7 business days after the

1 recall or determination, notify the commission of all of the
2 following:

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

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

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

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

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

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

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

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

28 (a) House Bill No. 6106.

29 (b) House Bill No. 6107.