

HOUSE BILL NO. 6107

May 18, 2022, Introduced by Reps. Hoitenga, Steenland and Hauck and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 609a (MCL 436.1609a), as amended by 2020 PA 119, and by adding section 609f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 609a. (1) A manufacturer or wholesaler shall file with
2 the commission a schedule of net cash prices to the retailer for
3 all brands of case and keg beer for its market area. If a person
4 sells beer that has not received a registration number from the
5 commission in violation of subrule (1) (d) of R 436.1611 of the

1 Michigan Administrative Code and if a wholesaler files a schedule
2 of net cash prices as required under this subsection, both of the
3 following apply:

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

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

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

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

17 (a) To reflect a tax increase in the market area.

18 (b) To reflect a general industry price increase in the market
19 area.

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

23 (a) The price reduction is not greater on a cents-per-case
24 basis than the price reduction filed by the competition.

25 (b) The price reduction continues for the balance of the 90
26 days filed by the competition.

27 (5) A manufacturer or wholesaler shall not sell beer at a
28 quantity discount.

29 (6) A net cash price filed under subsection (1) and a price

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

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

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

9 (9) ~~Beginning on the effective date of the amendatory act that~~
10 ~~added this subsection, July 1, 2020,~~ the commission shall not
11 implement or enforce subrule (1)(c) and (d) of R 436.1611 of the
12 Michigan Administrative Code for products manufactured by a brewer
13 and for products that a micro brewer or brewer sell exclusively at
14 its tasting room or at a beer festival. As used in this subsection,
15 "beer festival" means that term as defined in section 526.

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

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

26 (12) **A manufacturer or wholesaler shall not charge a retailer**
27 **a fee in addition to the net cash prices filed under this section,**
28 **except for a split case fee. If a manufacturer or wholesaler**
29 **charges a split case fee to a retailer, the fee must be at the same**

1 per unit rate, nondiscriminatory, and not be based on a sliding
2 scale. A manufacturer or wholesaler shall file with the commission
3 a split case fee charged under this subsection.

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

6 (14) A net cash price filed under subsection (1) and a price
7 change filed under subsection (2) are exempt from disclosure under
8 section 13 of the freedom of information act, 1976 PA 442, MCL
9 15.243, until 1 year after the net cash price or price reduction is
10 filed, as applicable.

11 (15) The commission shall periodically compare a
12 manufacturer's or wholesaler's filing under subsection (1) or (2)
13 with the manufacturer's or wholesaler's tax filing under section
14 301.

15 (16) ~~(10)~~—The regulation described in this section is
16 necessary for both of the following reasons:

17 (a) To promote temperance and the public health and welfare.

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

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

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

1 the following:

2 (a) Comply with this act, including, but not limited to,
3 section 608, and the rules promulgated under this act.

4 (b) Obtain approval by written order of the commission
5 authorizing the technology before it is provided to a wholesaler.

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

9 (a) Senate Bill No. ____ or House Bill No. 6106 (request no.
10 05815'22).

11 (b) Senate Bill No. ____ or House Bill No. 6105 (request no.
12 06256'22).