

**SUBSTITUTE FOR
SENATE BILL NO. 144**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 105, 107, 109, 111, 113, 113a, 301, 305, 307,
521, 525, 537, 603, and 610 (MCL 436.1105, 436.1107, 436.1109,
436.1111, 436.1113, 436.1113a, 436.1301, 436.1305, 436.1307,
436.1521, 436.1525, 436.1537, 436.1603, and 436.1610), section 105
as amended by 2018 PA 414, section 107 as amended by 2019 PA 126,
section 109 as amended by 2020 PA 120, section 111 as amended by
2020 PA 115, section 113 as amended by 2018 PA 405, section 113a as
amended by 2018 PA 416, section 301 as amended by 2020 PA 110,
section 307 as amended by 2020 PA 114, section 521 as amended by
2006 PA 502, section 525 as amended by 2016 PA 434, section 537 as
amended by 2020 PA 117, section 603 as amended by 2018 PA 407, and

section 610 as added by 2016 PA 106.

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
9 alcoholic vapor through the mouth or nose.

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

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

18 (a) An arrangement in which 2 or more wine makers or small
19 wine makers take turns using the same space and equipment to
20 manufacture wine ~~pursuant to~~ **under** section 603(9)(a) and in
21 accordance with 27 CFR 24.136.

22 (b) An arrangement in which 2 or more brewers or micro brewers
23 take turns using the same space and equipment to manufacture beer
24 pursuant to section 603(9)(b) and in accordance with 27 CFR 25.52.

25 (5) "Approved tasting room" means a tasting room that is
26 approved by the commission. **A licensee with an approved tasting**
27 **room is not a retail licensee as that term is used in this act and**

1 the rules promulgated under this act except for sections 701, 801,
2 803, 815, 905, and 906.

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

5 (a) To store spirits owned by a supplier of spirits or the
6 commission.

7 (b) To deliver spirits sold by the commission to retail
8 licensees.

9 (c) To perform any function needed to store spirits owned by a
10 supplier of spirits or by the commission or to deliver spirits sold
11 by the commission to retail licensees.

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

14 (8) "Beer" means ~~any~~ a beverage obtained by alcoholic
15 fermentation of an infusion or decoction of barley, malt, hops,
16 **sugar**, or other cereal in potable water.

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

22 (10) "Brand" means any word, name, group of letters, symbol,
23 trademark, or combination thereof adopted and used by a supplier to
24 identify a specific beer, malt beverage, wine, mixed wine drink, or
25 mixed spirit drink product and to distinguish that product from
26 another beer, malt beverage, wine, mixed wine drink, or mixed
27 spirit drink product that is produced or marketed by that or
28 another supplier. As used in this subsection, "supplier" means a
29 brewer, micro brewer, an outstate seller of beer, a wine maker, a

1 small wine maker, an outstate seller of wine, a manufacturer of
2 mixed wine drink, an outstate seller of a mixed wine drink, a mixed
3 spirit drink manufacturer, or an outstate seller of mixed spirit
4 drink.

5 (11) "Brand extension" means any brand that incorporates all
6 or a substantial part of the unique features of a preexisting brand
7 of the same supplier. As used in this subsection, "supplier" means
8 a brewer, micro brewer, an outstate seller of beer, a wine maker, a
9 small wine maker, an outstate seller of wine, a manufacturer of
10 mixed wine drink, **or** an outstate seller of a mixed wine drink, a
11 mixed spirit drink manufacturer, or an outstate seller of mixed
12 spirit drink.

13 (12) "Brandy" means an alcoholic liquor as defined in 27 CFR
14 5.22(d).

15 (13) "Brandy manufacturer" means a wine maker or a small wine
16 maker licensed under this act to manufacture brandy. A wine maker
17 or small wine maker authorized to manufacture brandy shall not
18 manufacture any other spirits. The commission may approve a brandy
19 manufacturer to sell brandy that it manufactures at retail in
20 accordance with section 537.

21 (14) "Brewer" means a person located in this state that is
22 licensed to manufacture beer and sell at retail in accordance with
23 section 537 and to licensed wholesalers beer manufactured by ~~it~~**the**
24 **person**.

25 (15) "Brewpub" means a license issued in conjunction with a
26 class C, tavern, class A hotel, or class B hotel license that
27 authorizes the person licensed with the class C, tavern, class A
28 hotel, or class B hotel to manufacture and brew not more than
29 18,000 barrels of beer per calendar year in this state and sell at

1 its licensed premises the beer produced for consumption on or off
2 the licensed brewery premises in the manner provided for in
3 sections 405, 407, and 537.

4 Sec. 107. (1) "Cash" means money in hand, bank notes, demand
5 deposits at a bank, or legal tender, ~~which~~**that** a creditor must
6 accept according to law. Cash does not include call loans,
7 postdated checks, or promissory notes.

8 (2) "Class C license" means a place licensed to sell at retail
9 beer, wine, mixed spirit drink, and spirits for consumption on the
10 premises.

11 (3) "Class G-1 license" means a place licensed to sell at
12 retail beer, wine, mixed spirit drink, and spirits for consumption
13 on the premises at a golf course having at least 18 holes that
14 measure at least 5,000 yards and which license is issued only to a
15 facility that permits member access by means of payments that
16 include annual paid membership fees.

17 (4) "Class G-2 license" means a place licensed to sell at
18 retail beer, ~~and wine,~~ **and mixed spirit drink** for consumption on
19 the premises at a golf course having at least 18 holes that measure
20 at least 5,000 yards and which license is issued only to a facility
21 that permits member access by means of payments that include annual
22 paid membership fees.

23 (5) "Club" means a nonprofit association, whether incorporated
24 or unincorporated, organized for the promotion of some common
25 purpose, the object of which is owning, hiring, or leasing a
26 building, or space in a building, of an extent and character as in
27 the judgment of the commission may be suitable and adequate for the
28 reasonable and comfortable use and accommodation of its members and
29 their guests, but does not include an association organized for a

1 commercial or business purpose.

2 (6) "Commission" means the liquor control commission created
3 in section 209.

4 (7) "Church" means an entire house or structure set apart
5 primarily for use for purposes of public worship, and that is tax
6 exempt under the laws of this state, and in which religious
7 services are held and with which a clergyman is associated, and the
8 entire structure of which is kept for that use and not put to any
9 other use inconsistent with that use.

10 (8) "Distiller" means a person licensed to manufacture and
11 sell spirits or alcohol, or both, of any kind.

12 (9) "Hotel" means a building or group of buildings located on
13 the same or adjoining pieces of real property, that provide lodging
14 to travelers and temporary residents and that may also provide food
15 service and other goods and services to registered guests and to
16 the public.

17 (10) "Class A hotel" means a hotel licensed by the commission
18 to sell beer, ~~and wine,~~ **and mixed spirit drink** for consumption on
19 the premises only, ~~which~~**that** provides for the rental of, and
20 maintains the availability for rental of, not less than 25 bedrooms
21 if located in a local governmental unit with a population of less
22 than 175,000 or not less than 50 bedrooms if located in a local
23 governmental unit with a population of 175,000 or more.

24 (11) "Class B hotel" means a hotel licensed by the commission
25 to sell beer, wine, mixed spirit drink, and spirits for consumption
26 on the premises only, that provides for the rental of, and
27 maintains the availability for rental of, not less than 25 bedrooms
28 if located in a local governmental unit with a population of less
29 than 175,000 or not less than 50 bedrooms if located in a local

1 governmental unit with a population of 175,000 or more.

2 (12) "Financial records" means any document or summary of
3 information contained in a document, including electronic
4 documents, that contains information about the financial activities
5 or position of a person including, but not limited to, information
6 about the assets, balance sheets, budgets, cash flow, earnings,
7 revenue, expenditures, income, investments, losses, liabilities,
8 payroll, profits, retained earnings, or taxes.

9 (13) "License" means a contract between the commission and the
10 licensee granting authority to that licensee to manufacture and
11 sell, ~~or~~ sell, or warehouse alcoholic liquor in the manner provided
12 by this act.

13 Sec. 109. (1) "Manufacture" means to distill, rectify,
14 ferment, brew, make, produce, filter, mix, concoct, process, or
15 blend an alcoholic liquor or to complete a portion of 1 or more of
16 these activities. Manufacture does not include bottling or the
17 mixing or other preparation of drinks for serving by those persons
18 authorized under this act to serve alcoholic liquor for consumption
19 on the licensed premises. In addition, manufacture does not include
20 attaching a label to a shiner. All containers or packages of
21 alcoholic liquor must state clearly the name, city, and state of
22 the bottler.

23 (2) "Manufacturer" means, **except as provided in section 603**, a
24 person that manufactures alcoholic liquor, whether located in or
25 out of this state, including, but not limited to, a distiller, a
26 small distiller, a rectifier, a mixed spirit drink manufacturer, a
27 mixed wine drink manufacturer, a wine maker, a small wine maker, a
28 brewer, and a micro brewer.

29 (3) "Manufacturing premises" means the licensed premises of a

1 manufacturer where the manufacturer manufactures alcoholic liquor
2 or, for a small wine maker only, bottles wine.

3 (4) "Master distributor" means, **except as provided in section**
4 **307**, a wholesaler that acts in the same or similar capacity as a
5 brewer, wine maker, **mixed spirit drink manufacturer**, outstate
6 seller of wine, ~~or~~ outstate seller of beer, **or outstate seller of**
7 **mixed spirit drink** for a brand or brands of beer, ~~or~~ wine, **or mixed**
8 **spirit drink** to other wholesalers on a regular basis in the normal
9 course of business.

10 (5) "Micro brewer" means a brewer that manufactures in total
11 less than 60,000 barrels of beer per year and that may sell the
12 beer manufactured to consumers at the licensed brewery premises for
13 consumption on or off the licensed brewery premises and to
14 retailers as provided in section 203a. In determining the 60,000-
15 barrel threshold, all brands and labels of a brewer, whether
16 manufactured in this state or outside this state, must be combined
17 and all facilities for the manufacturing of beer that are owned or
18 controlled by the same person must be treated as a single facility.

19 (6) "Minor" means an individual less than 21 years of age.

20 (7) "Mixed spirit drink" means a drink manufactured and
21 packaged or sold by a mixed spirit drink manufacturer or sold by an
22 outstate seller of mixed spirit drink to a wholesaler that ~~contains~~
23 **meets either of the following conditions:**

24 (a) **Contains** 10% or less alcohol by volume consisting of
25 spirits mixed with nonalcoholic beverages or flavoring or coloring
26 materials and that may also contain 1 or more of the following:

27 (i) ~~(a)~~ Water.

28 (ii) ~~(b)~~ Fruit juices.

29 (iii) ~~(c)~~ Fruit adjuncts.

1 (iv) ~~(d)~~—Sugar.

2 (v) ~~(e)~~—Carbon dioxide.

3 (vi) ~~(f)~~—Preservatives.

4 **(b) Meets both of the following conditions:**

5 (i) **Contains more than 10% and not more than 13.5% alcohol by**
6 **volume consisting of spirits mixed with nonalcoholic beverages and**
7 **flavoring or coloring materials and that may also contain 1 or more**
8 **ingredients listed in subdivision (a).**

9 (ii) **Is filled in a metal container that meets all of the**
10 **following conditions:**

11 (A) **The container has the general shape and design of a can**
12 **that has a liquid capacity that does not exceed 24 ounces.**

13 (B) **The container has a closure that is an integral part of**
14 **the container.**

15 (C) **The container cannot be readily closed after opening.**

16 (8) "Mixed spirit drink manufacturer" means a person licensed
17 under this act to manufacture mixed spirit drink in this state and
18 to sell mixed spirit drink at retail in accordance with section
19 537, or to a wholesaler, **or to a retailer as provided in section**
20 **203b.** For purposes of rules promulgated by the commission, a mixed
21 spirit drink manufacturer is treated as a wine manufacturer but is
22 subject to the rules applicable to spirits for manufacturing and
23 labeling.

24 (9) "Mixed wine drink" means a drink or similar product
25 marketed as a wine cooler that contains less than 7% alcohol by
26 volume, consists of wine and plain, sparkling, or carbonated water,
27 and contains any 1 or more of the following:

28 (a) Nonalcoholic beverages.

29 (b) Flavoring.

1 (c) Coloring materials.

2 (d) Fruit juices.

3 (e) Fruit adjuncts.

4 (f) Sugar.

5 (g) Carbon dioxide.

6 (h) Preservatives.

7 **(10) "Outstate self-distributor" means a person located in**
8 **another state that is the substantial equivalent of a micro brewer,**
9 **small distiller, mixed spirit drink manufacturer, or small wine**
10 **maker licensed by the commission to sell alcoholic liquor that the**
11 **person manufactured outside this state directly to a retailer under**
12 **sections 203(20), 203a, and 203b in accordance with rules**
13 **promulgated by the commission. An applicant for an outstate self-**
14 **distributor license must submit a copy of its federal basic permit**
15 **or brewer's notice and its manufacturing license from the state of**
16 **issuance.**

17 **(11) ~~(10)~~"Outstate seller of beer" means a person licensed by**
18 **the commission to sell beer that has not been manufactured in this**
19 **state, or beer that the person purchased from a limited production**
20 **manufacturer, to a wholesaler in this state in accordance with**
21 **rules promulgated by the commission. As used in this subsection,**
22 **"limited production manufacturer" means a person licensed under**
23 **section 504.**

24 **(12) ~~(11)~~"Outstate seller of mixed spirit drink" means a**
25 **person licensed by the commission to sell mixed spirit drink that**
26 **has not been manufactured in this state to a wholesaler in this**
27 **state in accordance with rules promulgated by the commission. For**
28 **purposes of rules promulgated by the commission, an outstate seller**
29 **of mixed spirit drink is treated as an outstate seller of wine but**

1 is subject to the rules applicable to spirits for manufacturing and
2 labeling.

3 (13) ~~(12)~~ "Outstate seller of wine" means a person licensed by
4 the commission to sell wine that has not been manufactured in this
5 state to a wholesaler in this state in accordance with rules
6 promulgated by the commission and to sell sacramental wine as
7 provided in section 301.

8 Sec. 111. (1) "Person" means an individual, firm, partnership,
9 limited partnership, association, limited liability company, or
10 corporation.

11 (2) "Primary source of supply" means, ~~in the case of~~ **for**
12 domestic spirits, the distiller, producer, owner of the commodity
13 at the time it becomes a marketable product, or bottler, or the
14 exclusive agent of the distiller, producer, owner of the commodity
15 at the time it becomes a marketable product, or bottler, and, for
16 spirits imported into the United States, either the foreign
17 distiller, producer, owner, or bottler, or the prime importer for,
18 or the exclusive agent in the United States of, the foreign
19 distiller, producer, owner, or bottler.

20 (3) "Professional account" means an account established for a
21 person by a class C licensee or tavern licensee whose major
22 business is the sale of food, by which the licensee extends credit
23 to the person for not more than 30 days.

24 (4) "Residence" means the premises in which a person resides
25 permanently.

26 (5) "Restaurant" means a food service establishment defined
27 and licensed under the food law, 2000 PA 92, MCL 289.1101 to
28 289.8111. A restaurant that does not hold a license issued by the
29 commission under this act shall not manufacture, market, deliver,

1 or sell alcoholic liquor in this state.

2 (6) "Retailer" means a person licensed by the commission that
3 sells to the consumer in accordance with rules promulgated by the
4 commission. Retailer includes a brewpub but does not include a
5 manufacturer or supplier, as defined in section 603, that is
6 allowed as a condition of its license to sell to consumers in this
7 state.

8 (7) "Sacramental wine" means wine containing not more than 24%
9 of alcohol by volume that is used for sacramental purposes.

10 (8) "Sale" includes the exchange, barter, traffic, furnishing,
11 delivery, or giving away of alcoholic liquor. For a sale in which a
12 shipment or delivery of alcoholic liquor is made by a common or
13 other carrier, the sale of the alcoholic liquor is considered to be
14 made in the county within which the delivery of the alcoholic
15 liquor is made by that carrier to the consignee or his or her agent
16 or employee, and venue for the prosecution for that sale may be in
17 the county or city where the seller resides or from which the
18 shipment is made or at the place of delivery.

19 (9) "School" includes buildings used for school purposes to
20 provide instruction to children in grades kindergarten through 12,
21 if that instruction is provided by a public, private,
22 denominational, or parochial school, except those buildings used
23 primarily for adult education or college extension courses. School
24 does not include a proprietary trade or occupational school.

25 (10) "Shiner" means an unlabeled, sealed container of wine,
26 including a keg, that is sold by a wine maker, small wine maker, or
27 out-of-state entity that is the substantial equivalent of a wine
28 maker or small wine maker to another wine maker, small wine maker,
29 or out-of-state entity that is the substantial equivalent of a wine

1 maker or small wine maker. The purchasing wine maker or small wine
 2 maker must attach a label to the container using equipment owned or
 3 leased by the purchasing wine maker or small wine maker, register
 4 the wine label with the commission, and sell it as provided for in
 5 this act.

6 (11) "Small distiller" means a manufacturer of spirits
 7 annually manufacturing in this state not more than 60,000 gallons
 8 of spirits, of all brands combined.

9 (12) "Small wine maker" means a wine maker manufacturing or
 10 bottling not more than 50,000 gallons of wine in 1 calendar year. A
 11 small wine maker is not required to bottle wine it manufactures.

12 (13) "Special license" means a contract between the commission
 13 and the special licensee granting authority to that licensee to
 14 sell beer, wine, mixed spirit drink, or spirits. The license must
 15 be granted only to the persons and the organization and for the
 16 period of time that the commission determines if the person or
 17 organization is able to demonstrate an existence separate from an
 18 affiliated umbrella organization. If such an existence is
 19 demonstrated, the commission shall not deny a special license
 20 solely by the applicant's affiliation with an organization that is
 21 also eligible for a special license.

22 (14) "Specially designated distributor" means, subject to
 23 section 534, a person engaged in an established business licensed
 24 by the commission to distribute spirits ~~and mixed spirit drink~~ in
 25 the original package for the commission for consumption off the
 26 premises.

27 (15) "Specially designated merchant" means a person to whom
 28 the commission grants a license to sell beer, ~~or wine, or both, or~~
 29 **mixed spirit drink** at retail for consumption off the licensed

1 premises.

2 (16) "Spirits" means a beverage that contains alcohol obtained
3 by distillation, mixed with potable water or other substances, or
4 both, in solution, and includes wine containing an alcoholic
5 content of more than 21% by volume, except sacramental wine and
6 mixed spirit drink.

7 (17) "State liquor store" means a store established by the
8 commission under this act for the sale of spirits in the original
9 package for consumption off the premises.

10 (18) "Successor to a supplier that continues in business"
11 means a supplier that acquires a brand or brands from another
12 supplier and remains in business after it acquires that brand or
13 brands. As used in this subsection, "supplier" means any of the
14 following:

- 15 (a) Brewer.
- 16 (b) Outstate seller of beer.
- 17 (c) Master distributor.
- 18 (d) Wine maker.
- 19 (e) Outstate seller of wine.

20 (19) "Supplier of spirits" means a vendor of spirits, a
21 manufacturer of spirits, or a primary source of supply.

22 Sec. 113. (1) "Tasting room" means any of the following
23 locations:

24 (a) A location on the manufacturing premises of a brewer or
25 micro brewer where the brewer or micro brewer may provide samples
26 of or sell at retail for consumption on or off the premises, or
27 both, beer it manufactures.

28 (b) A location on or off the manufacturing premises of a wine
29 maker or small wine maker where the wine maker or small wine maker

1 may provide samples of or sell at retail for consumption on or off
2 the premises, or both, shiners, wine it manufactured, or, for a
3 small wine maker only, wine it bottled.

4 (c) A location on or off the manufacturing premises of a
5 distiller or small distiller where the distiller or small distiller
6 may provide samples of or sell at retail for consumption on or off
7 the premises, or both, spirits it manufactured.

8 (d) A location on the manufacturing premises of a mixed spirit
9 drink manufacturer where the mixed spirit drink manufacturer may
10 provide samples of or sell at retail for consumption on or off the
11 premises, or both, mixed spirit drinks it manufactured.

12 (e) A location on or off the manufacturing premises of a
13 brandy manufacturer where the brandy manufacturer may provide
14 samples of or sell at retail for consumption on or off the
15 premises, or both, brandy it manufactured.

16 (2) "Tavern" means any place licensed to sell at retail beer,
17 ~~and wine,~~ **or mixed spirit drink** for consumption on the premises
18 only.

19 (3) "Vehicle" means any means of transportation by land, by
20 water, or by air.

21 (4) "Vendor" means a person licensed by the commission to sell
22 alcoholic liquor.

23 (5) "Vendor of spirits" means a person selling spirits to the
24 commission.

25 (6) "Warehouse" means a premises or place primarily
26 constructed, used, or provided with facilities for the storage in
27 transit or other temporary storage of perishable goods or for the
28 conduct of a warehousing business, or for both.

29 (7) "Warehouser" means a licensee authorized by the commission

1 to store alcoholic beverages, but prohibited from making sales or
2 deliveries to retailers unless the licensee is also the holder of a
3 wholesaler or manufacturer license issued by the commission.

4 (8) "Wholesaler" means a person ~~who~~**that** is licensed by the
5 commission and sells beer, wine, or mixed spirit drink only to
6 retailers or other licensees, and ~~who~~**that** sells sacramental wine
7 as provided in section 301. A wholesaler includes a person ~~who~~**that**
8 may also act as a master distributor unless prohibited from doing
9 so by its supplier or manufacturer in a written agreement required
10 by either section 305(3)(i) or 403(3)(i) and, by mutual agreement
11 with an outstate seller of beer, ~~or~~ **wine, or mixed spirit drink,**
12 can be authorized by the outstate seller of beer, ~~or~~ **wine, or mixed**
13 **spirit drink** to do, in the manner prescribed by the commission,
14 either or both of the following:

15 (a) Register with this state the labels of the outstate seller
16 of beer, ~~or~~ **wine, or mixed spirit drink.**

17 (b) On behalf of the outstate seller of beer, ~~or~~ **wine, or**
18 **mixed spirit drink** collect excise taxes levied by this state and
19 remit the taxes to the commission.

20 (9) "Wine" means ~~the~~**a** product ~~made~~**manufactured** by the normal
21 alcoholic fermentation of the juice of sound, ripe grapes, or any
22 other fruit with the usual cellar treatment, and containing not
23 more than 21% of alcohol by volume, including cider made from
24 apples or pears, or both, ~~which~~**that** contains at least 1/2 of 1% of
25 alcohol by volume, or mead or honey wine made from honey, fermented
26 fruit juices other than grapes, and mixed wine drinks.

27 (10) "Wine maker" means ~~any~~**a** person licensed by the
28 commission to manufacture wine and to sell that wine to a
29 wholesaler, to a consumer by direct shipment, at retail on the

1 licensed winery premises, to sell that wine to a retailer, and as
2 provided for in section 537.

3 Sec. 113a. (1) "Tasting room" means any of the following
4 locations:

5 (a) A location on the manufacturing premises of a brewer or
6 micro brewer where the brewer or micro brewer may provide samples
7 of or sell at retail for consumption on or off the premises, or
8 both, beer it manufactures.

9 (b) A location on or off the manufacturing premises of a wine
10 maker or small wine maker where the wine maker or small wine maker
11 may provide samples of or sell at retail for consumption on or off
12 the premises, or both, shiners, wine it manufactured, or, for a
13 small wine maker only, wine it bottled.

14 (c) A location on or off the manufacturing premises of a
15 distiller or small distiller where the distiller or small distiller
16 may provide samples of or sell at retail for consumption on or off
17 the premises, or both, spirits it manufactured.

18 (d) A location on the manufacturing premises of a mixed spirit
19 drink manufacturer where the mixed spirit drink manufacturer may
20 provide samples of or sell at retail for consumption on or off the
21 premises, or both, mixed spirit drinks it manufactured.

22 (e) A location on or off the manufacturing premises of a
23 brandy manufacturer where the brandy manufacturer may provide
24 samples of or sell at retail for consumption on or off the
25 premises, or both, brandy it manufactured.

26 (2) "Tavern" means any place licensed to sell at retail beer,
27 ~~and wine,~~ **or mixed spirit drink** for consumption on the premises
28 only.

29 (3) "Vehicle" means any means of transportation by land, by

1 water, or by air.

2 (4) "Vendor" means a person licensed by the commission to sell
3 alcoholic liquor.

4 (5) "Vendor of spirits" means a person selling spirits to the
5 commission.

6 (6) "Warehouse" means a premises or place primarily
7 constructed, used, or provided with facilities for the storage in
8 transit or other temporary storage of perishable goods or for the
9 conduct of a warehousing business, or for both.

10 (7) "Warehouser" means a licensee authorized by the commission
11 to store alcoholic liquor, but prohibited from making sales or
12 deliveries to retailers unless the licensee is also the holder of a
13 wholesaler license issued by the commission.

14 (8) "Wholesaler" means a person ~~who~~**that** is licensed by the
15 commission and sells beer, wine, or mixed spirit drink only to
16 retailers or other licensees, and ~~who~~**that** sells sacramental wine
17 as provided in section 301. A wholesaler includes a person ~~who~~**that**
18 may also act as a master distributor unless prohibited from doing
19 so by its supplier or manufacturer in a written agreement required
20 by either section 305(3)(i) or 403(3)(i) and, by mutual agreement
21 with an outstate seller of beer, ~~or~~**or mixed spirit drink** can
22 be authorized by the outstate seller of beer, ~~or~~**or mixed**
23 **spirit drink** to do, in the manner provided by the commission,
24 either or both of the following:

25 (a) Register with this state the labels of the outstate seller
26 of beer, ~~or~~**or mixed spirit drink**.

27 (b) On behalf of the outstate seller of beer, ~~or~~**or**
28 **mixed spirit drink**, collect excise taxes levied by this state and
29 remit the taxes to the commission.

1 (9) "Wine" means ~~the~~**a** product made by the normal alcoholic
2 fermentation of the juice of sound, ripe grapes, or any other fruit
3 with the usual cellar treatment, and containing not more than 21%
4 of alcohol by volume, including cider made from apples or pears, or
5 both, ~~which~~**that** contains at least 1/2 of 1% alcohol by volume, or
6 mead or honey wine made from honey, fermented fruit juices other
7 than grapes, and mixed wine drinks.

8 (10) "Wine maker" means ~~any~~**a** person licensed by the
9 commission to manufacture wine, to sell that wine to a wholesaler,
10 to sell that wine by direct shipment to a consumer, at retail on
11 the licensed winery premises, and as provided for in section 537
12 but not to sell wine to a retailer.

13 Sec. 301. (1) The commission shall levy and collect on all
14 wine containing 16% or less of alcohol by volume sold in this state
15 a tax at the rate of 13.5 cents per liter if sold in bulk and in a
16 like ratio if sold in smaller quantities.

17 (2) The commission shall levy and collect on all wine
18 containing more than 16% of alcohol by volume sold in this state a
19 tax at the rate of 20 cents per liter if sold in bulk and in a like
20 ratio if sold in smaller quantities.

21 (3) Sacramental wine is nontaxable when used by churches. A
22 person may import sacramental wines. The commission shall not
23 impose restrictions on importations of wine for sacramental
24 purposes but may promulgate rules to prevent any abuses that result
25 from the importations. A wholesaler or an outstate seller of wine
26 may sell sacramental wine directly to a church for sacramental
27 purposes.

28 (4) The commission shall levy and collect on all mixed spirit
29 drink sold in this state a tax at the rate of ~~48~~**30** cents per liter

1 if sold in bulk or a like ratio if sold in smaller quantities.

2 (5) ~~Beginning on and after February 1,~~ **After January 31, 2015,**
3 if the wine is manufactured in this state the tax must be paid by
4 the wine maker who manufactured the wine or if the wine is
5 manufactured outside this state the tax must be paid by the
6 wholesaler assigned to distribute that wine.

7 (6) ~~Beginning on and after February 1,~~ **After January 31, 2015,**
8 if the mixed spirit drink is manufactured in this state the tax
9 must be paid by the manufacturer of the mixed spirit drink or if
10 the mixed spirit drink is manufactured outside this state the tax
11 must be paid by the wholesaler assigned to distribute that mixed
12 spirit drink.

13 (7) On approval by the commission, the department of licensing
14 and regulatory affairs shall incorporate a limited number of farm
15 mutual cooperative wineries as the commission determines to be
16 beneficial to the Michigan grape and fruit industry. These wineries
17 must be licensed under this act and the payment of 1 license fee
18 annually by the corporation authorizes wine making on the premises
19 of the corporation and also on the premises of the grape and fruit
20 growing farmers who are members of or stockholders in the
21 corporation. Upon incorporation of a farmers' cooperative
22 corporation as provided for in this section, the members of or the
23 stockholders in the corporation are certified to be Michigan grape
24 and fruit growing farmers. Wine making by cooperative corporations
25 on farm premises is allowed, but all sales of the wine must be made
26 by the corporation and from the corporation premises.

27 (8) A wine maker or manufacturer of a mixed spirit drink may
28 designate a wholesaler to pay the tax on behalf of the wine maker
29 or manufacturer, respectively. If a wine maker or manufacturer

1 designates a wholesaler to pay the tax on its behalf, that wine
2 maker or manufacturer shall notify the commission of the
3 designation and provide the commission with a copy of its report of
4 wine premises operations that it filed with the Alcohol and Tobacco
5 Tax and Trade Bureau of the United States Department of Treasury
6 for each calendar year. A wholesaler that is responsible for the
7 payment of the tax under this section or that is designated to pay
8 the tax under this section on behalf of the wine maker or
9 manufacturer of the mixed spirit drink is only required to pay the
10 tax on the number of liters actually sold by the wholesaler to
11 licensed retailers.

12 (9) The commission shall establish by rule a method for the
13 collection of the tax levied in this section and reporting
14 requirements for wholesalers, wine makers, outstate sellers of
15 mixed spirit drink, and outstate sellers of wine to verify the
16 remission of taxes to this state. Except as otherwise provided in
17 this subsection, the commission shall not require that the tax be
18 paid in less than monthly intervals. Beginning March 15, 2020, the
19 commission shall not require that the tax be paid in less than
20 quarterly intervals. The rules under this subsection must be
21 promulgated pursuant to the administrative procedures act of 1969,
22 1969 PA 306, MCL 24.201 to 24.328.

23 Sec. 305. (1) The purpose of this section is to provide a
24 structure for the business relations between a wholesaler of wine
25 **or mixed spirit drink** and a supplier of wine **of mixed spirit drink**.
26 Regulation in this area is considered necessary for the following
27 reasons:

28 (a) To maintain stability and healthy competition in the wine
29 **and mixed spirit drink** industry in this state.

1 (b) To promote and maintain a sound, stable, and viable 3-tier
2 distribution system of wine **and mixed spirit drink** to the public.

3 (c) To recognize the marketing distinctions between beer, ~~and~~
4 wine, **and mixed spirit drink**.

5 (d) To promote the public health, safety, and welfare.

6 (2) As used in this section, unless the context requires
7 otherwise:

8 (a) "Agreement" means any agreement between a wholesaler and a
9 supplier, whether oral or written, whereby a wholesaler is granted
10 the right to offer and sell a brand or brands of wine **or mixed**
11 **spirit drink** sold by a supplier.

12 (b) "Ancillary business" means a business owned by a
13 wholesaler, a stockholder of a wholesaler, or a partner of a
14 wholesaler the primary purpose of which is directly related to the
15 transporting, storing, or marketing of the brand or brands of wine
16 **or mixed spirit drink** of a supplier with whom the wholesaler has an
17 agreement; or a business owned by a wholesaler, a stockholder of a
18 wholesaler, or a partner of a wholesaler ~~which~~**that** recycles empty
19 returnable beverage containers.

20 (c) "Designated member" means the spouse, child, grandchild,
21 parent, brother, or sister of a deceased individual who owned an
22 interest in a wholesaler, who is entitled to inherit the deceased
23 individual's ownership interest in the wholesaler under the terms
24 of the deceased individual's will, or who has otherwise been
25 designated in writing by the deceased individual to succeed the
26 deceased individual in the wholesaler's business, or is entitled to
27 inherit ~~such~~**that** ownership interest under the laws of intestate
28 succession of this state. With respect to an incapacitated
29 individual owning an ownership interest in a wholesaler, the term

1 means the person appointed by a court as the conservator of ~~such~~
2 **that** individual's property. The term also includes the appointed
3 and qualified personal representative and the testamentary trustee
4 of a deceased individual owning an ownership interest in a
5 wholesaler.

6 (d) "Good faith" means honesty in fact and the observance of
7 reasonable commercial standards of fair dealing in the trade, as
8 defined and interpreted under section ~~2103-1201~~ of the uniform
9 commercial code, 1962 PA 174, MCL ~~440.2103-~~**440.1201**.

10 (e) "Master distributor" means a wholesaler ~~who~~**that** acts in
11 the same or similar capacity as a wine maker, ~~or~~**mixed spirit drink**
12 **manufacturer**, an outstate seller of wine, **or an outstate seller of**
13 **mixed spirit drink** for a brand or brands of wine **or mixed spirit**
14 **drink** to other wholesalers on a regular basis in the normal course
15 of business.

16 (f) "Reasonable qualifications" means the average standard of
17 the criteria used by the respective supplier for wholesalers that
18 entered into or renewed an agreement with the suppliers during a
19 period of 24 months ~~prior to~~**before** the proposed transfer of the
20 wholesaler's business.

21 (g) "Retaliatory action" means action ~~which~~**that** includes, but
22 is not limited to, the refusal to continue an agreement, or a
23 material reduction in the quality of service or quantity of
24 products available to a wholesaler under an agreement, which
25 refusal or reduction is not made in good faith.

26 (h) "Sales territory" means an area of sales responsibility
27 for the brand or brands of wine **or mixed spirit drink** sold by a
28 supplier as designated by an agreement.

29 (i) "Successor" means a supplier ~~who~~**that** obtains, in any

1 manner from any person, including a person ~~who~~**that** is not a
 2 supplier, the distribution rights of 1 or more brands of wine ~~which~~
 3 **or mixed spirit drink that** a licensed Michigan wholesaler has
 4 distributed in this state ~~pursuant to~~**under** an agreement with
 5 another supplier, ~~who~~**that** previously had the distribution rights
 6 for the brand or brands.

7 (j) "Supplier" means a wine maker, ~~or~~**mixed spirit drink**
 8 **manufacturer**, an outstate seller of wine, ~~or~~**an outstate seller of**
 9 **mixed spirit drink, or** a master distributor.

10 (k) "Transfer of a wholesaler's business" means the voluntary
 11 sale, assignment, or other transfer of the business or control of
 12 the business of the wholesaler, including the sale or other
 13 transfer of stock or assets by merger, consolidation, or
 14 dissolution.

15 (3) A supplier shall not do any of the following:

16 (a) Coerce, or attempt to coerce, ~~any~~**a** wholesaler to accept
 17 delivery of any wine, **mixed spirit drink**, or other commodity ~~which~~
 18 **that** has not been ordered by the wholesaler. However, a supplier
 19 may impose reasonable inventory requirements ~~upon~~**on** a wholesaler
 20 if the requirements are made in good faith and are generally
 21 applied to other wholesalers having an agreement with the supplier.

22 (b) Coerce, or attempt to coerce, ~~any~~**a** wholesaler to accept
 23 delivery of any wine, **mixed spirit drink**, or other commodity
 24 ordered by a wholesaler if the order was properly canceled by the
 25 wholesaler in accordance with the procedures agreed ~~upon~~**on** by the
 26 supplier and wholesaler.

27 (c) Coerce, or attempt to coerce, ~~any~~**a** wholesaler to do any
 28 illegal act by threatening to amend, cancel, terminate, or refuse
 29 to renew any agreement existing between the supplier and

1 wholesaler.

2 (d) Require a wholesaler to assent to any condition,
3 stipulation, or provision limiting the wholesaler's right to sell
4 the brand or brands of wine **or mixed spirit drink** of any other
5 supplier anywhere in this state unless the acquisition of the brand
6 or brands of another supplier would materially impair the quality
7 of service of the brand or brands of the supplier presently being
8 sold by the wholesaler.

9 (e) Require a wholesaler to purchase 1 or more brands of wine
10 **or mixed spirit drink** in order for the wholesaler to purchase
11 another brand or brands of wine **or mixed spirit drink** for any
12 reason. However, a wholesaler that has agreed to distribute a brand
13 or brands before June 26, 1984 shall continue to distribute the
14 brand or brands in conformance with this section.

15 (f) Request a wholesaler to submit profit and loss statements,
16 balance sheets, or financial records as a requirement for renewing
17 or retaining an agreement.

18 (g) Withhold delivery of wine **or mixed spirit drink** ordered by
19 a wholesaler, or change a wholesaler's quota of a brand or brands
20 if the withholding or change is not made in good faith.

21 (h) Require a wholesaler by any means to participate in or
22 contribute to any local or national advertising fund controlled
23 directly or indirectly by a supplier.

24 (i) Fail to provide each wholesaler of the supplier's brand or
25 brands with a written agreement ~~which~~**that** contains in total the
26 supplier's agreement with each wholesaler, and designates a
27 specific sales territory.

28 (j) Fix, maintain, or establish the price at which a
29 wholesaler shall sell any wine **or mixed spirit drink**.

1 (k) Take any retaliatory action against a wholesaler that
2 files a complaint regarding an alleged violation by the supplier of
3 state or federal law or an administrative rule.

4 (l) Require or prohibit any change in the manager or successor
5 manager of any wholesaler ~~who~~**that** has been approved by the
6 supplier as of June 26, 1984. ~~Should,~~**If**, after June 26, 1984, a
7 supplier ~~require that~~**requires** a manager or successor manager be
8 appointed, or ~~should~~**if** a wholesaler ~~change~~**changes** an approved
9 manager or successor manager, a supplier shall not interfere with
10 or prohibit the appointment unless the person fails to meet the
11 reasonable written standards for Michigan wholesalers of the
12 supplier ~~which standards~~**that** have been provided to the wholesaler.

13 (m) Require by a provision of any agreement or other
14 instrument in connection with the agreement that any dispute
15 arising out of or in connection with that agreement be determined
16 through the application of any other state's laws. Any supplier or
17 wholesaler aggrieved by any dispute arising out of or in connection
18 with an agreement governed by this act ~~shall have~~**has** the right to
19 file an appropriate action consistent with this act in any court in
20 this state having venue.

21 (4) A wholesaler shall not sell or deliver wine **or mixed**
22 **spirit drink** to a retail licensee located outside the sales
23 territory designated by the supplier of a particular brand or
24 brands of wine **or mixed spirit drink**. However, during periods of
25 temporary service interruptions impacting a particular sales
26 territory, a wholesaler ~~who~~**that** normally services the impacted
27 sales territory shall file with the commission a written notice
28 designating the specific wholesaler or wholesalers ~~who~~**that** will
29 service the sales territory during the period of temporary service

1 interruption and the approximate length of time of the service
2 interruption. When the temporary service interruption is over, the
3 wholesaler ~~who~~**that** normally services the sales territory shall
4 notify in writing the commission and the wholesaler, or
5 wholesalers, which is servicing the sales territory on a temporary
6 basis of this fact and any wholesaler servicing the sales territory
7 on a temporary basis shall cease servicing the sales territory upon
8 receipt of the notice.

9 A wholesaler ~~who~~**that** is designated to service the impacted
10 sales territory during the period of temporary service ~~shall~~**is** not
11 ~~be~~ in violation of this subsection.

12 A wholesaler ~~who~~**that** has been designated to service the
13 impacted sales territory during the period of temporary service
14 interruption ~~shall~~**does** not have any of the rights provided under
15 subsections (6) to (12).

16 (5) A supplier or wholesaler shall not **directly or indirectly**
17 restrict or inhibit ~~, directly or indirectly,~~ the right of free
18 association among suppliers or wholesalers for any lawful purpose.

19 (6) Notwithstanding the terms, provisions, or conditions of
20 any agreement, a supplier shall not amend any agreement unless the
21 supplier is acting in good faith in making the amendment.

22 (7) Notwithstanding any agreement and except as otherwise
23 provided for in this section, a supplier shall not cause a
24 wholesaler to resign from an agreement; or cancel, terminate, fail
25 to renew, or refuse to continue under an agreement unless the
26 supplier has complied with all of the following:

27 (a) Has satisfied the applicable notice requirements of
28 subsection (10).

29 (b) Has acted in good faith.

1 (c) Has good cause for the cancellation, termination,
2 nonrenewal, discontinuance, or forced resignation.

3 (8) Notwithstanding any agreement, good cause shall exist for
4 the purposes of a termination, cancellation, nonrenewal, or
5 discontinuance under subsection (7)(c) when all of the following
6 occur:

7 (a) ~~There is a failure by the~~**The** wholesaler **fails** to comply
8 with a provision of the agreement ~~which~~**that** is both reasonable and
9 of material significance to the business relationship between the
10 wholesaler and the supplier.

11 (b) The supplier first acquired knowledge of the failure
12 described in subdivision (a) not more than 2 years before the date
13 notification was given ~~pursuant to~~**under** subsection (7).

14 (c) The wholesaler was given written notice by the supplier of
15 failure to comply with the agreement.

16 (d) The wholesaler was afforded a reasonable opportunity to
17 assert good faith efforts to comply with the agreement within the
18 time limits as provided for in subdivision (e).

19 (e) The wholesaler has been afforded 25 days in which to
20 submit a plan of corrective action to comply with the agreement and
21 an additional 75 days to cure ~~such~~**the** noncompliance in accordance
22 with the plan.

23 (9) A supplier or wholesaler who terminates, cancels,
24 nonrenews, or discontinues an agreement ~~shall have~~**has** the burden
25 of showing that it has acted in good faith, complied with the
26 applicable notice requirements under this section, and that there
27 was good cause for the termination, cancellation, nonrenewal, or
28 discontinuance.

29 (10) Notwithstanding any agreement and except as otherwise

1 provided in this section, ~~the~~**a** supplier shall furnish written
2 notice of ~~the~~**a** termination, cancellation, nonrenewal, or
3 discontinuance of an agreement to the wholesaler not less than 15
4 days before the effective date of the termination, cancellation,
5 nonrenewal, or discontinuance. The notice ~~shall~~**must** be by
6 certified mail and ~~shall~~**must** contain all of the following:

7 (a) A statement of intention to terminate, cancel, not renew,
8 or discontinue the agreement.

9 (b) A statement of the reason for the termination,
10 cancellation, nonrenewal, or discontinuance.

11 (c) The **effective** date ~~on which of~~ the termination,
12 cancellation, nonrenewal, or discontinuance. ~~takes effect.~~

13 (11) Notwithstanding subsections (7) and (10), a supplier may
14 immediately terminate, cancel, ~~fail to~~**not** renew, or discontinue an
15 agreement ~~upon~~**on** written notice given in the manner and containing
16 the information required by subsection (10) if any of the following
17 occur:

18 (a) Insolvency of the wholesaler, the filing of any petition
19 by or against the wholesaler under any bankruptcy or receivership
20 law, or the dissolution or liquidation of the wholesaler ~~which~~**that**
21 materially affects the wholesaler's ability to remain in business.

22 (b) ~~Revocation of~~**The commission revokes** the wholesaler's
23 license ~~by the commission~~ whereby the wholesaler cannot service the
24 wholesaler's sales territory for more than 60 days.

25 (c) The wholesaler, or an individual who owns more than 10% of
26 the stock of a corporate wholesaler, ~~has been~~**is** convicted of a
27 felony. ~~As used in this subdivision, "felony" means a felony under~~
28 ~~the United States code or the Michigan Compiled Laws.~~ However, an
29 existing approved stockholder ~~or stockholders shall have~~**has** the

1 right to purchase the stock of the offending stockholder ~~prior to~~
2 **before** the conviction of the offending stockholder, and if the sale
3 is completed ~~prior to~~**before** conviction, ~~the provisions of this~~
4 subdivision shall ~~does~~ not apply. **As used in this subdivision,**
5 **"felony" means a felony under the United States code or the**
6 **Michigan Compiled Laws.**

7 (12) Notwithstanding subsections (7), (10), and (11), ~~upon~~**on**
8 not less than 15 days' prior written notice given in the manner and
9 containing the information required by subsection (10), a supplier
10 may terminate, cancel, ~~fail to~~**not** renew, or discontinue an
11 agreement if any of the following events occur:

12 (a) There was fraudulent conduct on the part of the wholesaler
13 in dealings with the supplier.

14 (b) The wholesaler failed to confine its sales of a brand or
15 brands to the assigned sales territory. This subdivision does not
16 apply if there is a dispute between 2 or more wholesalers as to the
17 boundaries of the assigned territory, and the boundaries cannot be
18 determined by a reading of the description contained in the
19 agreements between the supplier and the wholesalers.

20 (c) The sale by the wholesaler of any brand or brands sold by
21 the supplier to the wholesaler ~~and known by~~**that** the wholesaler ~~to~~
22 ~~be~~**knew were** ineligible for sale ~~prior to~~**before** the actual sale to
23 the retailer. The supplier shall repurchase the ineligible product
24 from the wholesaler when the ineligibility is caused by the
25 supplier. The supplier must give the wholesaler written notice
26 specifying the ineligible product.

27 (13) Notwithstanding subsections (7), (10), (11), and (12), a
28 supplier may terminate, cancel, not renew, or discontinue an
29 agreement upon not less than 30 days' prior written notice if the

1 supplier discontinues production or discontinues distribution in
2 this state of all the brands sold by the supplier to the
3 wholesaler. Nothing in this section ~~shall prohibit~~ **prohibits** a
4 supplier upon not less than 30 days' notice to discontinue the
5 distribution of any particular brand or package of wine **or mixed**
6 **spirit drink**. This subsection does not prohibit a supplier from
7 conducting test marketing of a new brand of wine **or mixed spirit**
8 **drink** or from conducting the test marketing of a brand of wine
9 ~~which~~ **or mixed spirit drink that** is not currently being sold in
10 this state ~~provided that if~~ the supplier has notified the
11 commission in writing of its plans to test market. The notice ~~shall~~
12 **must** describe the market area in which the test ~~shall~~ **must** be
13 conducted; the name or names of the wholesaler or wholesalers who
14 will be selling the wine **or mixed spirit drink**; the name or names
15 of the brand of wine **or mixed spirit drink** being tested; and the
16 period of time during which the testing will take place. A market
17 testing period ~~shall~~ **must** not exceed 18 months.

18 (14) ~~The~~ **A** wholesaler shall devote reasonable efforts and
19 resources to sales and distribution of all the supplier's products
20 ~~which~~ **that** the wholesaler has been granted the right to sell and
21 distribute and shall maintain reasonable sales levels.

22 (15) A supplier shall not withhold consent to any transfer of
23 a wholesaler's business if the proposed transferee meets the
24 material and reasonable qualifications and standards required by
25 the supplier. A wholesaler shall give the supplier written notice
26 of intent to transfer the wholesaler's business. A supplier shall
27 not unreasonably delay a response to a request for a proposed
28 transfer of a wholesaler's business. However, a transfer of a
29 wholesaler's business ~~which~~ **that** is not approved by the supplier

1 ~~shall be null and~~ **is** void. A supplier shall not interfere with, or
2 prevent, the transfer of the wholesaler's business if the proposed
3 transferee is a designated member.

4 (16) A supplier as part of the written agreement required by
5 this section may, subject to the provisions of subsection (3) (l),
6 require a wholesaler to designate a successor manager who shall be
7 subject to prior approval by the supplier. ~~In the event~~ **If** the
8 designated successor manager fails to assume the role of approved
9 manager or for any reason does not continue to manage the
10 wholesaler's business, after assuming that responsibility, then any
11 successor shall be subject to the prior approval of the supplier,
12 subject to the provisions of subsection (3) (l), notwithstanding the
13 transferee's interest as a designated member.

14 (17) A supplier that has amended, canceled, terminated, or
15 refused to renew any agreement; has caused a wholesaler to resign
16 from an agreement; or has withheld consent to any assignment or
17 transfer of a wholesaler's business, except as provided for in this
18 section, shall pay the wholesaler reasonable compensation for the
19 diminished value of the wholesaler's business or of any ancillary
20 business which has been negatively affected by the act of the
21 supplier, or both. The value of the wholesaler's business or
22 ancillary business ~~shall~~ **must** include, but not be limited to, its
23 goodwill.

24 (18) ~~Either party~~ **A supplier or wholesaler** may, at any time,
25 determine that mutual agreement on the amount of reasonable
26 compensation cannot be reached. ~~Should~~ **If** such a determination ~~be~~
27 **is** made, the supplier or the wholesaler shall send written notice
28 to the other party declaring their intention to proceed with
29 arbitration. Arbitration ~~shall~~ **may** proceed only by mutual agreement

1 of both parties.

2 (19) The **supplier and wholesaler may, by agreement, submit the**
3 matter of determining the amount of compensation under arbitration
4 ~~may, by agreement of the parties, be submitted to~~ a 5-member
5 arbitration panel consisting of 2 representatives selected by the
6 supplier but unassociated with the affected supplier, 2 wholesaler
7 representatives selected by the wholesaler but unassociated with
8 the wholesaler, and an impartial arbitrator.

9 (20) Not more than 10 days after the notice to enter into
10 arbitration has been sent, ~~each party~~ **the supplier and wholesaler**
11 shall request, in writing, a list of 5 arbitrators from the
12 American arbitration association. Not more than 10 days after the
13 ~~receipt~~ **supplier and wholesaler receive** of the list of 5 choices,
14 the wholesaler arbitrators and the supplier arbitrators may strike
15 and disqualify up to 2 names each from the list. ~~Should either~~
16 ~~party fail~~ **If the supplier or wholesaler fails** to respond within
17 the 10 days or ~~should~~ **if** more than 1 name ~~remain,~~ **remains,** the
18 American arbitration association shall ~~make the selection of~~ **select**
19 the impartial arbitrator.

20 (21) Not more than 30 days after **the supplier and wholesaler**
21 **receive** the list of arbitrators, ~~is received,~~ the wholesaler and
22 supplier shall exchange in writing the names of their respective
23 arbitration panel representatives.

24 (22) Not more than 30 days after the final selection of the
25 arbitration panel is made, the arbitration panel shall convene to
26 decide the dispute. The panel shall render a decision by majority
27 vote of the participants within 20 days ~~from the conclusion of the~~
28 ~~arbitration.~~ **after the arbitration concludes.**

29 (23) The cost of the impartial arbitrator, the stenographer,

1 and the meeting site ~~shall~~**must** be equally divided between the
 2 wholesaler and the supplier. All other costs ~~shall~~**must** be paid by
 3 the party incurring them. The award of the arbitration panel ~~shall~~
 4 ~~be~~**is** final and binding on the parties.

5 (24) ~~Should either party fail~~**If the supplier or wholesaler**
 6 **fails** to abide by the time limitations as prescribed in subsections
 7 (20), (21), and (22), or ~~fail or refuse to make the selection of~~
 8 **fails or refuses to select** any arbitrators, or ~~fail~~**fails** to
 9 participate in the arbitration hearings, the other party shall make
 10 the selection of their arbitrators and proceed to arbitration. The
 11 party who has failed or refused to comply as prescribed in this
 12 subsection ~~shall be~~**is** considered to be in default. Any party
 13 considered to be in default ~~pursuant to~~**under** this subsection ~~shall~~
 14 ~~have waived~~**waives** any ~~and all~~ rights the party would have had in
 15 the arbitration and ~~shall be~~**is** considered to have consented to the
 16 determination of the arbitration panel.

17 (25) A wholesaler shall not waive any of the rights granted in
 18 ~~any provision of this section. Nothing in this~~**This** section ~~shall~~
 19 ~~be construed to limit or prohibit~~**does not limit or prohibit** a good
 20 faith dispute ~~settlements~~**settlement** voluntarily entered into by
 21 the parties.

22 (26) A successor to a supplier that continues in business as a
 23 wine maker, **mixed spirit drink manufacturer**, an outstate seller of
 24 wine, **outstate seller of mixed spirit drink**, or master distributor
 25 ~~shall be~~**is** bound by all terms and conditions of each agreement of
 26 the supplier with a wholesaler licensed in this state that were in
 27 effect on the date on which the successor received the distribution
 28 rights of the previous supplier.

29 (27) This section ~~shall apply~~**applies** to agreements in

1 existence on June 26, 1984, as well as agreements entered into or
2 renewed after that date.

3 (28) If a supplier engages in conduct prohibited under this
4 section, a wholesaler with which the supplier has an agreement may
5 maintain a civil action against the supplier to recover actual
6 damages reasonably incurred as the result of the prohibited
7 conduct. If a wholesaler engages in conduct prohibited under this
8 section, a supplier with which the wholesaler has an agreement may
9 maintain a civil action against the wholesaler to recover actual
10 damages reasonably incurred as the result of the prohibited
11 conduct.

12 (29) A supplier that violates ~~any provision of~~ this section is
13 liable for all actual damages and all court costs and reasonable
14 attorney fees incurred by a wholesaler as a result of that
15 violation. A wholesaler that violates ~~any provision of~~ this section
16 is liable for all actual damages and all court costs and reasonable
17 attorney fees incurred by the supplier as a result of that
18 violation.

19 (30) A supplier or wholesaler may bring an action for
20 declaratory judgment for determination of any controversy arising
21 ~~pursuant to~~ **under** this section.

22 (31) Except as otherwise provided in this section, if a court
23 finds that a supplier has not acted in good faith in ~~effecting the~~
24 ~~amendment, termination, cancellation, or nonrenewal of~~ **amending,**
25 **terminating, canceling, or not renewing** any agreement; or has
26 unreasonably withheld its consent to any assignment, transfer, or
27 sale of a wholesaler's business, ~~it~~ **the court** may award exemplary
28 damages, as well as actual damages, court costs, and reasonable
29 attorney fees to the wholesaler ~~who~~ **that** has been damaged by the

1 action of the supplier.

2 (32) ~~Upon~~**On** proper application to ~~the a~~ court, a supplier or
3 wholesaler may obtain injunctive relief against any violation of
4 this section. If the court grants injunctive relief or issues a
5 temporary restraining order, bond ~~shall~~**is** not ~~be~~ required to be
6 posted.

7 (33) The procedure for resolving any violation of subsection
8 (3) (a), (b), (c), (e), (f), (h), (i), (j), (k), (~~l~~), or (4) ~~shall be~~
9 **is** the procedure prescribed by this act and the administrative
10 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Any
11 other violation of or dispute regarding this section, unless the
12 dispute is resolved pursuant to subsections (18) to (24), ~~shall~~
13 **must** only be resolved by a civil action in court as provided in
14 this section and not by the commission.

15 Sec. 307. (1) A manufacturer, an outstate seller of wine, and
16 a master distributor shall grant to each of its wholesalers a sales
17 territory within which the wholesaler is a distributor of the
18 specified brand or brands of the manufacturer, outstate seller of
19 wine, or master distributor under an agreement as required under
20 this act. The territory is the territory agreed on between the
21 wholesaler and manufacturer, outstate seller of wine, or master
22 distributor. Except as provided for in subsection (9) and beginning
23 June 1, 2010, a manufacturer, outstate seller of wine, or master
24 distributor shall not grant the right to sell a specified brand or
25 brands of wine in a sales territory to more than 1 wine wholesaler.
26 A master distributor shall not itself distribute a specified brand
27 or brands of wine in the same sales territory where that master
28 distributor has granted the right to distribute that specified
29 brand or brands of wine in that sales territory to another wine

1 wholesaler.

2 (2) Notwithstanding subsection (1), a brand extension is not a
3 new or different brand. A manufacturer or outstate seller of wine
4 shall assign a brand extension to the wholesaler that was granted
5 the sales territory for the brand from which the brand extension
6 resulted.

7 (3) Subsection (2) does not apply if, before January 1, 1994,
8 a manufacturer or outstate seller of wine had assigned a brand
9 extension to a wholesaler that was not the appointed wholesaler for
10 the brand from which the brand extension was made.

11 (4) Subsection (2) does not apply if, before October 1, 2019,
12 a successor manufacturer or successor outstate seller of wine had
13 assigned a brand extension to a wholesaler that was not the
14 appointed wholesaler for the brand from which the extension was
15 made.

16 (5) A manufacturer of a mixed wine drink, mixed spirit drink
17 manufacturer, outstate seller of a mixed wine drink, or outstate
18 seller of mixed spirit drink shall grant to each of its wholesalers
19 an exclusive sales territory in which the wholesaler is a
20 distributor of the specified brand or brands of the manufacturer or
21 outstate seller. The territory is the territory agreed on between
22 the wholesaler and the manufacturer of a mixed wine drink, mixed
23 spirit drink manufacturer, outstate seller of mixed wine drinks, or
24 outstate seller of mixed spirit drink.

25 (6) Notwithstanding subsection (5), a brand extension is not a
26 new or different brand. A manufacturer of a mixed wine drink, mixed
27 spirit drink manufacturer, outstate seller of a mixed wine drink,
28 or outstate seller of mixed spirit drink shall assign a brand
29 extension to the wholesaler that was granted the exclusive sales

1 territory for the brand from which the brand extension resulted.

2 (7) Subsection (6) does not apply if, before January 1, 1994,
3 a manufacturer of a mixed wine drink, mixed spirit drink
4 manufacturer, outstate seller of a mixed wine drink, or outstate
5 seller of mixed spirit drink had assigned a brand extension to a
6 wholesaler that was not the appointed wholesaler for the brand from
7 which the brand extension was made.

8 (8) Subsection (6) does not apply if, before October 1, 2019,
9 a successor manufacturer or successor outstate seller of mixed wine
10 drink or mixed spirit drink had assigned a brand extension to a
11 wholesaler that was not the appointed wholesaler for the brand from
12 which the brand extension was made.

13 (9) Subsection (1) does not prohibit any of the following:

14 (a) A manufacturer of wine, an outstate seller of wine, **mixed**
15 **spirit drink manufacturer, outstate seller of mixed spirit drink,**
16 or a master distributor from continuing or renewing an agreement
17 under this act with a wholesaler for a specified brand or brands
18 for any county or part of a county where more than 1 wholesaler has
19 an agreement with the manufacturer of wine, outstate seller of
20 wine, **mixed spirit drink manufacturer, outstate seller of mixed**
21 **spirit drink,** or master distributor in effect on June 1, 2010 if
22 the wholesaler had an agreement to distribute that specified brand
23 or brands in that county or that part of a county and was a master
24 distributor or was actively selling that brand or brands of wine **or**
25 **mixed spirit drink** to a retailer in that county or that part of a
26 county on June 1, 2010.

27 (b) A wholesaler from selling or transferring the wholesaler's
28 distribution rights or a manufacturer of wine, outstate seller of
29 wine, **mixed spirit drink manufacturer, outstate seller of mixed**

1 **spirit drink**, or master distributor from approving the sale or
2 transfer of a wholesaler's distribution rights to a specified brand
3 or brands of wine **or mixed spirit drink** for any county or part of a
4 county to another wholesaler if the selling or transferring
5 wholesaler, or any of its predecessors, had the right to distribute
6 that brand or brands of wine **or mixed spirit drink** in that county
7 or part of that county and was actively selling that brand or
8 brands to a retailer in that county or that part of a county on
9 June 1, 2010 or was acting as a master distributor for that county
10 or part of that county on June 1, 2010.

11 (10) As used in this section, "master distributor" means,
12 notwithstanding section 109(4), a wholesaler that acts in the same
13 or similar capacity as a wine maker, wine manufacturer, ~~or~~ outstate
14 seller of wine, **mixed spirit drink manufacturer, or outstate seller**
15 **of mixed spirit drink** for a brand or brands of wine **or mixed spirit**
16 **drink** to other wholesalers on a regular basis in the normal course
17 of business.

18 Sec. 521. (1) ~~Beginning on the effective date of the~~
19 ~~amendatory act that added section 521a, December 29, 2006,~~ the
20 commission shall not issue ~~any~~ a tavern or class C licenses under
21 this section. However, those licenses issued under this section
22 before ~~the effective date of the amendatory act that added section~~
23 ~~521a December 29, 2006~~ remain valid and may be renewed if in
24 compliance with this section. The commission shall renew licenses
25 issued under this section before ~~the effective date of the~~
26 ~~amendatory act that added section 521a December 29, 2006~~ for
27 persons who operate businesses that meet all of the following
28 conditions:

29 (a) The business is a full service restaurant, is open to the

1 public, and prepares food on the premises.

2 (b) The business is open for food service not less than 10
3 hours per day, 5 days a week.

4 (c) At least 50% of the gross receipts of the business are
5 derived from the sale of food for consumption on the premises. For
6 purposes of this subdivision, food does not include beer and wine.

7 (d) The business has dining facilities to seat not less than
8 25 persons.

9 (e) The business is located in a development district with a
10 population of not more than 50,000, in which the district, after a
11 public hearing, has found that the issuance of the license would
12 prevent further deterioration within the development district and
13 promote economic growth within the development district.

14 (2) If in any licensing year the sale of food for consumption
15 on the premises of the business represents less than 50% of the
16 gross receipts for the business, the commission, after due notice
17 and proper hearing, shall revoke the license issued under
18 subsection (1).

19 (3) A license issued under this section is transferable as to
20 ownership or location only within the development district.

21 ~~(4) The commission shall not issue a specially designated~~
22 ~~merchant license, specially designated distributor license, or any~~
23 ~~other license that allows the sale of alcoholic liquor for~~
24 ~~consumption off the premises in conjunction with a license issued~~
25 ~~under this section or at the premises for which a license has been~~
26 ~~issued under this section.~~

27 (4) ~~(5)~~As used in this section, "development district" means
28 any of the following:

29 (a) An authority district established under ~~the tax increment~~

1 ~~finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.~~**part 3**
 2 **of the recodified tax increment financing act, 2018 PA 57, MCL**
 3 **125.4301 to 125.4329.**

4 (b) An authority district established under ~~the local~~
 5 ~~development financing act, 1986 PA 281, MCL 125.2151 to~~
 6 ~~125.2174.~~**part 4 of the recodified tax increment financing act, 2018**
 7 **PA 57, MCL 125.4401 to 125.4420.**

8 (c) A downtown district established under ~~1975 PA 197, MCL~~
 9 ~~125.1651 to 125.1681.~~**part 2 of the recodified tax increment**
 10 **financing act, 2018 PA 57, MCL 125.4201 to 125.4230.**

11 (d) A principal shopping district established under 1961 PA
 12 120, MCL 125.981 to ~~125.990m,~~**125.990n**, before January 1, 1996.

13 Sec. 525. (1) Except as otherwise provided in this section,
 14 the following license fees must be paid at the time of filing
 15 applications or as otherwise provided in this act and are subject
 16 to allocation under section 543:

17 (a) Manufacturers of spirits, not including makers, blenders,
 18 and rectifiers of wines containing 21% or less alcohol by volume,
 19 \$1,000.00.

20 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
 21 fraction of a barrel, production annually with a maximum fee of
 22 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
 23 delivery to retail licensees. A fee increase does not apply to a
 24 manufacturer of less than 15,000 barrels production per year.

25 (c) Outstate seller of beer, delivering or selling beer in
 26 this state, \$1,000.00.

27 (d) Wine makers, blenders, and rectifiers of wine, including
 28 makers, blenders, and rectifiers of wines containing 21% or less
 29 alcohol by volume, \$100.00. The small wine maker license fee is

1 \$25.00. **A small wine maker must pay \$50.00 for each motor vehicle**
 2 **used for delivery of wine to a retailer.**

3 (e) Outstate seller of wine, delivering or selling wine in
 4 this state, \$300.00.

5 (f) Outstate seller of mixed spirit drink, delivering or
 6 selling mixed spirit drink in this state, \$300.00.

7 (g) Dining cars or other railroad or Pullman cars selling
 8 alcoholic liquor, \$100.00 per train.

9 (h) Wholesale vendors other than manufacturers of beer,
 10 \$300.00 for the first motor vehicle used in delivery to retail
 11 licensees and \$50.00 for each additional motor vehicle used in
 12 delivery to retail licensees.

13 (i) Watercraft, licensed to carry passengers, selling
 14 alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of
 15 \$500.00 per year computed on the basis of \$1.00 per person per
 16 passenger capacity.

17 (j) Specially designated merchants, for selling beer, ~~or~~ wine,
 18 **or mixed spirit drink** for consumption off the premises only but not
 19 at wholesale, \$100.00 for each location regardless of whether the
 20 location is part of a system or chain of merchandising.

21 (k) Specially designated distributors licensed by the
 22 commission to distribute spirits ~~and mixed spirit drink~~ in the
 23 original package for the commission for consumption off the
 24 premises, \$150.00 per year, and an additional fee of \$3.00 for each
 25 \$1,000.00 or major fraction of that amount in excess of \$25,000.00
 26 of the total retail value of merchandise purchased under each
 27 license from the commission during the previous calendar year.

28 (l) Hotels of class A selling beer, ~~and~~ wine, **and mixed spirit**
 29 **drink**, a minimum fee of \$250.00 and \$1.00 for each bedroom in

1 excess of 20, but not more than \$500.00 total.

2 (m) Hotels of class B selling beer, wine, mixed spirit drink,
3 and spirits, a minimum fee of \$600.00 and \$3.00 for each bedroom in
4 excess of 20. If a hotel of class B sells beer, wine, mixed spirit
5 drink, and spirits in more than 1 public bar, a fee of \$350.00 must
6 be paid for each additional public bar, other than a bedroom.

7 (n) Taverns, selling beer, ~~and wine,~~ **and mixed spirit drink,**
8 \$250.00.

9 (o) Class C license selling beer, wine, mixed spirit drink,
10 and spirits, \$600.00. Subject to section 518(2), if a class C
11 licensee sells beer, wine, mixed spirit drink, and spirits in more
12 than 1 bar, a fee of \$350.00 must be paid for each additional bar.
13 In municipally owned or supported facilities in which nonprofit
14 organizations operate concession stands, a fee of \$100.00 must be
15 paid for each additional bar.

16 (p) Clubs selling beer, wine, mixed spirit drink, and spirits,
17 \$300.00 for clubs having 150 or fewer accredited members and \$1.00
18 for each member in excess of 150. Clubs shall submit a list of
19 members by an affidavit 30 days before the closing of the license
20 year. The affidavit must be used only for determining the license
21 fees to be paid under this subdivision. This subdivision does not
22 prevent the commission from checking a membership list and making
23 its own determination from the list or otherwise. The list of
24 members and additional members is not required of a club paying the
25 maximum fee. The maximum fee must not exceed \$750.00 for any 1
26 club.

27 (q) Warehousemen, to be fixed by the commission with a minimum
28 fee for each warehouse of \$50.00.

29 (r) Special licenses, a fee of \$50.00 per day, except that the

1 fee for the license or permit issued to a bona fide nonprofit
2 association, organized and in continuous existence for 1 year
3 before the filing of its application, is \$25.00. The commission
4 shall not grant more than 12 special licenses to any organization,
5 including an auxiliary of the organization, in a calendar year.

6 (s) Airlines licensed to carry passengers in this state that
7 sell, offer for sale, provide, or transport alcoholic liquor,
8 \$600.00.

9 (t) Brandy manufacturer, \$100.00.

10 (u) Mixed spirit drink manufacturer, \$100.00. **A mixed spirit**
11 **drink manufacturer must pay \$50.00 for each motor vehicle used for**
12 **delivery of mixed spirit drink to retailers under section 203b.**

13 (v) Brewpub, \$100.00.

14 (w) Class G-1, \$1,000.00.

15 (x) Class G-2, \$500.00.

16 (y) Motorsports event license, the amount as described and
17 determined under section 518(2).

18 (z) Small distiller, \$100.00. **A qualified small distiller must**
19 **pay \$50.00 for each motor vehicle used for delivery to retailers**
20 **under section 203(20).**

21 (aa) Wine auction license, \$50,000.00.

22 (bb) Nonpublic continuing care retirement center license,
23 \$600.00.

24 (cc) Conditional license approved under subsection (6) and
25 issued under subsection (7), \$300.00.

26 (dd) **Outstate self-distributor license, \$300.00. An outstate**
27 **self-distributor must pay \$50.00 for each motor vehicle used for**
28 **delivery of alcoholic liquor to retailers under sections 203(20),**
29 **203a, or 203b.**

1 (2) The fees provided in this act for the various types of
2 licenses must not be prorated for a portion of the effective period
3 of the license. Notwithstanding subsection (1), the initial license
4 fee for a license issued under section 531(3) or (4) is \$20,000.00.
5 The renewal license fee is the amount described in subsection (1).
6 However, the commission shall not impose the \$20,000.00 initial
7 license fee for applicants whose license eligibility was already
8 approved on July 20, 2005.

9 (3) If the commission requires an applicant to submit
10 fingerprints, the applicant shall have the fingerprints taken by a
11 local law enforcement agency, the department of state police, or
12 any other person qualified to take fingerprints as determined by
13 the department of state police. The applicant shall submit the
14 fingerprints and the appropriate state and federal fees, which
15 shall be borne by the applicant, to the department of state police
16 and the Federal Bureau of Investigation for a criminal history
17 check. After conducting the criminal history check, the department
18 of state police shall provide the commission with a report of the
19 criminal history check. The report must include criminal history
20 record information concerning the person who is the subject of the
21 criminal history check that is maintained by the department of
22 state police. If a criminal arrest fingerprint card is subsequently
23 submitted to the department of state police and matches against a
24 fingerprint that was submitted under this act and stored in its
25 automated fingerprint identification system (AFIS) database, the
26 department of state police shall notify the commission.

27 (4) Except for a resort or resort economic development license
28 issued under section 531(2), (3), (4), or (5) or a license issued
29 under section 521a, the commission shall issue an initial or

1 renewal license not later than 90 days after the applicant files a
2 completed application. The application is considered to be received
3 the date the application is received by an agency or department of
4 this state. If the commission determines that an application is
5 incomplete, the commission shall notify the applicant in writing,
6 or make the information electronically available, within 30 days
7 after receipt of the incomplete application, describing the
8 deficiency and requesting the additional information. The
9 determination of the completeness of an application is not an
10 approval of the application for the license and does not confer
11 eligibility on an applicant determined otherwise ineligible for
12 issuance of a license. The 90-day period is tolled for the
13 following periods under any of the following circumstances:

14 (a) If notice is sent by the commission of a deficiency in the
15 application, until the date all of the requested information is
16 received by the commission.

17 (b) For the time required to complete actions required by a
18 person, other than the applicant or the commission, including, but
19 not limited to, completion of construction or renovation of the
20 licensed premises; mandated inspections by the commission or by any
21 state, local, or federal agency; approval by the legislative body
22 of a local unit of government; criminal history or criminal record
23 checks; financial or court record checks; or other actions mandated
24 by this act or rule or as otherwise mandated by law or local
25 ordinance.

26 (5) If the commission fails to issue or deny a license within
27 the time required by this section, the commission shall return the
28 license fee and shall reduce the license fee for the applicant's
29 next renewal application, if any, by 15%. The failure to issue a

1 license within the time required under this section does not allow
2 the commission to otherwise delay the processing of the
3 application, and the application, on completion, must be placed in
4 sequence with other completed applications received at that same
5 time. The commission shall not discriminate against an applicant in
6 the processing of the application because the license fee was
7 refunded or discounted under this subsection.

8 (6) If, in addition to a completed application under this
9 section, an applicant submits a separate form requesting a
10 conditional license with an acceptable proof of financial
11 responsibility form under section 803, an executed property
12 document, and, for an application to transfer the location of an
13 existing retailer license other than specially designated
14 distributor license, a church or school proximity affidavit on a
15 form prescribed by the commission attesting that the proposed
16 location is not within 500 feet of a church or school building
17 using the method of measurement required under section 503, the
18 commission shall, after considering the arrest and conviction
19 records or previous violation history in the management, operation,
20 or ownership of a licensed business, approve or deny a conditional
21 license. A conditional license issued under subsection (7) must
22 only include any existing permits and approvals held in connection
23 with the license, other than permits or approvals for which the
24 conditional applicant does not meet the requirements in this act or
25 rules promulgated under this act, or permits or approvals that the
26 conditional applicant has requested to cancel as part of the
27 application that serves as the basis for the conditional license.
28 The commission shall not issue a new permit with a conditional
29 license issued under subsection (7). The following applicants may

1 request a conditional license:

2 (a) An applicant seeking to transfer ownership of an existing
3 retailer license at the same location to sell alcoholic liquor for
4 consumption on or off the premises.

5 (b) An applicant seeking to transfer the ownership and
6 location of an existing retailer license, other than a specially
7 designated distributor license, to sell alcoholic liquor for
8 consumption on or off the premises.

9 (c) An applicant seeking a new specially designated merchant
10 license, other than a specially designated merchant license issued
11 under section 533(6), not to be held in conjunction with a license
12 for the sale of alcoholic liquor for consumption on the premises.

13 (7) The commission shall issue a conditional license to
14 applicants approved under subsection (6) within 20 business days
15 after receipt of a completed application and a completed
16 conditional license request form and documentation for a
17 conditional license at a single location. The commission may take
18 up to 30 business days to issue conditional licenses to approved
19 applicants seeking conditional licenses at multiple locations.
20 However, for an applicant described under this subsection that is
21 seeking a specially designated merchant license under section
22 533(7), the commission may take up to 45 business days to issue a
23 conditional license. Notwithstanding the applicant's submission of
24 a church or school proximity affidavit under subsection (6), if the
25 commission determines that a conditional license in conjunction
26 with an application to transfer the location of an existing
27 retailer license has been issued under this subsection at a
28 proposed location that is within 500 feet of a church or school
29 building, the commission shall suspend the conditional license and

1 notify the church or school of the proposed location under the
2 rules promulgated under this act. If the commission issues a
3 conditional license under this subsection based on a church or
4 school proximity affidavit under subsection (6) without knowledge
5 that the representations included in the affidavit are incorrect,
6 this state is not liable to any person for the commission's
7 issuance of the conditional license. The commission may assume
8 without inquiry the existence of the facts contained in the
9 affidavit.

10 (8) A conditional license approved under subsection (6) and
11 issued under subsection (7) is nontransferable and nonrenewable. A
12 conditional licensee is required to comply with the server training
13 requirements in section 501(1) beginning on the date a conditional
14 license is issued under subsection (7) regardless of whether the
15 conditional licensee is actively operating under the conditional
16 license.

17 (9) A conditional license approved under subsection (6) and
18 issued under subsection (7) expires when the first of the following
19 occurs:

20 (a) The commission issues an order of denial of the license
21 application that serves as the basis for the conditional license
22 and all administrative remedies before the commission have been
23 exhausted.

24 (b) The commission issues the license under subsection (4) for
25 which the applicant submitted the license application that serves
26 as the basis for the conditional license.

27 (c) The licensee or conditional licensee notifies the
28 commission in writing that the initial or conditional application
29 should be canceled.

1 (d) One year passes after the date the conditional license was
2 issued, notwithstanding any suspension of the conditional license
3 by the commission.

4 (10) If a conditional licensee fails to maintain acceptable
5 proof of its financial responsibility as required under section
6 803, the commission shall summarily suspend the conditional license
7 under section 92(2) of the administrative procedures act of 1969,
8 1969 PA 306, MCL 24.292, until the conditional licensee files an
9 acceptable proof of financial responsibility form under section
10 803. If a conditional license is revoked, the conditional licensee
11 shall not recover from this state or a unit of local government any
12 compensation for property, future income, or future economic loss
13 because of the revocation.

14 (11) On issuing a conditional license under subsection (7),
15 the commission shall, until the conditional license expires under
16 subsection (9), place the existing license under subsection (4) for
17 which the applicant submitted the application that serves as the
18 basis for the conditional license in escrow in compliance with R
19 436.1107 of the Michigan Administrative Code. If the conditional
20 license expires under subsection (9), an existing licensee may do 1
21 of the following:

22 (a) Request that the commission release the license from
23 escrow.

24 (b) Keep the license in escrow. The escrow date for compliance
25 with R 436.1107 of the Michigan Administrative Code is the date the
26 conditional license expires.

27 (12) The chair of the commission shall submit a report by
28 December 1 of each year to the standing committees and
29 appropriations subcommittees of the senate and house of

1 representatives concerned with liquor license issues. The chair of
2 the commission shall include all of the following information in
3 the report concerning the preceding fiscal year:

4 (a) The number of initial and renewal applications the
5 commission received and completed within the 90-day time period
6 described in subsection (4).

7 (b) The number of applications denied.

8 (c) The number of applicants not issued a license within the
9 90-day time period and the amount of money returned to licensees
10 under subsection (5).

11 (13) As used in this section, "completed application" means an
12 application complete on its face and submitted with any applicable
13 licensing fees as well as any other information, records, approval,
14 security, or similar item required by law or rule from a local unit
15 of government, a federal agency, or a private entity but not from
16 another department or agency of this state.

17 Sec. 537. (1) The following classes of vendors may sell
18 alcoholic liquor at retail as provided in this section:

19 (a) Taverns, where beer, ~~and wine,~~ **and mixed spirit drink** may
20 be sold for consumption on the premises only.

21 (b) Class C licensee, where beer, wine, mixed spirit drink,
22 and spirits may be sold for consumption on the premises.

23 (c) Clubs, where beer, wine, mixed spirit drink, and spirits
24 may be sold for consumption on the premises only to bona fide
25 members if consumption is limited to these members and their bona
26 fide guests, who are 21 years of age or older.

27 (d) Direct shippers, where wine may be sold and shipped
28 directly to the consumer.

29 (e) Hotels of class A, where beer, ~~and wine,~~ **and mixed spirit**

1 **drink** may be sold for consumption on the premises and in the rooms
 2 of bona fide registered guests. Hotels of class B where beer, wine,
 3 mixed spirit drink, and spirits may be sold for consumption on the
 4 premises and in the rooms of bona fide registered guests.

5 (f) Specially designated merchants, where beer, ~~and wine,~~ **and**
 6 **mixed spirit drink** may be sold for consumption off the premises
 7 only.

8 (g) Specially designated distributors, where spirits ~~and mixed~~
 9 ~~spirit drink~~ may be sold for consumption off the premises only.

10 (h) Special licensee, where beer and wine or beer, wine, mixed
 11 spirit drink, and spirits may be sold for consumption on the
 12 premises only.

13 (i) Dining cars or other railroad or Pullman cars, watercraft,
 14 or aircraft, where alcoholic liquor may be sold for consumption on
 15 the premises only, subject to rules promulgated by the commission.

16 (j) Brewpubs, where beer manufactured on the premises by the
 17 licensee may be sold for consumption on or off the premises by any
 18 of the following licensees:

19 (i) Class C.

20 (ii) Tavern.

21 (iii) Class A hotel.

22 (iv) Class B hotel.

23 (k) Micro brewers and brewers, where beer manufactured by the
 24 micro brewer or brewer may be sold in an approved tasting room
 25 under section 536 to a consumer for consumption on or off the
 26 manufacturing premises.

27 (l) Class G-1 licensee, where beer, wine, mixed spirit drink,
 28 and spirits may be sold for consumption on the premises only to
 29 members required to pay an annual membership fee and consumption is

1 limited to these members and their bona fide guests.

2 (m) Class G-2 licensee, where beer and wine may be sold for
3 consumption on the premises only to members required to pay an
4 annual membership fee and consumption is limited to these members
5 and their bona fide guests.

6 (n) Motorsports event licensee, where beer, ~~and wine,~~ **mixed**
7 **spirit drink, and spirits** may be sold for consumption on the
8 premises during sanctioned motorsports events only.

9 (o) Wine maker or small wine maker, where wine manufactured by
10 the wine maker or small wine maker may be sold ~~by~~ **in any of the**
11 **following ways:**

12 (i) **By** direct shipment as provided in section 203. ~~at~~

13 (ii) **At** retail for consumption on or off the premises in an
14 approved tasting room under section 536. ~~or as~~

15 (iii) **As** otherwise provided for in this act.

16 (p) Small wine maker, where wine bottled by the small wine
17 maker may be sold ~~by~~ **in any of the following ways:**

18 (i) **By** direct shipment as provided in section 203. ~~at~~

19 (ii) **At** retail for consumption on or off the premises in an
20 approved tasting room under section 536. ~~or as~~

21 (iii) **As** otherwise provided for in this act.

22 (q) Wine maker or small wine maker, where shiners may be sold
23 ~~by~~ **in any of the following ways:**

24 (i) **By** direct shipment as provided in section 203. ~~at~~

25 (ii) **At** retail for consumption on or off the premises in an
26 approved tasting room under section 536. ~~or as~~

27 (iii) **As** otherwise provided for in this act.

28 (r) Distiller or small distiller, where spirits manufactured
29 by the distiller or small distiller may be sold to the consumer at

1 retail for consumption on or off the premises in an approved
2 tasting room under section 536.

3 (s) Nonpublic continuing care retirement center license, where
4 beer, wine, mixed spirit drink, mixed wine drink, and spirits may
5 be sold at retail and served on the licensed premises to residents
6 and bona fide guests accompanying the resident for consumption only
7 on the licensed premises.

8 (t) A small wine maker or an out-of-state entity that is the
9 substantial equivalent of a small wine maker, that holds a farmer's
10 market permit, where wine manufactured or bottled by the small wine
11 maker and shiners may be sampled and sold at a farmers' market for
12 consumption off the licensed premises.

13 (u) A brandy manufacturer where brandy manufactured by the
14 brandy manufacturer may be sold at retail for consumption on or off
15 the premises in an approved tasting room under section 536 located
16 on the manufacturing premises of the brandy manufacturer.

17 (v) A mixed spirit drink manufacturer where mixed spirit drink
18 manufactured by the mixed spirit drink manufacturer may be sold at
19 retail for consumption on or off the premises in an approved
20 tasting room under section 536.

21 (2) Notwithstanding section 1025(1), an outstate seller of
22 beer, an outstate seller of wine, a wine maker, a brewer, a micro
23 brewer, or a specially designated merchant, or an agent of any of
24 those persons, that does not hold a license allowing the
25 consumption of alcoholic liquor on the premises at the same
26 licensed address, may conduct beer and wine tastings on the
27 licensed premises of a specially designated merchant under the
28 following conditions:

29 (a) A customer is not charged for the tasting of beer or wine.

1 (b) The tasting samples provided to a customer do not exceed 3
2 servings at up to 3 ounces per serving of beer or 3 servings at up
3 to 2 ounces of wine. A customer shall not be provided more than a
4 total of 3 samples of beer or wine within a 24-hour period per
5 licensed premises.

6 (c) The specially designated merchant, outstate seller of
7 beer, outstate seller of wine, wine maker, micro brewer, or brewer
8 has first obtained an annual beer and wine tasting permit approved
9 by the commission.

10 (d) The commission is notified, in writing, a minimum of 10
11 working days before the event, regarding the date, time, and
12 location of the event.

13 (3) While a beer or wine tasting is conducted under subsection
14 (2), a specially designated merchant, outstate seller of beer,
15 outstate seller of wine, wine maker, micro brewer, or brewer, or
16 its agent or employee who has successfully completed a server
17 training program as provided for in section 906, shall devote full
18 time to the beer and wine tasting activity and shall not perform
19 other duties, including the sale of alcoholic liquor for
20 consumption off the licensed premises. Beer and wine used for the
21 tasting must come from the specially designated merchant's
22 inventory, and all open bottles must be removed from the premises
23 on the same business day or resealed and stored in a locked,
24 separate storage compartment on the licensed premises when not
25 being used for the activities allowed by the permit.

26 (4) A wholesaler shall not conduct or participate in beer and
27 wine tastings allowed under a permit issued under subsection (2).

28 (5) A beer and wine tasting under subsection (2) may only be
29 conducted during the legal hours for the sale of alcoholic liquor

1 by the licensee.

2 (6) An eligible merchant may fill and sell growlers with beer
3 for consumption off the premises under the following conditions:

4 (a) The premises where the filling of growlers takes place
5 comply with the requirements for food service establishments under
6 the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

7 (b) The growler is sealed and has a label affixed to it that
8 includes at least the brand name of the beer, the class of the
9 beer, the net contents of the container, and the name of the
10 retailer filling the growler. The label conditions described in
11 this subdivision do not apply to either of the following:

12 (i) A brewpub described in subsection (1)(j), but only as to
13 beer that the brewpub produces.

14 (ii) A micro brewer or brewer described in subsection (1)(k).

15 (c) The eligible merchant or his or her agent or employee
16 ~~shall~~**does** not fill a growler in advance of the sale.

17 (d) The eligible merchant or his or her agent or employee
18 ~~shall only use~~**uses** containers that have a capacity of 5 gallons or
19 more to fill a growler.

20 (e) The beer to be dispensed has received a registration
21 number from the commission and has been approved for sale by the
22 commission. The registration condition described in this
23 subdivision does not apply to either of the following:

24 (i) A brewpub described in subsection (1)(j), but only as to
25 beer that the brewpub produces.

26 (ii) A micro brewer or brewer described in subsection (1)(k).

27 (f) The eligible merchant complies with all applicable rules
28 promulgated by the commission.

29 (7) A wine maker, brandy manufacturer, small distiller, micro

1 brewer, brewer, or brewpub shall provide water, and may, in the
2 sole discretion of the wine maker, brandy manufacturer, small
3 distiller, micro brewer, brewer, or brewpub, sell or provide other
4 nonalcoholic beverages, for consumption on or off the premises
5 where the wine maker, brandy manufacturer, small distiller, micro
6 brewer, brewer, or brewpub is licensed.

7 (8) As used in this section:

8 (a) "Eligible merchant" means a person that holds a specially
9 designated merchant license.

10 (b) "Growler" means any clean, refillable, resealable
11 container that is exclusively intended, and used only, for the sale
12 of beer for consumption off the premises and that has a liquid
13 capacity that does not exceed 1 gallon.

14 Sec. 603. (1) Except as provided in subsections (6) to (14)
15 and section 605, a supplier, warehouser, or wholesaler shall not
16 have any direct or indirect financial interest in the
17 establishment, maintenance, operation, or promotion of the business
18 of any other vendor.

19 (2) Except as provided in subsections (6) to (14) and section
20 605, a supplier, warehouser, or wholesaler or a stockholder of a
21 supplier, warehouser, or wholesaler shall not have any direct or
22 indirect interest by ownership in fee, leasehold, mortgage, or
23 otherwise in the establishment, maintenance, operation, or
24 promotion of the business of any other vendor.

25 (3) Except as provided in subsections (6) to (14) and section
26 605, a supplier, warehouser, or wholesaler shall not have any
27 direct or indirect interest by interlocking directors in a
28 corporation or by interlocking stock ownership in a corporation in
29 the establishment, maintenance, operation, or promotion of the

1 business of any other vendor.

2 (4) Except as provided in subsections (6) to (14) and section
3 605, a person shall not buy the stocks of a supplier, warehouse,
4 or wholesaler and place the stock in any portfolio under an
5 arrangement, written trust agreement, or form of investment trust
6 agreement, issue participating shares based upon the portfolio,
7 trust agreement, or investment trust agreement, and sell the
8 participating shares within this state.

9 (5) The commission may approve a brandy manufacturer or small
10 distiller to sell brandy and spirits made by that brandy
11 manufacturer or small distiller in a restaurant for consumption on
12 or off the premises if the restaurant is owned by the brandy
13 manufacturer or small distiller or operated by another person under
14 an agreement approved by the commission and is located on premises
15 where the brandy manufacturer or small distiller is licensed.
16 Brandy and spirits sold for consumption off the premises under this
17 subsection must be sold at the uniform price established by the
18 commission.

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

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

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

28 (9) The commission may approve the following under R
29 436.1023(3) of the Michigan Administrative Code, subject to the

1 written approval of the United States Department of Treasury
2 Alcohol and Tobacco Tax and Trade Bureau:

3 (a) A wine maker participating with 1 or more wine makers in
4 an alternating proprietor operation in accordance with 27 CFR
5 24.136.

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

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

10 (11) A wine maker shall not collectively deliver wine, with
11 any other wine maker, to retail licensees.

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

15 (a) Supplier tier, comprising suppliers.

16 (b) Wholesaler tier, comprising wholesalers.

17 (c) Retailer tier, comprising retailers.

18 (13) Except as otherwise provided in subsection (14),
19 beginning April 30, 2011, the commission shall not allow any of the
20 following:

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

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

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

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

1 restaurant.

2 (15) As used in this section:

3 (a) "Manufacturer" means, notwithstanding section 109(2), a
4 wine maker, small wine maker, brewer, micro brewer, manufacturer of
5 spirits, distiller, small distiller, brandy manufacturer, mixed
6 spirit drink manufacturer, direct shipper, **a licensee with an**
7 **approved tasting room**, or a person licensed by the commission to
8 perform substantially similar functions.

9 (b) "Supplier" means a manufacturer, mixed spirit drink
10 manufacturer, outstate seller of beer, outstate seller of wine,
11 outstate seller of mixed spirit drink, and vendor of spirits or a
12 person licensed by the commission to perform substantially similar
13 functions but does not include a master distributor.

14 Sec. 610. (1) Notwithstanding section 609, a wholesaler,
15 manufacturer, outstate seller of beer, outstate seller of wine,
16 outstate seller of mixed spirit drink, vendor of spirits, broker,
17 or retailer may use unpaid social media to advertise any of the
18 following in accordance with all applicable laws and regulations:

19 (a) An on-premises brand promotion.

20 (b) Beer, wine, or spirits tastings under section 537.

21 (c) A product location communication.

22 **(2) Notwithstanding section 609, and subject to subsection**
23 **(3), a supplier may take any of the following actions to assist a**
24 **consumer seeking to have an alcoholic beverage sold by the supplier**
25 **delivered or shipped to the consumer's home or designated location**
26 **by a retailer as allowed under section 203:**

27 (a) **Advertise the name and location of all retailers that**
28 **deliver or ship to a consumer the alcoholic beverages sold by the**
29 **supplier.**

1 (b) Provide a link to the website of each retailer that
2 delivers or ships to a consumer the alcoholic beverages sold by the
3 supplier.

4 (c) Transmit the consumer's order and payment information to
5 the retailer that the consumer chooses to fulfill the customer's
6 purchase and perform the delivery or shipment.

7 (3) A supplier shall not take any action described in
8 subsection (2) unless both of the following conditions are met:

9 (a) The supplier and retailer do not provide or receive any
10 other valuable thing in consideration for any action described in
11 subsection (2) taken by the supplier. As used in this subdivision,
12 "other valuable thing" means that term as defined in section 609.

13 (b) The supplier provides the consumer a list of retailers,
14 from which the consumer selects, that will sell, deliver, or ship
15 the alcoholic beverage to the consumer. The supplier may satisfy
16 the condition under this subdivision by providing the consumer with
17 a list of retailers located in the zip code or nearest zip codes to
18 the consumer's location.

19 (4) ~~(2)~~—As used in this section:

20 (a) "Broker" means that term as defined in section 609.

21 (b) "Consumer" means that term as defined in section 203.

22 (c) ~~(b)~~—"On-premises brand promotion" means a promotion in the
23 manner provided by the order of the commission issued on October
24 27, 1999. That order's prohibition against advertising an on-
25 premises promotion by a party off the licensed premises does not
26 apply to this section.

27 (d) ~~(e)~~—"Product location communication" means a listing or
28 program that allows an individual to determine the availability of
29 a specific product at licensed retailers in a certain geographic

1 area.

2 **(e)** ~~(d)~~ "Social media" means a service, platform, or website
3 where users communicate with one another and share media, such as
4 pictures, videos, music, and blogs, with other users free of
5 charge. Social media includes the website of a wholesaler,
6 manufacturer, outstate seller of beer, outstate seller of wine,
7 ~~outstate seller of mixed spirit drink,~~ vendor of spirits, broker,
8 or retailer.

9 **(f) "Supplier" means that term as defined in section 603.**

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.

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

15 (a) Senate Bill No. 141.

16 (b) Senate Bill No. 142.

17 (c) Senate Bill No. 143.