

Act No. 19
Public Acts of 2021
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**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2021**

Introduced by Senators VanderWall, Moss, Horn, Brinks, Bayer, Ananich, Chang, MacDonald, Zorn, Polehanki, LaSata, Bizon, Daley, McCann, Wojno, Santana, Irwin, Stamas, Geiss, Outman, Hollier and Schmidt

ENROLLED SENATE BILL No. 144

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending 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:

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

(2) “Alcohol vapor device” means any device that provides for the use of air or oxygen bubbled through alcoholic liquor to produce a vapor or mist that allows the user to inhale this alcoholic vapor through the mouth or nose.

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

(4) “Alternating proprietorship” means 1 of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) “Commission” means the liquor control commission created in section 209.

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

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

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

(10) “Class A hotel” means a hotel licensed by the commission to sell beer, wine, and mixed spirit drink for consumption on the premises only, that provides for the rental of, and maintains the availability for rental of, not less than 25 bedrooms if located in a local governmental unit with a population of less than 175,000 or not less than 50 bedrooms if located in a local governmental unit with a population of 175,000 or more.

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

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

(13) “License” means a contract between the commission and the licensee granting authority to that licensee to manufacture and sell, sell, or warehouse alcoholic liquor in the manner provided by this act.

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

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

(3) “Manufacturing premises” means the licensed premises of a manufacturer where the manufacturer manufactures alcoholic liquor or, for a small wine maker only, bottles wine.

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

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

(6) “Minor” means an individual less than 21 years of age.

(7) “Mixed spirit drink” means a drink manufactured and packaged or sold by a mixed spirit drink manufacturer or sold by an outstate seller of mixed spirit drink to a wholesaler that meets either of the following conditions:

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

(i) Water.

- (ii) Fruit juices.
- (iii) Fruit adjuncts.
- (iv) Sugar.
- (v) Carbon dioxide.
- (vi) Preservatives.

(b) Meets both of the following conditions:

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

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

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

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

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

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

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

- (a) Nonalcoholic beverages.
- (b) Flavoring.
- (c) Coloring materials.
- (d) Fruit juices.
- (e) Fruit adjuncts.
- (f) Sugar.
- (g) Carbon dioxide.
- (h) Preservatives.

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

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

(12) "Outstate seller of mixed spirit drink" means a person licensed by the commission to sell mixed spirit drink that has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission. For purposes of rules promulgated by the commission, an outstate seller of mixed spirit drink is treated as an outstate seller of wine but is subject to the rules applicable to spirits for manufacturing and labeling.

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

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

(2) "Primary source of supply" means, for domestic spirits, the distiller, producer, owner of the commodity at the time it becomes a marketable product, or bottler, or the exclusive agent of the distiller, producer, owner of the commodity at the time it becomes a marketable product, or bottler, and, for spirits imported into the United States, either the foreign distiller, producer, owner, or bottler, or the prime importer for, or the exclusive agent in the United States of, the foreign distiller, producer, owner, or bottler.

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

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

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

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

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

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

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

(10) "Shiner" means an unlabeled, sealed container of wine, including a keg, that is sold by a wine maker, small wine maker, or out-of-state entity that is the substantial equivalent of a wine maker or small wine maker to another wine maker, small wine maker, or out-of-state entity that is the substantial equivalent of a wine maker or small wine maker. The purchasing wine maker or small wine maker must attach a label to the container using equipment owned or leased by the purchasing wine maker or small wine maker, register the wine label with the commission, and sell it as provided for in this act.

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

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

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

(14) "Specially designated distributor" means, subject to section 534, a person engaged in an established business licensed by the commission to distribute spirits in the original package for the commission for consumption off the premises.

(15) "Specially designated merchant" means a person to whom the commission grants a license to sell beer, wine, or mixed spirit drink at retail for consumption off the licensed premises.

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

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

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

(a) Brewer.

(b) Outstate seller of beer.

(c) Master distributor.

(d) Wine maker.

(e) Outstate seller of wine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Wine maker" means a person licensed by the commission to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, to sell that wine to a retailer, and as provided for in section 537.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The commission shall levy and collect on all mixed spirit drink sold in this state a tax at the rate of 30 cents per liter if sold in bulk or a like ratio if sold in smaller quantities.

(5) After January 31, 2015, if the wine is manufactured in this state the tax must be paid by the wine maker who manufactured the wine or if the wine is manufactured outside this state the tax must be paid by the wholesaler assigned to distribute that wine.

(6) After January 31, 2015, if the mixed spirit drink is manufactured in this state the tax must be paid by the manufacturer of the mixed spirit drink or if the mixed spirit drink is manufactured outside this state the tax must be paid by the wholesaler assigned to distribute that mixed spirit drink.

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

(8) A wine maker or manufacturer of a mixed spirit drink may designate a wholesaler to pay the tax on behalf of the wine maker or manufacturer, respectively. If a wine maker or manufacturer designates a wholesaler to pay the tax on its behalf, that wine maker or manufacturer shall notify the commission of the designation and provide the commission with a copy of its report of wine premises operations that it filed with the Alcohol and Tobacco Tax

and Trade Bureau of the United States Department of Treasury for each calendar year. A wholesaler that is responsible for the payment of the tax under this section or that is designated to pay the tax under this section on behalf of the wine maker or manufacturer of the mixed spirit drink is only required to pay the tax on the number of liters actually sold by the wholesaler to licensed retailers.

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

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

(a) To maintain stability and healthy competition in the wine and mixed spirit drink industry in this state.
(b) To promote and maintain a sound, stable, and viable 3-tier distribution system of wine and mixed spirit drink to the public.

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

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

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

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

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

(c) "Designated member" means the spouse, child, grandchild, parent, brother, or sister of a deceased individual who owned an interest in a wholesaler, who is entitled to inherit the deceased individual's ownership interest in the wholesaler under the terms of the deceased individual's will, or who has otherwise been designated in writing by the deceased individual to succeed the deceased individual in the wholesaler's business, or is entitled to inherit that ownership interest under the laws of intestate succession of this state. With respect to an incapacitated individual owning an ownership interest in a wholesaler, the term means the person appointed by a court as the conservator of that individual's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased individual owning an ownership interest in a wholesaler.

(d) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade, as defined and interpreted under section 1201 of the uniform commercial code, 1962 PA 174, MCL 440.1201.

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

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

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

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

(i) "Successor" means a supplier that obtains, in any manner from any person, including a person that is not a supplier, the distribution rights of 1 or more brands of wine or mixed spirit drink that a licensed Michigan wholesaler has distributed in this state under an agreement with another supplier, that previously had the distribution rights for the brand or brands.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Require or prohibit any change in the manager or successor manager of any wholesaler that has been approved by the supplier as of June 26, 1984. If, after June 26, 1984, a supplier requires a manager or successor manager be appointed, or if a wholesaler changes an approved manager or successor manager, a supplier shall not interfere with or prohibit the appointment unless the person fails to meet the reasonable written standards for Michigan wholesalers of the supplier that have been provided to the wholesaler.

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

(4) A wholesaler shall not sell or deliver wine or mixed spirit drink to a retail licensee located outside the sales territory designated by the supplier of a particular brand or brands of wine or mixed spirit drink. However, during periods of temporary service interruptions impacting a particular sales territory, a wholesaler that normally services the impacted sales territory shall file with the commission a written notice designating the specific wholesaler or wholesalers that will service the sales territory during the period of temporary service interruption and the approximate length of time of the service interruption. When the temporary service interruption is over, the wholesaler that normally services the sales territory shall notify in writing the commission and the wholesaler, or wholesalers, which is servicing the sales territory on a temporary basis of this fact and any wholesaler servicing the sales territory on a temporary basis shall cease servicing the sales territory upon receipt of the notice. A wholesaler that is designated to service the impacted sales territory during the period of temporary service is not in violation of this subsection. A wholesaler that has been designated to service the impacted sales territory during the period of temporary service interruption does not have any of the rights provided under subsections (6) to (12).

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

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

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

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

(b) Has acted in good faith.

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

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

(a) The wholesaler fails to comply with a provision of the agreement that is both reasonable and of material significance to the business relationship between the wholesaler and the supplier.

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

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

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

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

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

(10) Notwithstanding any agreement and except as otherwise provided in this section, a supplier shall furnish written notice of a termination, cancellation, nonrenewal, or discontinuance of an agreement to the wholesaler not less than 15 days before the effective date of the termination, cancellation, nonrenewal, or discontinuance. The notice must be by certified mail and must contain all of the following:

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

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

(c) The effective date of the termination, cancellation, nonrenewal, or discontinuance.

(11) Notwithstanding subsections (7) and (10), a supplier may immediately terminate, cancel, not renew, or discontinue an agreement on written notice given in the manner and containing the information required by subsection (10) if any of the following occur:

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

(b) The commission revokes the wholesaler's license whereby the wholesaler cannot service the wholesaler's sales territory for more than 60 days.

(c) The wholesaler, or an individual who owns more than 10% of the stock of a corporate wholesaler, is convicted of a felony. However, an existing approved stockholder has the right to purchase the stock of the offending stockholder before the conviction of the offending stockholder, and if the sale is completed before conviction, this subdivision does not apply. As used in this subdivision, "felony" means a felony under the United States code or the Michigan Compiled Laws.

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

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

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

(c) The sale by the wholesaler of any brand or brands sold by the supplier to the wholesaler that the wholesaler knew were ineligible for sale before the actual sale to the retailer. The supplier shall repurchase the ineligible product from the wholesaler when the ineligibility is caused by the supplier. The supplier must give the wholesaler written notice specifying the ineligible product.

(13) Notwithstanding subsections (7), (10), (11), and (12), a supplier may terminate, cancel, not renew, or discontinue an agreement upon not less than 30 days' prior written notice if the supplier discontinues production or discontinues distribution in this state of all the brands sold by the supplier to the wholesaler. Nothing in this section prohibits a supplier upon not less than 30 days' notice to discontinue the distribution of any particular brand or package of wine or mixed spirit drink. This subsection does not prohibit a supplier from conducting test marketing of a new brand of wine or mixed spirit drink or from conducting the test marketing of a brand of wine or mixed spirit drink that is not currently being sold in this state if the supplier has notified the commission in writing of its plans to test market. The notice must describe the market area in which the test must be conducted; the name or names of the wholesaler or wholesalers who will be selling the wine or mixed spirit drink; the name or names of the brand of wine or mixed spirit drink being tested; and the period of time during which the testing will take place. A market testing period must not exceed 18 months.

(14) A wholesaler shall devote reasonable efforts and resources to sales and distribution of all the supplier's products that the wholesaler has been granted the right to sell and distribute and shall maintain reasonable sales levels.

(15) A supplier shall not withhold consent to any transfer of a wholesaler's business if the proposed transferee meets the material and reasonable qualifications and standards required by the supplier. A wholesaler shall give the supplier written notice of intent to transfer the wholesaler's business. A supplier shall not unreasonably delay a response to a request for a proposed transfer of a wholesaler's business. However, a transfer of a wholesaler's business that is not approved by the supplier is void. A supplier shall not interfere with, or prevent, the transfer of the wholesaler's business if the proposed transferee is a designated member.

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

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

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

(19) The supplier and wholesaler may, by agreement, submit the matter of determining the amount of compensation under arbitration to a 5-member arbitration panel consisting of 2 representatives selected by the supplier but unassociated with the affected supplier, 2 wholesaler representatives selected by the wholesaler but unassociated with the wholesaler, and an impartial arbitrator.

(20) Not more than 10 days after the notice to enter into arbitration has been sent, the supplier and wholesaler shall request, in writing, a list of 5 arbitrators from the American arbitration association. Not more than 10 days after the supplier and wholesaler receive of the list of 5 choices, the wholesaler arbitrators and the supplier arbitrators may strike and disqualify up to 2 names each from the list. If the supplier or wholesaler fails to respond within the 10 days or if more than 1 name remains, the American arbitration association shall select the impartial arbitrator.

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

(22) Not more than 30 days after the final selection of the arbitration panel is made, the arbitration panel shall convene to decide the dispute. The panel shall render a decision by majority vote of the participants within 20 days after the arbitration concludes.

(23) The cost of the impartial arbitrator, the stenographer, and the meeting site must be equally divided between the wholesaler and the supplier. All other costs must be paid by the party incurring them. The award of the arbitration panel is final and binding on the parties.

(24) If the supplier or wholesaler fails to abide by the time limitations as prescribed in subsections (20), (21), and (22), or fails or refuses to select any arbitrators, or fails to participate in the arbitration hearings, the other party shall make the selection of their arbitrators and proceed to arbitration. The party who has failed or refused to comply as prescribed in this subsection is considered to be in default. Any party considered to be in default under this subsection waives any rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitration panel.

(25) A wholesaler shall not waive any of the rights granted in this section. This section does not limit or prohibit a good faith dispute settlement voluntarily entered into by the parties.

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

(27) This section applies to agreements in existence on June 26, 1984, as well as agreements entered into or renewed after that date.

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

(29) A supplier that violates this section is liable for all actual damages and all court costs and reasonable attorney fees incurred by a wholesaler as a result of that violation. A wholesaler that violates this section is liable for all actual damages and all court costs and reasonable attorney fees incurred by the supplier as a result of that violation.

(30) A supplier or wholesaler may bring an action for declaratory judgment for determination of any controversy arising under this section.

(31) Except as otherwise provided in this section, if a court finds that a supplier has not acted in good faith in amending, terminating, canceling, or not renewing any agreement; or has unreasonably withheld its consent to any assignment, transfer, or sale of a wholesaler's business, the court may award exemplary damages, as well as actual damages, court costs, and reasonable attorney fees to the wholesaler that has been damaged by the action of the supplier.

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

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

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

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

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

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

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

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

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

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

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

(a) A manufacturer of wine, an outstate seller of wine, mixed spirit drink manufacturer, outstate seller of mixed spirit drink, or a master distributor from continuing or renewing an agreement under this act with a wholesaler for a specified brand or brands for any county or part of a county where more than 1 wholesaler has an agreement with the manufacturer of wine, outstate seller of wine, mixed spirit drink manufacturer, outstate seller of mixed spirit drink, or master distributor in effect on June 1, 2010 if the wholesaler had an agreement to distribute that specified brand or brands in that county or that part of a county and was a master distributor or was actively selling that brand or brands of wine or mixed spirit drink to a retailer in that county or that part of a county on June 1, 2010.

(b) A wholesaler from selling or transferring the wholesaler's distribution rights or a manufacturer of wine, outstate seller of wine, mixed spirit drink manufacturer, outstate seller of mixed spirit drink, or master distributor from approving the sale or transfer of a wholesaler's distribution rights to a specified brand or brands of wine or mixed spirit drink for any county or part of a county to another wholesaler if the selling or transferring wholesaler, or any of its predecessors, had the right to distribute that brand or brands of wine or mixed spirit drink in that county or part of that county and was actively selling that brand or brands to a retailer in that county or that part of a county on June 1, 2010 or was acting as a master distributor for that county or part of that county on June 1, 2010.

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

Sec. 521. (1) Beginning December 29, 2006, the commission shall not issue a tavern or class C licenses under this section. However, those licenses issued under this section before December 29, 2006 remain valid and may be renewed if in compliance with this section. The commission shall renew licenses issued under this section before December 29, 2006 for persons who operate businesses that meet all of the following conditions:

(a) The business is a full service restaurant, is open to the public, and prepares food on the premises.

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

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

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

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

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

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

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

(a) An authority district established under part 3 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4301 to 125.4329.

(b) An authority district established under part 4 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4401 to 125.4420.

(c) A downtown district established under part 2 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201 to 125.4230.

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

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

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

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

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

(d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$100.00. The small wine maker license fee is \$25.00. A small wine maker must pay \$50.00 for each motor vehicle used for delivery of wine to a retailer.

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

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

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

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

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

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

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

(l) Hotels of class A selling beer, wine, and mixed spirit drink, a minimum fee of \$250.00 and \$1.00 for each bedroom in excess of 20, but not more than \$500.00 total.

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

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

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

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

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

(r) Special licenses, a fee of \$50.00 per day, except that the fee for the license or permit issued to a bona fide nonprofit association, organized and in continuous existence for 1 year before the filing of its application, is \$25.00. The commission shall not grant more than 12 special licenses to any organization, including an auxiliary of the organization, in a calendar year.

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

(t) Brandy manufacturer, \$100.00.

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

(v) Brewpub, \$100.00.

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

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

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

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

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

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

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

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

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

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

(4) Except for a resort or resort economic development license issued under section 531(2), (3), (4), or (5) or a license issued under section 521a, the commission shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. The application is considered to be received the date the application is received by an agency or department of this state. If the commission determines that an application is incomplete, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled for the following periods under any of the following circumstances:

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

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

(5) If the commission fails to issue or deny a license within the time required by this section, the commission shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the commission to otherwise delay the processing of the application, and the application, on completion, must be placed in sequence with other completed applications received at that same time. The commission shall not discriminate against an applicant in the processing of the application because the license fee was refunded or discounted under this subsection.

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

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

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

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

(7) The commission shall issue a conditional license to applicants approved under subsection (6) within 20 business days after receipt of a completed application and a completed conditional license request form and documentation for a conditional license at a single location. The commission may take up to 30 business days to issue conditional licenses to approved applicants seeking conditional licenses at multiple locations. However, for an applicant described under this subsection that is seeking a specially designated merchant license under section 533(7), the commission may take up to 45 business days to issue a conditional license. Notwithstanding the applicant's submission of a church or school proximity affidavit under subsection (6), if the commission determines that a conditional license in conjunction with an application to transfer the location of an existing retailer license has been issued under this subsection at a proposed location that is within 500 feet of a church or school building, the commission shall suspend the conditional license and notify the church or school of the proposed location under the rules promulgated under this act. If the commission issues a conditional license under this subsection based on a church or school proximity affidavit under subsection (6) without knowledge that the representations included in the affidavit are incorrect, this state is not liable to any person for the commission's issuance of the conditional license. The commission may assume without inquiry the existence of the facts contained in the affidavit.

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

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

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

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

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

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

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

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

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

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

(12) The chair of the commission shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with liquor license issues. The chair of the commission shall include all of the following information in the report concerning the preceding fiscal year:

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

(b) The number of applications denied.

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

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

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

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

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

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

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

(e) Hotels of class A, where beer, wine, and mixed spirit drink may be sold for consumption on the premises and in the rooms of bona fide registered guests. Hotels of class B where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

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

(g) Specially designated distributors, where spirits may be sold for consumption off the premises only.

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

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

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

(i) Class C.

(ii) Tavern.

(iii) Class A hotel.

(iv) Class B hotel.

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

(l) Class G-1 licensee, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

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

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

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

(i) By direct shipment as provided in section 203.

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

(iii) As otherwise provided for in this act.

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

(i) By direct shipment as provided in section 203.

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

(iii) As otherwise provided for in this act.

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

(i) By direct shipment as provided in section 203.

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

(iii) As otherwise provided for in this act.

(r) Distiller or small distiller, where spirits manufactured by the distiller or small distiller may be sold to the consumer at retail for consumption on or off the premises in an approved tasting room under section 536.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The eligible merchant or his or her agent or employee only uses containers that have a capacity of 5 gallons or more to fill a growler.

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

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

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

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

(7) A wine maker, brandy manufacturer, small distiller, micro brewer, brewer, or brewpub shall provide water, and may, in the sole discretion of the wine maker, brandy manufacturer, small distiller, micro brewer, brewer, or brewpub, sell or provide other nonalcoholic beverages, for consumption on or off the premises where the wine maker, brandy manufacturer, small distiller, micro brewer, brewer, or brewpub is licensed.

(8) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Supplier tier, comprising suppliers.

(b) Wholesaler tier, comprising wholesalers.

(c) Retailer tier, comprising retailers.

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

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

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

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

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

(15) As used in this section:

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

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

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

(a) An on-premises brand promotion.

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

(c) A product location communication.

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

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

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

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

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

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

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

(4) As used in this section:

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

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

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

(d) "Product location communication" means a listing or program that allows an individual to determine the availability of a specific product at licensed retailers in a certain geographic area.

(e) "Social media" means a service, platform, or website where users communicate with one another and share media, such as pictures, videos, music, and blogs, with other users free of charge. Social media includes the website of a wholesaler, manufacturer, outstate seller of beer, outstate seller of wine, vendor of spirits, broker, or retailer.

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

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

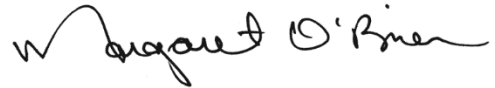
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:

(a) Senate Bill No. 141.

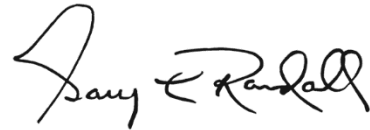
(b) Senate Bill No. 142.

(c) Senate Bill No. 143.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor