

REPRINT

SUBSTITUTE FOR
HOUSE BILL NO. 4454

(As Passed the House May 14, 1997)

A bill 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 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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER 1

2 Sec. 101. This act shall be known and may be cited as the
3 "Michigan liquor control code of 1997".

4 Sec. 103. For the purposes of this act, the words and
5 phrases defined in this chapter have the meanings ascribed to
6 them in this chapter, unless the context requires otherwise.

7 Sec. 105. (1) "Alcohol" means the product of distillation
8 of fermented liquid, whether or not rectified or diluted with
9 water, but does not mean ethyl or industrial alcohol, diluted or
10 not, that has been denatured or otherwise rendered unfit for bev-
11 erage purposes.

12 (2) "Alcoholic liquor" means any spirituous, vinous, malt,
13 or fermented liquor, liquids and compounds, whether or not medi-
14 cated, proprietary, patented, and by whatever name called, con-
15 taining 1/2 of 1% or more of alcohol by volume which are fit for
16 use for beverage purposes as defined and classified by the com-
17 mission according to alcoholic content as belonging to 1 of the
18 varieties defined in this chapter.

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

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

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

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

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

12 (5) "Beer" means any beverage obtained by alcoholic fermen-
13 tation of an infusion or decoction of barley, malt, hops, or
14 other cereal in potable water.

15 (6) "Brand" means any word, name, group of letters, symbol,
16 trademark, or combination thereof adopted and used by a supplier
17 to identify a specific beer, malt beverage, wine, mixed wine
18 drink, or mixed spirit drink product and to distinguish that pro-
19 duct from another beer, malt beverage, wine, mixed wine drink, or
20 mixed spirit drink product that is produced or marketed by that
21 or another supplier. As used in this section and notwithstanding
22 sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an
23 outstate seller of beer, a wine maker, a small wine maker, an
24 outstate seller of wine, a manufacturer of mixed wine drink, an
25 outstate seller of a mixed wine drink, a mixed spirit drink manu-
26 facturer, or an outstate seller of mixed spirit drink.

1 (7) "Brand extension" means any brand which incorporates all
2 or a substantial part of the unique features of a preexisting
3 brand of the same supplier. As used in this section and notwith-
4 standing sections 305(2)(j) and 403(2)(j), "supplier" means a
5 brewer, an outstate seller of beer, a wine maker, a small wine
6 maker, an outstate seller of wine, a manufacturer of mixed wine
7 drink, an outstate seller of a mixed wine drink, a mixed spirit
8 drink manufacturer, or an outstate seller of mixed spirit drink.

9 (8) "Brandy" means an alcoholic liquor as defined in
10 27 C.F.R. 5.22(d) (1980).

11 (9) "Brandy manufacturer" means a person licensed under this
12 act to engage in the manufacturing, rectifying or blending, or
13 both, of brandy only and no other distilled spirit. Only a
14 licensed wine maker or a small wine maker is eligible to be a
15 brandy manufacturer. The commission may approve a brandy manu-
16 facturer to sell at retail brandy which it manufactures, blends
17 or rectifies, or both, at its licensed premises or at other
18 premises authorized in this act.

19 (10) "Brewer" means a person located in this state that is
20 licensed to manufacture and sell to licensed wholesalers beer
21 produced by it.

22 (11) "Brewpub" means a license issued in conjunction with a
23 class "C", tavern, class "A" hotel, or class "B" hotel license
24 that authorizes the person licensed with the class "C", tavern,
25 class "A" hotel, or class "B" hotel to manufacture and brew not
26 more than 5,000 barrels of beer per calendar year in Michigan and
27 sell at those licensed premises the beer produced for consumption

1 on or off the licensed brewery premises in the manner provided
2 for in sections 405 and 407.

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

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

10 (3) "Club" means an association, whether incorporated or
11 unincorporated, the majority of whose members are citizens for
12 the promotion of some common object not including associations
13 organized for a commercial or business purpose, the object of
14 which is money profit, owning, hiring, or leasing a building, or
15 space in a building, of an extent and character as in the judg-
16 ment of the commission may be suitable and adequate for the rea-
17 sonable and comfortable use and accommodation of its members and
18 their guests, and which shall have been in existence for a period
19 of not less than 2 years before application for license under
20 this act. A club that is a chapter of a national organization
21 which has had a license for 10 years may apply for a license
22 without a waiting period. Public notice of the intent of the
23 commission to issue the club license shall be given by publica-
24 tion in some newspaper published or in general circulation within
25 the municipality at least 10 days before the license shall
26 issue. Public notice of the commission's intent to renew the
27 license of a club is not required. The club shall file with the

1 commission annually, within 10 days after February 1, a list of
2 the names and residences of its members, and similarly file,
3 within 10 days after the election of an additional member, his or
4 her name and address, and that its aggregate annual membership
5 fees or dues and other income, exclusive of the proceeds from the
6 sale of alcoholic liquor, are sufficient to defray the annual
7 rental of its leased or rented premises or, if the premises are
8 owned by the club, are sufficient to meet the taxes, insurance,
9 repairs, and the interest on a mortgage on the premises. The
10 list of members and additional members is not required of a club
11 paying the maximum fee. The affairs and management of the club
12 shall be conducted by a board of directors, executive committee,
13 or similar body chosen by the members. A member, officer, agent,
14 or employee of the club shall not be paid, or directly or indi-
15 rectly receive in the form of salary or other compensation, prof-
16 its from the disposition or sale of alcoholic liquor to the club
17 or to the members of the club, beyond the amount of salary fixed
18 and voted at meetings by the members or by its directors or other
19 governing body and as reported by the club to the commission,
20 within 3 months after the meeting.

21 (4) "Commission" means the liquor control commission pro-
22 vided for and created in section 209.

23 (5) "Church" means an entire house or structure set apart
24 primarily for use for purposes of public worship, and which is
25 tax exempt under the laws of this state, and in which religious
26 services are held and with which a clergyman is associated, and

1 the entire structure of which is kept for that use and not put to
2 any other use inconsistent with that use.

3 (6) "Distiller" means any person licensed to manufacture and
4 sell spirits or alcohol, or both, of any kind.

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

10 (8) "Class A hotel" means a hotel licensed by the commission
11 to sell beer and wine for consumption on the premises only, which
12 provides for the rental of, and maintains the availability for
13 rental of, not less than 25 bedrooms if located in a local gov-
14 ernmental unit with a population of less than 175,000 or not less
15 than 50 bedrooms if located in a local governmental unit with a
16 population of 175,000 or more.

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

24 (10) "License" means a contract between the commission and
25 the licensee granting authority to that licensee to manufacture
26 and sell, or sell, or warehouse alcoholic liquor in the manner
27 provided by this act.

1 Sec. 109. (1) "Manufacturer" means a person engaged in the
2 manufacture of alcoholic liquor, including, but not limited to, a
3 distiller, a rectifier, a wine maker, and a brewer.

4 (2) "Micro brewer" means a brewer that produces in total
5 less than 30,000 barrels of beer per year and that may sell the
6 beer produced to consumers at the licensed brewery premises for
7 consumption on or off the licensed brewery premises. In deter-
8 mining the 30,000-barrel threshold, all brands and labels of a
9 brewer, whether brewed in this state or outside this state, shall
10 be combined and all facilities for the production of beer that
11 are owned or controlled by the same person shall be treated as a
12 single facility.

13 (3) "Minor" means a person less than 21 years of age.

14 (4) "Mixed spirit drink" means a drink produced and packaged
15 or sold by a mixed spirit drink manufacturer or an outstate
16 seller of mixed spirit drink which contains 10% or less alcohol
17 by volume consisting of distilled spirits mixed with nonalcoholic
18 beverages or flavoring or coloring materials and which may also
19 contain 1 or more of the following:

20 (a) Water.

21 (b) Fruit juices.

22 (c) Fruit adjuncts.

23 (d) Sugar.

24 (e) Carbon dioxide.

25 (f) Preservatives.

26 (5) "Mixed spirit drink manufacturer" means any person
27 licensed under this act to manufacture mixed spirit drink in this

1 state and to sell mixed spirit drink to a wholesaler. For
2 purposes of rules promulgated by the commission, a mixed spirit
3 drink manufacturer shall be treated as a wine manufacturer but is
4 subject to the rules applicable to spirits for purposes of manu-
5 facturing and labeling.

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

10 (a) Nonalcoholic beverages.

11 (b) Flavoring.

12 (c) Coloring materials.

13 (d) Fruit juices.

14 (e) Fruit adjuncts.

15 (f) Sugar.

16 (g) Carbon dioxide.

17 (h) Preservatives.

18 (7) "Outstate seller of beer" means a person licensed by the
19 commission to sell beer which has not been manufactured in this
20 state to a wholesaler in this state in accordance with rules
21 promulgated by the commission.

22 (8) "Outstate seller of mixed spirit drink" means a person
23 licensed by the commission to sell mixed spirit drink which has
24 not been manufactured in this state to a wholesaler in this state
25 in accordance with rules promulgated by the commission. For pur-
26 poses of rules promulgated by the commission, an outstate seller
27 of mixed spirit drink shall be treated as an outstate seller of

1 wine but is subject to the rules applicable to spirits for
2 purposes of manufacturing and labeling.

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

8 Sec. 111. (1) "Person" means an individual, firm, partner-
9 ship, limited partnership, association, limited liability com-
10 pany, or corporation.

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

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

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

25 (5) "Retailer" means a person licensed by the commission who
26 sells to the consumer in accordance with rules promulgated by the
27 commission.

1 (6) "Sacramental wine" means wine containing not more than
2 24% of alcohol by volume which is used for sacramental purposes.

3 (7) "Sale" includes the exchange, barter, traffic, furnish-
4 ing, or giving away of alcoholic liquor. In the case of a sale
5 in which a shipment or delivery of alcoholic liquor is made by a
6 common or other carrier, the sale of the alcoholic liquor is con-
7 sidered to be made in the county within which the delivery of the
8 alcoholic liquor is made by that carrier to the consignee or his
9 or her agent or employee, and venue for the prosecution for that
10 sale may be in the county or city where the seller resides or
11 from which the shipment is made or at the place of delivery.

12 (8) "School" includes buildings used for school purposes to
13 provide instruction to children in grades kindergarten through
14 12, when that instruction is provided by a public, private,
15 denominational, or parochial school, except those buildings used
16 primarily for adult education or college extension courses.
17 School does not include a proprietary trade or occupational
18 school.

19 (9) "Small wine maker" means a wine maker manufacturing or
20 bottling not more than 50,000 gallons of wine in 1 calendar
21 year.

22 (10) "Special license" means a contract between the commis-
23 sion and the special licensee granting authority to that licensee
24 to sell beer, wine, mixed spirit drink, or spirits. The license
25 shall be granted only to such persons and such organization and
26 for such period of time as the commission shall determine so long
27 as the person or organization is able to demonstrate an existence

1 separate from an affiliated umbrella organization. If such an
2 existence is demonstrated, the commission shall not deny a spe-
3 cial license solely by the applicant's affiliation with an organ-
4 ization that is also eligible for a special license.

5 (11) "Specially designated distributor" means a person
6 engaged in an established business licensed by the commission to
7 distribute spirits and mixed spirit drink in the original package
8 for the commission for consumption off the premises.

9 (12) "Specially designated merchant" means a person to whom
10 the commission grants a license to sell beer or wine, or both, at
11 retail for consumption off the licensed premises.

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

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

20 (15) "Supplier of spirits" means a vendor of spirits, a man-
21 ufacturer of spirits, or a primary source of supply.

22 Sec. 113. (1) "Tavern" means any place licensed to sell at
23 retail beer and wine for consumption on the premises only.

24 (2) "Vehicle" means any means of transportation by land, by
25 water, or by air.

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

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

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

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

12 (7) "Wholesaler" means a person who sells beer, wine, or
13 mixed spirit drink only to retailers or other licensees, and who
14 sells sacramental wine as provided in section 301.

15 (8) "Wine" means the product made by the normal alcoholic
16 fermentation of the juice of sound, ripe grapes, or any other
17 fruit with the usual cellar treatment, and containing not more
18 than 21% of alcohol by volume, including fermented fruit juices
19 other than grapes and mixed wine drinks.

20 (9) "Wine maker" means any person licensed by the commission
21 to manufacture wine and sell, at wholesale or retail, wine manu-
22 factured by that person.

23 CHAPTER 2

24 Sec. 201. (1) On and after December 15, 1933, it shall be
25 lawful to manufacture for sale, sell, offer for sale, keep for
26 sale, possess, or transport alcoholic liquor, as defined in this
27 act, including alcoholic liquor used for medicinal, mechanical,

1 chemical, or scientific purposes and wine used for sacramental
2 purposes, subject to the terms, conditions, limitations, and
3 restrictions contained in this act, and only as provided for in
4 this act.

5 (2) Except as otherwise provided in this act, the commission
6 shall have the sole right, power, and duty to control the alco-
7 holic beverage traffic and traffic in other alcoholic liquor
8 within this state, including the manufacture, importation, pos-
9 session, transportation and sale thereof.

10 (3) A rule, regulation, or order made by the commission
11 shall not unreasonably discriminate against Michigan manufactur-
12 ers of alcoholic liquor.

13 (4) County sheriffs and their deputies; village or township
14 marshals; constables, officers, or members of the village, city,
15 or township police; members of the department of state police;
16 and inspectors of the commission are empowered, and it is their
17 duty, to see that the provisions of this act and the rules and
18 regulations made or authorized by the commission are enforced
19 within their respective jurisdictions. It is their special duty
20 to use their utmost efforts to repress and prevent crime and the
21 violation of any of the provisions of this act. An officer enu-
22 merated in this section who willfully neglects or refuses to per-
23 form the duties imposed upon him or her by this section is guilty
24 of a misdemeanor and upon conviction shall be fined not more than
25 \$500.00 or imprisoned for not more than 90 days, or both.

26 Sec. 203. (1) Except as provided in this section and
27 section 301, a sale, delivery, or importation of alcoholic

1 liquor, including alcoholic liquor for personal use, shall not be
2 made in this state unless the sale, delivery, or importation is
3 made by the commission, the commission's authorized agent or dis-
4 tributor, an authorized distribution agent approved by order of
5 the commission, a person licensed by the commission, or by prior
6 written order of the commission. All spirits for sale, use,
7 storage, or distribution in this state, shall originally be pur-
8 chased by and imported into the state by the commission, or by
9 prior written authority of the commission. This section shall
10 not apply in the case of an alcoholic liquor brought into this
11 state for personal or household use in an amount permitted by
12 federal law by a person of legal age to purchase alcoholic liquor
13 at the time of reentry into this state from without the territo-
14 rial limits of the United States if the person has been outside
15 the territorial limits of the United States for more than 48
16 hours and has not brought alcoholic liquor into the United States
17 during the preceding 30 days.

18 (2) Notwithstanding subsection (1), a person who is of legal
19 age to purchase alcoholic liquor may import from another state
20 for that person's personal use not more than 288 ounces of alco-
21 holic liquor that contains less than 21% alcohol by volume.

22 Sec. 205. (1) If the commission privatizes any portion of
23 the system existing on the effective date of the amendatory act
24 that added this section under which spirits are warehoused or
25 distributed, the commission shall, as provided in section 203(1),
26 by order appoint authorized distribution agents to engage in the
27 warehousing and delivery of spirits in this state so as to ensure

1 that all retail licensees continue to be properly serviced with
2 spirits. An authorized distribution agent is subject to uniform
3 requirements, including business operating procedures, which the
4 commission may prescribe by rule, subject to this section.

5 (2) A person is eligible for appointment by the commission
6 as an authorized distribution agent if the following circum-
7 stances exist:

8 (a) The person satisfies all applicable commission rules
9 prescribing qualifications for licensure promulgated under sec-
10 tion 215.

11 (b) The person has entered into a written agreement or con-
12 tract with a supplier of spirits for the purposes of warehousing
13 and delivering a brand or brands of spirits of that supplier of
14 spirits.

15 (c) The person has an adequate warehousing facility located
16 in this state for the storing of spirits from which all delivery
17 of spirits to retail licensees shall be made.

18 (3) An authorized distribution agent shall not have a direct
19 or indirect interest in a supplier of spirits or in a retailer.
20 A supplier of spirits or a retailer shall not have a direct or
21 indirect interest in an authorized distribution agent. An autho-
22 rized distribution agent shall not hold title to spirits. After
23 September 24, 1996, an authorized distribution agent or an appli-
24 cant to become an authorized distribution agent who directly or
25 indirectly becomes licensed subsequently as a wholesaler shall
26 not be appointed or authorized to sell or distribute a brand of
27 wine in an area for which a wholesaler has been assigned or

1 authorized to sell or distribute that brand under an agreement
2 required by this act. A wholesaler who directly or indirectly
3 becomes an authorized distribution agent shall not be appointed
4 or authorized to sell or distribute a brand of wine to a retailer
5 in an area for which another wholesaler has been assigned or
6 authorized to sell or distribute that brand under an agreement
7 required by this act, if the wholesaler was not selling or dis-
8 tributing that brand to retailers in that area on or before
9 September 24, 1996.

10 (4) An authorized distribution agent shall deliver to each
11 retailer located in its assigned distribution area on at least a
12 weekly basis if the order meets the minimum requirements. The
13 authorized distribution agent shall provide retailers access to a
14 computer application that includes the capability to determine
15 whether certain spirits are currently available for delivery.
16 The minimum requirements shall be set by the commission and shall
17 be a sufficient number of bottles to comprise not more than 2
18 cases and not less than 1 case except that if the authorized dis-
19 tribution agent does not have sufficient stock to fill a
20 retailer's order that otherwise meets the minimum requirements,
21 the authorized distribution agent shall fill the partial order in
22 as timely a manner as if the delivery met the minimum
23 requirements. A retailer may pick up the product at the autho-
24 rized distribution agent's warehouse. To avoid occasional emer-
25 gency outages of spirits, a retail licensee may make up to 12
26 special emergency orders to an authorized distribution agent per
27 calendar year which order shall be made available to the retail

1 licensee within 18 hours of the placing of the order. A special
2 emergency order placed on Saturday or Sunday shall be made avail-
3 able to the retail licensee before noon on the following Monday.
4 An authorized distribution agent may impose a fee of up to \$20.00
5 to deliver a special emergency order to a retail licensee.

6 (5) Except as otherwise provided in subsection (4), an
7 authorized distribution agent shall not charge a delivery fee or
8 a split-case fee for delivery of spirits sold by the commission
9 to a retailer.

10 (6) An authorized distribution agent or prospective autho-
11 rized distribution agent shall maintain and make available to the
12 commission or its representatives, upon notice, any contract or
13 written agreement it may have with a supplier of spirits or other
14 authorized distribution agent for the warehousing and delivery of
15 spirits in this state.

16 (7) For any violation of this act, rules promulgated under
17 this act, or the terms of an order appointing an authorized dis-
18 tribution agent, an authorized distribution agent shall be
19 subject to the suspension, revocation, forfeiture, and penalty
20 provisions of sections 903(1) and 907 in the same manner in which
21 a licensee would be subject to those provisions. An authorized
22 distribution agent aggrieved by a penalty imposed by the commis-
23 sion may invoke the hearing and appeal procedures of section
24 903(2) and rules promulgated under that section.

25 (8) A specially designated distributor may sell to an
26 on-premises licensee up to 9 liters of spirits during any 1-month
27 period and an on-premises licensee may purchase up to that amount

1 during any 1-month period. Notwithstanding any other provision
2 of this act or rule promulgated under this act, a specially des-
3 ignated distributor is only liable for knowingly violating this
4 section. Records verifying these purchases shall be maintained
5 by the on-premises licensee and be available to the commission
6 upon request.

7 (9) An authorized distribution agent shall demonstrate that
8 it has made a good faith effort to provide employment to those
9 former state employees who were terminated due to the privatiza-
10 tion of the liquor distribution system. A good faith effort is
11 demonstrated by the authorized distribution agent performing at
12 least the following actions:

13 (a) Seeking from the commission a list of names and resumes
14 of all such former state employees who have indicated a desire
15 for continued employment in the distribution of liquor in
16 Michigan.

17 (b) Providing a list of employment opportunities created by
18 the authorized distribution agent in the distribution of liquor
19 in Michigan to each individual whose name and resume is transmit-
20 ted from the commission.

21 (c) Providing an opportunity for application and interview
22 to any terminated state worker who indicates an interest in pur-
23 suing a job opportunity with the authorized distribution agent.

24 (d) Providing a priority in hiring for those individuals who
25 apply and interview under this process.

26 (10) Any former state employees terminated due to
27 privatization who have reason to believe that an authorized

1 distribution agent has not made a good faith effort to provide
2 him or her with employment opportunities as described in subsec-
3 tion (9) may file a complaint with the commission who shall hear
4 the complaint and make a determination on its validity. If the
5 commission determines that the complaint is valid, the violation
6 may be treated as a violation of this act and the authorized dis-
7 tribution agent may be subject to the suspension, revocation,
8 forfeiture, and penalty provisions of sections 903(1) and 907.

9 (11) In addition to paying a vendor of spirits the acquisi-
10 tion price for purchasing spirits, the commission may pay a
11 vendor of spirits an additional amount of not less than \$4.50 and
12 not more than \$7.50 for each case of spirits purchased as an
13 offset to the costs being incurred by that vendor of spirits in
14 contracting with an authorized distribution agent for the ware-
15 housing and delivery of spirits to retailers. The payment
16 described in this subsection shall not be included in the cost of
17 purchasing spirits by the commission and shall not be subject to
18 the commission's markup, special taxes, or state sales tax. The
19 per-case offset established by this subsection may be increased
20 by the state administrative board each January to reflect reason-
21 able increases in the authorized distribution agent's cost of
22 warehousing and delivery. As used in this subsection, "case"
23 means a container holding twelve 750 ml bottles of spirits or
24 other containers containing spirits which are standard to the
25 industry.

1 (12) Notwithstanding any other provision of this section,
2 the commission shall enter into a performance contract with each
3 authorized distribution agent.

4 Sec. 207. The provisions of this act shall not be construed
5 to prevent the manufacture of cider from fruit, for the purpose
6 of making vinegar, and non-intoxicating cider and fruit juice for
7 use and sale, and cider and fruit juice shall be deemed
8 non-intoxicating within the meaning of this act when used and/or
9 sold within 30 days after the manufacture thereof; and this act
10 shall not apply to wine or cider of any alcoholic content made on
11 the premises by the owner or lessee of such premises provided
12 such premises are used and occupied by such owner or lessee as a
13 dwelling and such wine or cider is made for family use and home
14 consumption; or to prevent the sale or gift, or keeping and stor-
15 ing for sale by druggists and general merchants and others of any
16 of the medicinal preparations manufactured in accordance with the
17 formulas prescribed by the United States pharmacopoeia and
18 national formulary, patent or proprietary preparations, and other
19 bona fide medicinal and technical preparations, which contain no
20 more alcohol than is necessary to extract the medicinal proper-
21 ties of the drugs contained in such preparations; and no more
22 alcohol than is necessary to hold the medicinal agents in solu-
23 tion and to preserve the same, which are manufactured and sold as
24 medicine and not as beverages, are unfit for use for beverage
25 purposes, and the sale of which does not now require the payment
26 of a United States liquor dealer's tax; or to prevent the
27 manufacture and sale of tinctures or of toilet, medicinal and

1 antiseptic preparations and solutions not intended for internal
2 human use nor to be sold as beverages, and which are unfit for
3 beverage purposes, and upon the outside of each bottle, box or
4 package of which is printed in the English language, conspicu-
5 ously and legibly, the quantity by volume of alcohol in such
6 preparations; or to prevent the manufacture and keeping for sale
7 of the food product known as flavoring extracts which shall be so
8 manufactured and sold for cooking, culinary or flavoring pur-
9 poses, and are unfit for use as a beverage or for beverage
10 purposes: Provided, That it shall not be lawful to manufacture
11 or sell any toilet, medicinal or antiseptic preparations or solu-
12 tions, or any flavoring extracts or patent or proprietary medi-
13 cines or preparations, the manufacture and sale of which now
14 requires the payment of a United States liquor dealer's tax,
15 except as herein provided: Provided further, That nothing in
16 this act shall apply to the manufacture and/or sale of ethyl,
17 mechanical or industrial alcohol, not used for or made unfit for
18 beverage purposes: And provided further, That this act shall not
19 apply to the purchase of alcoholic liquor as defined in this act,
20 for use in the manufacture of toilet, medicinal or antiseptic
21 preparations or solutions, or any flavoring extract or patent or
22 proprietary medicines or preparations, by a manufacturer using
23 such alcoholic liquor exclusively for such manufacturing purposes
24 and duly licensed therefor by the commission; said license to
25 expire on May first following the date of issuance, issued on the
26 payment of an annual fee of \$10.00 and the furnishing of such
27 bond or bonds as the commission may require running to the people

1 of the state of Michigan, for the faithful performance of the
2 conditions of the license and compliance with the provisions of
3 this act.

4 Sec. 209. (1) A commission to be known as the liquor con-
5 trol commission is created.

6 (2) The commission shall consist of 5 members, not more than
7 3 of whom shall be members of the same political party, to be
8 appointed by the governor with the advice and consent of the
9 senate. Two of these members, 1 from each political party, shall
10 be designated by the chairperson as hearing commissioners to hear
11 violation cases and to perform such other functions and duties as
12 are assigned to them by the chairperson. The remaining 3 commis-
13 sioners shall be designated as administrative commissioners and
14 shall have the responsibility for administering the provisions of
15 this act relating to licensing, purchasing, enforcement, merchan-
16 dising, and distribution. The administrative commissioners shall
17 also act as an appeal board to the decisions rendered by the
18 hearing commissioners.

19 (3) The responsibilities of the 5-member commission shall be
20 the administration of the provisions of this act that have not
21 been specifically delegated to either the hearing commissioners
22 or the administrative commissioners in this section.

23 (4) Each member of the commission shall devote that member's
24 entire time to the performance of the duties of that office.

25 (5) The terms of the commissioners shall be 4 years each.
26 Each member of the commission shall qualify by taking and filing
27 the constitutional oath of office and shall hold office until the

1 appointment and qualification of a successor. The members of the
2 commission shall not be removed from office by the governor
3 except for malfeasance, misfeasance, or neglect in office.

4 (6) In the event of a vacancy or vacancies in the membership
5 of the commission the governor shall appoint in like manner a
6 successor or successors to fill the unexpired term.

7 (7) A quorum for the transaction of business of the adminis-
8 trative commissioners shall consist of 2 administrative
9 commissioners. A quorum for the transaction of business of the
10 5-member commission shall be 3 members.

11 (8) Each member of the commission shall receive an annual
12 salary as appropriated by the legislature, shall be entitled to
13 actual and necessary expenses while on the business of the com-
14 mission, and shall have a work station designated by the
15 chairperson.

16 (9) The commission shall annually designate 1 of its members
17 to act as chairperson of the commission.

18 Sec. 211. (1) The powers of the commission, enumerated in
19 this act, which are not specifically and exclusively reserved to
20 the commission by the act, shall be vested in, and exercised and
21 administered by a liquor control business manager, who shall be
22 selected by and responsible to the commission, and whose position
23 shall be in the state classified civil service. The powers of
24 the commission enumerated in, and provided for by this act, shall
25 be exercised in conformity with the provisions of the act per-
26 taining to the duties of the liquor control manager, except that
27 the commission shall exclusively exercise the power to make rules

1 and regulations under the act to regulate the control of the
2 alcoholic beverage traffic within the state; to hear and decide
3 all cases of violation of the provisions of the act and regula-
4 tions thereunder; to employ a liquor control business manager as
5 provided for by the act; and to hear and decide all public
6 appeals from the administrative decisions of the liquor control
7 business manager.

8 (2) The liquor control business manager shall be and shall
9 serve as the business manager of the commission, and, as such, it
10 shall be his or her duty and responsibility to manage the busi-
11 ness affairs of the commission relative to purchasing, merchan-
12 dising, warehousing, rationing, distributing, inspecting, inves-
13 tigating, licensing, and accounting, in accordance with policies
14 established by the commission and in compliance with the provi-
15 sions of this act and with the rules and regulations adopted
16 thereunder. In addition to the foregoing, the business manager
17 shall be exclusively responsible for the assigning, training, and
18 supervision of all commission classified employees.

19 Sec. 213. (1) The commission may employ assistants, clerks,
20 stenographers, employees, and experts as it considers necessary,
21 and fix their compensation, and incur such other expenses as are
22 necessary to carry out the provisions of this act, subject to
23 appropriations provided by the legislature. Assistants and
24 employees of the commission are entitled to actual and necessary
25 travel and other expenses while on the business of the commis-
26 sion, if those expenses are authorized and approved by the
27 commission.

1 (2) The commission shall secure from all members and
2 employees of the commission who handle money a bond or bonds exe-
3 cuted by any surety company or companies authorized to do busi-
4 ness in this state or, in the discretion of the commission, by
5 approved personal surety adequate to guarantee to the state the
6 proper handling and accounting of that money.

7 Sec. 215. (1) The commission shall adopt rules and regula-
8 tions governing the carrying out of this act and the duties and
9 responsibilities of licensees in the proper conduct and manage-
10 ment of their licensed places. Rules shall be promulgated under
11 the administrative procedures act of 1969, 1969 PA 306, MCL
12 24.201 to 24.328.

13 (2) The commission shall hold public hearings twice each
14 calendar year for the purpose of hearing complaints and receiving
15 the views of the public with respect to the administration of
16 this act.

17 (3) The hearings shall be kept and transcribed as a part of
18 the records of the commission.

19 Sec. 217. (1) The commission may make investigations that
20 it considers proper in the administration of this act and the
21 rules promulgated under this act concerning alcoholic liquor, or
22 the manufacture, distribution, or sale of alcoholic liquor, or
23 the collection of taxes on alcoholic liquor.

24 (2) A licensee shall make the licensed premises available
25 for inspection and search by a commission investigator or law
26 enforcement officer empowered to enforce the commission's rules
27 and this act during regular business hours or when the licensed

1 premises are occupied by the licensee or a clerk, servant, agent,
2 or employee of the licensee. Evidence of a violation of this act
3 or rules promulgated under this act discovered under this subsec-
4 tion may be seized and used in an administrative or court
5 proceeding.

6 (3) The commission or a duly authorized agent of the commis-
7 sion may examine or copy the books, records, or papers of a
8 person relative to a requirement pertaining to this act access to
9 which has been obtained pursuant to this section.

10 (4) A member of the commission or a duly authorized agent of
11 the commission may issue a subpoena requiring a person to appear
12 before the commission or its duly authorized agent at any reason-
13 able time and place, to be examined with reference to any matter
14 within the scope of the inquiry or investigation being conducted
15 by the commission, and to produce any books, records, or papers
16 pertaining to the question involved.

17 (5) A member of the commission or a duly authorized agent of
18 the commission may administer an oath or affirmation to a witness
19 in any matter before the commission, certify to official acts,
20 and take depositions.

21 (6) In case of disobedience of a subpoena, the commission or
22 its duly authorized agent may invoke the aid of any circuit court
23 of the state to compel the attendance and testimony of witnesses
24 and the production of books, records, and papers pertaining to
25 the question involved. A circuit court of this state within the
26 jurisdiction of which the inquiry is conducted may, in case of
27 contumacy or refusal to obey a subpoena, issue an order requiring

1 the person to appear before the commission or its duly authorized
2 agent, to produce books, records, and papers if so ordered, and
3 to give evidence regarding the matter in question. Failure to
4 obey the order of the court may be punished by the court as a
5 contempt of court.

6 (7) The fees of witnesses required to appear before the com-
7 mission shall be the same as those allowed to witnesses in the
8 circuit courts and shall be paid by the commission.

9 (8) A sheriff's department or police department shall, upon
10 request of the commission, cause to be served a subpoena that is
11 directed to a person located within the jurisdiction of the
12 sheriff's department or police department. A fee shall not be
13 charged for this service by the sheriff's department or police
14 department. Subpoenas may also be served by an investigator of
15 the commission.

16 (9) The commission shall adopt a suitable seal, of which all
17 courts of the state shall take judicial notice, and all proceed-
18 ings, orders, licenses, and official acts of the commission shall
19 be authenticated by that seal. Certified copies of the orders
20 and records of the commission shall be prima facie evidence of
21 the acts of the commission in any court of this state.

22 Sec. 219. The commission shall be authorized to establish
23 throughout the state of Michigan 4 branch offices. The expense
24 of the branch offices shall be paid by the commission in the
25 manner provided in this act.

26 Sec. 221. (1) The commission is authorized to maintain a
27 revolving fund, which fund is to be derived from the money

1 deposited to the credit of the commission with the state
2 treasurer. From time to time, amounts shall be transferred from
3 the revolving fund to the general fund in accordance with 1941 PA
4 259, MCL 21.121 to 21.130. The fund provided for in this section
5 is to be exclusively used for replenishing, maintaining, ware-
6 housing, and transporting the liquor stock into the various state
7 liquor stores throughout the state. A monthly report of the fund
8 shall be made to the state treasurer and to the budget director
9 and shall contain an itemized account of all money received and
10 all expenditures made by the commission during the month covered
11 in the report.

12 (2) All money received by the commission under this act
13 shall be turned over monthly to the state treasurer.

14 (3) All money deposited by the commission with the state
15 treasurer, including interest earnings on common cash attribut-
16 able to the revolving fund, shall be credited to the revolving
17 fund and shall be available to the commission for administration
18 of this act.

19 Sec. 223. A member or employee of the commission shall not
20 be pecuniarily interested, directly or indirectly, in the manu-
21 facture, warehousing, sale, distribution or transportation, or
22 selling or furnishing of any equipment, furnishings, or refriger-'
23 ation used in the manufacture or sale of alcoholic liquor within
24 this state.

25 Sec. 225. The commission or a member of the commission
26 shall not be personally liable for any action at law for damages
27 sustained by a person because of an action performed or done by

1 the commission or a member of the commission in the performance
2 of their respective duties in the administration and implementa-
3 tion of this act.

4 Sec. 227. The commission may establish state liquor stores
5 throughout this state. In counties with a population of less
6 than 40,000 according to the most recent federal census, there
7 shall not be more than 1 store in that county, and in counties
8 with a population of 40,000 or more according to the most recent
9 federal census, there shall not be more than 1 store located in
10 that county for each 40,000 population or major fraction thereof
11 according to the most recent federal census. However, the com-
12 mission may in its discretion establish a state liquor store in
13 any village or city with a population of 3,000 or more according
14 to the most recent federal census.

15 Sec. 229. The commission may license a hotel or merchant,
16 in places that the commission may designate, to sell spirits for
17 consumption off the premises. If alcoholic liquor is sold by a
18 specially designated distributor pursuant to a license issued
19 under this section it shall be sold at a price fixed by the com-
20 mission and pursuant to rules promulgated by the commission.

21 Sec. 231. The commission may buy, possess, and sell in its
22 own name all alcoholic liquor for distribution as provided in
23 sections 227 and 229. The commission shall supply such types of
24 alcoholic liquor as are demanded by the public. However, if a
25 brand so demanded is not manufactured within the United States or
26 is not readily obtainable within the United States, then an order
27 for that brand shall be filled by the commission at the entire

1 state a tax at the rate of 13.5 cents per liter if sold in bulk
2 and in a like ratio if sold in smaller quantities.

3 (2) The commission shall levy and collect on all wines con-
4 taining more than 16% of alcohol by volume sold in this state a
5 tax at the rate of 20 cents per liter if sold in bulk and in a
6 like ratio if sold in smaller quantities.

7 (3) All sacramental wines are nontaxable when used by
8 churches. Sacramental wines may be imported. The commission
9 shall not impose restrictions on importations of wine for sacra-
10 mental purposes but may promulgate rules as will prevent any
11 abuses which result from the importations. A wholesaler or an
12 outstate seller of wine may sell sacramental wine directly to a
13 church for sacramental purposes.

14 (4) The commission shall levy and collect on all mixed
15 spirit drink sold in this state a tax at the rate of 48 cents per
16 liter if sold in bulk or a like ratio if sold in smaller
17 quantities.

18 (5) On approval by the commission, the corporation and
19 securities bureau shall incorporate a limited number of farm
20 mutual cooperative wineries as the commission determines to be
21 beneficial to the Michigan grape and fruit industry. These win-
22 eries shall be licensed under this act and the payment of 1
23 license fee annually by the corporation shall authorize wine
24 making on the premises of the corporation and also on the
25 premises of the grape and fruit growing farmers who are members
26 of or stockholders in the corporation. Upon incorporation of a
27 farmers' cooperative corporation as provided for in this section,

1 the members of or the stockholders in the corporation shall be
2 certified to be Michigan grape and fruit growing farmers. Wine
3 making by cooperative corporations on farm premises is allowed,
4 but all sales of the wine shall be made by the corporation and
5 from the corporation premises.

6 Sec. 303. (1) The grape and wine industry council is cre-
7 ated in the department of agriculture. The council shall consist
8 of all of the following:

9 (a) Three wine makers.

10 (b) A wine grape grower.

11 (c) The director of commerce or his or her designee.

12 (d) The director of the department of agriculture or his or
13 her designee.

14 (e) A staff member of Michigan state university appointed
15 by, and serving at the pleasure of, the dean of the college of
16 agriculture and natural resources of Michigan state university.

17 (f) The chairperson of the commission or his or her desig-
18 nee, as an ex officio member.

19 (g) A person who operates a retail food establishment that
20 holds a specially designated merchant license and sells Michigan
21 wines or a person who operates a restaurant that holds a class C
22 license and serves Michigan wines.

23 (h) A beer and wine wholesaler who markets Michigan wine.

24 (i) Not more than 2 additional members appointed as pre-
25 scribed in subsection (3).

26 (2) The members of the council described in subsection
27 (1)(a), (b), (g), and (h) shall be appointed by the governor.

1 The council members appointed under subsection (1)(g) and (h)
2 shall be appointed for 2-year terms beginning on October 1,
3 1991. Of the council members appointed for terms beginning
4 October 1, 1991, 1 shall be appointed for a 1-year term, and 3
5 shall be appointed for terms of 2 years each. All appointments
6 for terms beginning on or after October 1, 1992 shall be for 2
7 years each. A member shall continue to serve until a qualified
8 successor has been appointed. A member shall not serve more than
9 2 consecutive terms. A vacancy on the board shall be filled in
10 the same manner as the original appointment. The director of the
11 department of agriculture shall act as chairperson of the
12 council.

13 (3) The governor may appoint not more than 2 additional mem-
14 bers to the council who shall assist the council in performing
15 its duties, but who shall not have the power to vote. The per-
16 sons appointed under this subsection shall not be members of the
17 classified state civil service, shall serve at the pleasure of
18 the governor, and shall receive salaries and benefits determined
19 and paid by the department of agriculture.

20 (4) The council may employ personnel and incur such expenses
21 as are necessary to carry out the purposes of the council under
22 this act. All such expenses shall be paid from fees credited to
23 the wine industry council under section 543(2). A member of the
24 council or an employee or agent of the council shall not be per-
25 sonally liable on the contracts of the council.

26 (5) A nongovernmental member of the council shall receive
27 \$50.00 per day for each day spent in actual attendance at

1 meetings of the council and traveling expenses while on council
2 business in accordance with standard travel regulations of the
3 department of management and budget.

4 (6) The council shall maintain accurate books and records,
5 and all funds received by the council shall be used to implement
6 and enforce this section.

7 (7) The council shall do all of the following:

8 (a) Provide for research on wine grapes and wines, includ-
9 ing, but not limited to, methods of planting, growing, control-
10 ling insects and diseases, charting microclimates and locations
11 for growing desirable varieties of wine grapes, marketing, pro-
12 cessing, distribution, advertising, sales production, and product
13 development.

14 (b) Provide the wine industry, including growers, wineries,
15 distributors, and retailers, with information relative to proper
16 methods of handling and selling wine grapes and wines.

17 (c) Provide for market surveys and analyses for purposes of
18 expanding existing markets and creating new and larger markets
19 for wine grapes and wines.

20 (d) Provide for the promotion of the sale of Michigan wine
21 grapes and wines for the purpose of maintaining or expanding
22 present markets and creating new and larger domestic and foreign
23 markets.

24 (e) Develop and administer financial aid programs to wine
25 grape growers to encourage the increased planting in this state
26 of desirable grape varieties in microclimates determined to
27 provide the best conditions for producing quality wines.

1 (8) The council may promulgate rules pursuant to the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328, for the purposes of implementing and enforcing this
4 section. However, a rule shall not be promulgated that conflicts
5 with a rule promulgated by the commission pursuant to
6 section 215.

7 (9) As used in this section, "council" means the grape and
8 wine industry council created in subsection (1).

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

13 (a) To maintain stability and healthy competition in the
14 wine industry in this state.

15 (b) To promote and maintain a sound, stable, and viable
16 3-tier distribution system of wine to the public.

17 (c) To recognize the marketing distinctions between beer and
18 wine.

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

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

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

26 (b) "Ancillary business" means a business owned by a
27 wholesaler, a stockholder of a wholesaler, or a partner of a

1 wholesaler the primary purpose of which is directly related to
2 the transporting, storing, or marketing of the brand or brands of
3 wine of a supplier with whom the wholesaler has an agreement; or
4 a business owned by a wholesaler, a stockholder of a wholesaler,
5 or a partner of a wholesaler which recycles empty returnable bev-
6 erage containers.

7 (c) "Designated member" means the spouse, child, grandchild,
8 parent, brother, or sister of a deceased individual who owned an
9 interest in a wholesaler, who is entitled to inherit the deceased
10 individual's ownership interest in the wholesaler under the terms
11 of the deceased individual's will, or who has otherwise been des-
12 ignated in writing by the deceased individual to succeed the
13 deceased individual in the wholesaler's business, or is entitled
14 to inherit such ownership interest under the laws of intestate
15 succession of this state. With respect to an incapacitated indi-
16 vidual owning an ownership interest in a wholesaler, the term
17 means the person appointed by a court as the conservator of such
18 individual's property. The term also includes the appointed and
19 qualified personal representative and the testamentary trustee of
20 a deceased individual owning an ownership interest in a
21 wholesaler.

22 (d) "Good faith" means honesty in fact and the observance of
23 reasonable commercial standards of fair dealing in the trade, as
24 defined and interpreted under section 2103 of the uniform commer-
25 cial code, 1962 PA 174, MCL 440.2103.

26 (e) "Master distributor" means a wholesaler who acts in the
27 same or similar capacity as a wine maker or an outstate seller of

1 wine for a brand or brands of wine to other wholesalers on a
2 regular basis in the normal course of business.

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

8 (g) "Retaliatory action" means action which includes, but is
9 not limited to, the refusal to continue an agreement, or a mate-
10 rial reduction in the quality of service or quantity of products
11 available to a wholesaler under an agreement, which refusal or
12 reduction is not made in good faith.

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

16 (i) "Successor" means a supplier who obtains, in any manner
17 from any person, including a person who is not a supplier, the
18 distribution rights of 1 or more brands of wine which a licensed
19 Michigan wholesaler has distributed in this state pursuant to an
20 agreement with another supplier, who previously had the distribu-
21 tion rights for the brand or brands.

22 (j) "Supplier" means a wine maker or an outstate seller of
23 wine, or a master distributor.

24 (k) "Transfer of a wholesaler's business" means the volun-
25 tary sale, assignment, or other transfer of the business or con-
26 trol of the business of the wholesaler, including the sale or

1 other transfer of stock or assets by merger, consolidation, or
2 dissolution.

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

4 (a) Coerce, or attempt to coerce, any wholesaler to accept
5 delivery of any wine or other commodity which has not been
6 ordered by the wholesaler. However, a supplier may impose rea-
7 sonable inventory requirements upon a wholesaler if the require-
8 ments are made in good faith and are generally applied to other
9 wholesalers having an agreement with the supplier.

10 (b) Coerce, or attempt to coerce, any wholesaler to accept
11 delivery of any wine or other commodity ordered by a wholesaler
12 if the order was properly canceled by the wholesaler in accord-
13 ance with the procedures agreed upon by the supplier and
14 wholesaler.

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

19 (d) Require a wholesaler to assent to any condition, stipu-
20 lation, or provision limiting the wholesaler's right to sell the
21 brand or brands of wine of any other supplier anywhere in this
22 state unless the acquisition of the brand or brands of another
23 supplier would materially impair the quality of service of the
24 brand or brands of the supplier presently being sold by the
25 wholesaler.

26 (e) Require a wholesaler to purchase 1 or more brands of
27 wine in order for the wholesaler to purchase another brand or

1 brands of wine for any reason. However, a wholesaler that has
2 agreed to distribute a brand or brands before June 26, 1984 shall
3 continue to distribute the brand or brands in conformance with
4 this section.

5 (f) Request a wholesaler to submit profit and loss state-
6 ments, balance sheets, or financial records as a requirement for
7 renewing or retaining an agreement.

8 (g) Withhold delivery of wine ordered by a wholesaler, or
9 change a wholesaler's quota of a brand or brands if the withhold-
10 ing or change is not made in good faith.

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

14 (i) Fail to provide each wholesaler of the supplier's brand
15 or brands with a written agreement which contains in total the
16 supplier's agreement with each wholesaler, and designates a spe-
17 cific sales territory.

18 (j) Fix, maintain, or establish the price at which a whole-
19 saler shall sell any wine.

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

23 (l) Require or prohibit any change in the manager or succes-
24 sor manager of any wholesaler who has been approved by the sup-
25 plier as of June 26, 1984. Should, after June 26, 1984, a sup-
26 plier require that a manager or successor manager be appointed,
27 or should a wholesaler change an approved manager or successor

1 manager, a supplier shall not interfere with or prohibit the
2 appointment unless the person fails to meet the reasonable writ-
3 ten standards for Michigan wholesalers of the supplier which
4 standards have been provided to the wholesaler.

5 (m) Require by a provision of any agreement or other instru-
6 ment in connection with the agreement that any dispute arising
7 out of or in connection with that agreement be determined through
8 the application of any other state's laws. Any supplier or
9 wholesaler aggrieved by any dispute arising out of or in connec-
10 tion with an agreement governed by this act shall have the right
11 to file an appropriate action consistent with this act in any
12 court in this state having venue.

13 (4) A wholesaler shall not sell or deliver wine to a retail
14 licensee located outside the sales territory designated by the
15 supplier of a particular brand or brands of wine. However,
16 during periods of temporary service interruptions impacting a
17 particular sales territory, a wholesaler who normally services
18 the impacted sales territory shall file with the commission a
19 written notice designating the specific wholesaler or wholesalers
20 who will service the sales territory during the period of tempo-
21 rary service interruption and the approximate length of time of
22 the service interruption. When the temporary service interrup-
23 tion is over, the wholesaler who normally services the sales ter-
24 ritory shall notify in writing the commission and the wholesaler,
25 or wholesalers, which is servicing the sales territory on a tem-
26 porary basis of this fact and any wholesaler servicing the sales

1 territory on a temporary basis shall cease servicing the sales
2 territory upon receipt of the notice.

3 A wholesaler who is designated to service the impacted sales
4 territory during the period of temporary service shall not be in
5 violation of this subsection.

6 A wholesaler who has been designated to service the impacted
7 sales territory during the period of temporary service interrup-
8 tion shall not have any of the rights provided under subsections
9 (6) to (12).

10 (5) A supplier or wholesaler shall not restrict or inhibit,
11 directly or indirectly, the right of free association among sup-
12 pliers or wholesalers for any lawful purpose.

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

16 (7) Notwithstanding any agreement and except as otherwise
17 provided for in this section, a supplier shall not cause a whole-
18 saler to resign from an agreement; or cancel, terminate, fail to
19 renew, or refuse to continue under an agreement unless the sup-
20 plier has complied with all of the following:

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

23 (b) Has acted in good faith.

24 (c) Has good cause for the cancellation, termination, nonre-
25 newal, discontinuance, or forced resignation.

26 (8) Notwithstanding any agreement, good cause shall exist
27 for the purposes of a termination, cancellation, nonrenewal, or

1 discontinuance under subsection (7)(c) when all of the following
2 occur:

3 (a) There is a failure by the wholesaler to comply with a
4 provision of the agreement which is both reasonable and of mate-
5 rial significance to the business relationship between the whole-
6 saler and the supplier.

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

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

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

15 (e) The wholesaler has been afforded 25 days in which to
16 submit a plan of corrective action to comply with the agreement
17 and an additional 75 days to cure such noncompliance in accord-
18 ance with the plan.

19 (9) A supplier or wholesaler who terminates, cancels, nonre-
20 news, or discontinues an agreement shall have the burden of show-
21 ing that it has acted in good faith, complied with the applicable
22 notice requirements under this section, and that there was good
23 cause for the termination, cancellation, nonrenewal, or
24 discontinuance.

25 (10) Notwithstanding any agreement and except as otherwise
26 provided in this section, the supplier shall furnish written
27 notice of the termination, cancellation, nonrenewal, or

1 discontinuance of an agreement to the wholesaler not less than
2 15 days before the effective date of the termination, cancella-
3 tion, nonrenewal, or discontinuance. The notice shall be by cer-
4 tified mail and shall contain all of the following:

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

7 (b) A statement of the reason for the termination, cancella-
8 tion, nonrenewal, or discontinuance.

9 (c) The date on which the termination, cancellation, nonre-
10 newal, or discontinuance takes effect.

11 (11) Notwithstanding subsections (7) and (10), a supplier
12 may immediately terminate, cancel, fail to renew, or discontinue
13 an agreement upon written notice given in the manner and contain-
14 ing the information required by subsection (10) if any of the
15 following occur:

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

21 (b) Revocation of the wholesaler's license by the commission
22 whereby the wholesaler cannot service the wholesaler's sales ter-
23 ritory for more than 60 days.

24 (c) The wholesaler, or an individual who owns more than 10%
25 of the stock of a corporate wholesaler, has been convicted of a
26 felony. As used in this subdivision, "felony" means a felony
27 under the United States code or the Michigan Compiled Laws.

1 However, an existing approved stockholder or stockholders shall
2 have the right to purchase the stock of the offending stockholder
3 prior to the conviction of the offending stockholder, and if the
4 sale is completed prior to conviction, the provisions of this
5 subdivision shall not apply.

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

11 (a) There was fraudulent conduct on the part of the whole-
12 saler in dealings with the supplier.

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

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

26 (13) Notwithstanding subsections (7), (10), (11), and (12),
27 a supplier may terminate, cancel, not renew, or discontinue an

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

17 (14) The wholesaler shall devote reasonable efforts and
18 resources to sales and distribution of all the supplier's pro-
19 ducts which the wholesaler has been granted the right to sell and
20 distribute and shall maintain reasonable sales levels.

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

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

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

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

25 (18) Either party may, at any time, determine that mutual
26 agreement on the amount of reasonable compensation cannot be
27 reached. Should such a determination be made, the supplier or

1 the wholesaler shall send written notice to the other party
2 declaring their intention to proceed with arbitration.

3 Arbitration shall proceed only by mutual agreement of both
4 parties.

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

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

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

24 (22) Not more than 30 days after the final selection of the
25 arbitration panel is made, the arbitration panel shall convene to
26 decide the dispute. The panel shall render a decision by

1 majority vote of the participants within 20 days from the
2 conclusion of the arbitration.

3 (23) The cost of the impartial arbitrator, the stenographer,
4 and the meeting site shall be equally divided between the whole-
5 saler and the supplier. All other costs shall be paid by the
6 party incurring them. The award of the arbitration panel shall
7 be final and binding on the parties.

8 (24) Should either party fail to abide by the time limita-
9 tions as prescribed in subsections (20), (21), and (22), or fail
10 or refuse to make the selection of any arbitrators, or fail to
11 participate in the arbitration hearings, the other party shall
12 make the selection of their arbitrators and proceed to
13 arbitration. The party who has failed or refused to comply as
14 prescribed in this subsection shall be considered to be in
15 default. Any party considered to be in default pursuant to this
16 subsection shall have waived any and all rights the party would
17 have had in the arbitration and shall be considered to have con-
18 sented to the determination of the arbitration panel.

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

23 (26) A successor to a supplier that continues in business as
24 a wine maker, an outstate seller of wine, or master distributor
25 shall be bound by all terms and conditions of each agreement of
26 the supplier with a wholesaler licensed in this state that were

1 in effect on the date on which the successor received the
2 distribution rights of the previous supplier.

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

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

15 (29) A supplier that violates any provision of this section
16 is liable for all actual damages and all court costs and reason-
17 able attorney fees incurred by a wholesaler as a result of that
18 violation. A wholesaler that violates any provision of this sec-
19 tion is liable for all actual damages and all court costs and
20 reasonable attorney fees incurred by the supplier as a result of
21 that violation.

22 (30) A supplier or wholesaler may bring an action for
23 declaratory judgment for determination of any controversy arising
24 pursuant to this section.

25 (31) Except as otherwise provided in this section, if a
26 court finds that a supplier has not acted in good faith in
27 effecting the amendment, termination, cancellation, or nonrenewal

1 of any agreement; or has unreasonably withheld its consent to any
2 assignment, transfer, or sale of a wholesaler's business, it may
3 award exemplary damages, as well as actual damages, court costs,
4 and reasonable attorney fees to the wholesaler who has been dam-
5 aged by the action of the supplier.

6 (32) Upon proper application to the court, a supplier or
7 wholesaler may obtain injunctive relief against any violation of
8 this section. If the court grants injunctive relief or issues a
9 temporary restraining order, bond shall not be required to be
10 posted.

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

19 Sec. 307. (1) A manufacturer and outstate seller of wine
20 shall grant to each of its wholesalers a sales territory within
21 which the wholesaler shall be a distributor of the specified
22 brand or brands of the manufacturer or outstate seller of wine.
23 The territory shall be the territory agreed upon between the
24 wholesaler and manufacturer or outstate seller of wine. A manu-
25 facturer or outstate seller of wine may grant the right to sell a
26 specified brand or brands in a sales territory to more than 1
27 wholesaler.

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

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

10 (4) Until July 1, 1995, a manufacturer or outstate seller of
11 wine who acquired or otherwise obtained the right to assign
12 brands of another manufacturer or outstate seller of wine between
13 January 1, 1994 and July 1, 1995 shall assign a brand extension
14 to the wholesaler that was granted the sales territory for the
15 brand from which the brand extension resulted. Beginning July 1,
16 1995, a manufacturer or outstate seller of wine who acquires or
17 otherwise obtains the right to assign brands of another manufac-
18 turer or outstate seller of wine is not required to assign a new
19 brand extension to the wholesaler that is granted the exclusive
20 sales territory to the brand from which the new brand extension
21 results. Any brand extension assigned between January 1, 1994
22 and July 1, 1995 shall remain assigned to the assigned
23 wholesaler.

24 (5) A manufacturer of a mixed wine drink, mixed spirit drink
25 manufacturer, outstate seller of a mixed wine drink, or outstate
26 seller of mixed spirit drink shall grant to each of its
27 wholesalers an exclusive sales territory in which the wholesaler

1 shall be a distributor of the specified brand or brands of the
2 manufacturer or outstate seller. The territory shall be the ter-
3 ritory agreed upon between the wholesaler and the manufacturer of
4 a mixed wine drink, mixed spirit drink manufacturer, outstate
5 seller of mixed wine drinks, or outstate seller of mixed spirit
6 drink.

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

14 (7) Subsection (6) does not apply where, before January 1,
15 1994, a manufacturer of a mixed wine drink, mixed spirit drink
16 manufacturer, outstate seller of a mixed wine drink, or outstate
17 seller of mixed spirit drink had assigned a brand extension to a
18 wholesaler that was not the appointed wholesaler for the brand
19 from which the brand extension was made.

20 (8) Until July 1, 1995, a manufacturer of a mixed wine
21 drink, mixed spirit drink manufacturer, outstate seller of mixed
22 wine drink, or outstate seller of mixed spirit drink who acquired
23 or otherwise obtained the right to assign brands of another manu-
24 facturer of a mixed wine drink, mixed spirit drink manufacturer,
25 outstate seller of a mixed wine drink, or outstate seller of
26 mixed spirit drink between January 1, 1994 and July 1, 1995 shall
27 assign a brand extension to the wholesaler that was granted the

1 exclusive sales territory for the brand from which the brand
2 extension resulted. Beginning July 1, 1995, a manufacturer of
3 mixed wine drink, mixed spirit drink manufacturer, outstate
4 seller of mixed wine drink, or outstate seller of mixed spirit
5 drink who acquires or otherwise obtains the right to assign
6 brands of another manufacturer of mixed wine drink, mixed spirit
7 drink manufacturer, outstate seller of mixed wine drink, or out-
8 state seller of mixed spirit drink is not required to assign a
9 new brand extension to the wholesaler that is granted the exclu-
10 sive sales territory to the brand from which the new brand exten-
11 sion results. Any brand extension assigned between January 1,
12 1994 and July 1, 1995 shall remain assigned to the assigned
13 wholesaler.

14

CHAPTER 4

15 Sec. 401. (1) A manufacturer and outstate seller of beer
16 and malt beverages shall grant to each of its wholesalers an
17 exclusive sales territory, as agreed upon between the wholesaler
18 and manufacturer or outstate seller of beer, within which the
19 wholesaler shall be the exclusive distributor of the specified
20 brand or brands of the manufacturer or outstate seller of beer.

21 (2) If the manufacturer or outstate seller manufactures or
22 supplies more than 1 brand of beer or malt beverage, the manufac-
23 turer or outstate seller may grant exclusive sales territories to
24 different wholesalers for the sale of the different brand or
25 brands.

26 (3) Notwithstanding subsection (2), a brand extension is not
27 considered a new or different brand. A manufacturer or outstate

1 seller of beer or malt beverages shall assign a brand extension
2 to the wholesaler that was granted the exclusive sales territory
3 to the brand from which the brand extension resulted.

4 (4) Subsection (3) does not apply where, before January 1,
5 1994, a manufacturer or outstate seller of beer or malt beverages
6 had assigned a brand extension to a wholesaler that was not the
7 appointed wholesaler for the brand from which the brand extension
8 was made.

9 (5) Until July 1, 1995, a manufacturer or outstate seller of
10 beer or malt beverages who acquired or otherwise obtained the
11 right to assign brands of another manufacturer or outstate seller
12 of beer or malt beverages between January 1, 1994 and July 1,
13 1995 shall assign a brand extension to the wholesaler that was
14 granted the exclusive sales territory to the brand from which the
15 brand extension resulted. Beginning July 1, 1995, a manufacturer
16 or outstate seller of beer or malt beverages who acquires or oth-
17 erwise obtains the right to assign brands of another manufacturer
18 or outstate seller of beer or malt beverages is not required to
19 assign a new brand extension to the wholesaler that is granted
20 the exclusive sales territory to the brand from which the new
21 brand extension results. Any brand extension assigned between
22 January 1, 1994 and July 1, 1995 shall remain assigned to the
23 assigned wholesaler.

24 (6) The sales territory shall be the territory agreed upon
25 between the wholesaler and manufacturer or outstate seller.

26 Sec. 403. (1) The purpose of this section is to provide a
27 structure for the business relations between a wholesaler of beer

1 and a supplier of beer. Regulation in this area is considered
2 necessary for the following reasons:

3 (a) To maintain stability and healthy competition in the
4 beer industry in this state.

5 (b) To promote and maintain a sound, stable, and viable
6 3-tier system of distribution of beer to the public.

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

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

10 (a) "Agreement" means any agreement between a wholesaler and
11 a supplier, whether oral or written, whereby a wholesaler is
12 granted the right to offer and sell a brand or brands of beer
13 sold by a supplier.

14 (b) "Ancillary business" means a business owned by a whole-
15 saler, a stockholder of a wholesaler, or a partner of a whole-
16 saler the primary purpose of which is directly related to the
17 transporting, storing, or marketing of the brand or brands of
18 beer of a supplier with whom the wholesaler has an agreement; or
19 a business owned by a wholesaler, a stockholder of a wholesaler,
20 or a partner of a wholesaler which recycles empty returnable bev-
21 erage containers.

22 (c) "Designated member" means the spouse, child, grandchild,
23 parent, brother, or sister of a deceased individual who owned an
24 interest in a wholesaler, who is entitled to inherit the deceased
25 individual's ownership interest in the wholesaler under the terms
26 of the deceased individual's will, or who has otherwise been
27 designated in writing by the deceased individual to succeed the

1 deceased individual in the wholesaler's business, or is entitled
2 to inherit such ownership interest under the laws of intestate
3 succession of this state. With respect to an incapacitated indi-
4 vidual owning an ownership interest in a wholesaler, the term
5 means the person appointed by a court as the conservator of such
6 individual's property. The term also includes the appointed and
7 qualified personal representative and the testamentary trustee of
8 a deceased individual owning an ownership interest in a
9 wholesaler.

10 (d) "Good faith" means honesty in fact and the observance of
11 reasonable commercial standards of fair dealing in the trade, as
12 defined and interpreted under section 2103 of the uniform commer-
13 cial code, 1962 PA 174, MCL 440.2103.

14 (e) "Master distributor" means a wholesaler who acts in the
15 same or similar capacity as a brewer or outstate seller of beer
16 for a brand or brands of beer to other wholesalers on a regular
17 basis in the normal course of business.

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

23 (g) "Retaliatory action" means action which includes, but is
24 not limited to, the refusal to continue an agreement, or a mate-
25 rial reduction in the quality of service or quantity of products
26 available to a wholesaler under an agreement, which refusal or
27 reduction is not made in good faith.

1 (h) "Sales territory" means an area of exclusive sales
2 responsibility for the brand or brands of beer sold by a supplier
3 as designated by an agreement.

4 (i) "Successor" means a supplier who obtains, in any manner
5 from any person, including a person who is not a supplier, the
6 distribution rights of 1 or more brands of beer which a licensed
7 Michigan wholesaler has distributed in this state pursuant to an
8 agreement with another supplier who previously had the distribu-
9 tion rights for the brand or brands.

10 (j) "Supplier" means a brewer, an outstate seller of beer,
11 or a master distributor.

12 (k) "Transfer of a wholesaler's business" means the volun-
13 tary sale, assignment, or other transfer of the business or con-
14 trol of the business of the wholesaler, including the sale or
15 other transfer of stock or assets by merger, consolidation, or
16 dissolution.

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

18 (a) Coerce, or attempt to coerce, any wholesaler to accept
19 delivery of any beer or other commodity which has not been
20 ordered by the wholesaler. However, a supplier may impose rea-
21 sonable inventory requirements upon a wholesaler if the require-
22 ments are made in good faith and are generally applied to other
23 wholesalers having an agreement with the supplier.

24 (b) Coerce, or attempt to coerce, any wholesaler to accept
25 delivery of any beer or other commodity ordered by a wholesaler
26 if the order was properly canceled by the wholesaler in

1 accordance with the procedures agreed upon by the supplier and
2 wholesaler.

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

7 (d) Require a wholesaler to assent to any condition, stipu-
8 lation, or provision limiting the wholesaler's right to sell the
9 brand or brands of beer of any other supplier anywhere in this
10 state unless the acquisition of the brand or brands of another
11 supplier would materially impair the quality of service of the
12 brand or brands of the supplier presently being sold by the
13 wholesaler.

14 (e) Require a wholesaler to purchase 1 or more brands of
15 beer in order for the wholesaler to purchase another brand or
16 brands of beer for any reason. However, a wholesaler that has
17 agreed to distribute a brand or brands before June 26, 1984 shall
18 continue to distribute the brand or brands in conformance with
19 this section.

20 (f) Request a wholesaler to submit profit and loss state-
21 ments, balance sheets, or financial records as a requirement for
22 renewing or retaining an agreement.

23 (g) Withhold delivery of beer ordered by a wholesaler, or
24 change a wholesaler's quota of a brand or brands if the withhold-
25 ing or change is not made in good faith.

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

4 (i) Fail to provide each wholesaler of the supplier's brand
5 or brands with a written agreement which contains, in total, the
6 supplier's agreement with each wholesaler and which designates a
7 specific sales territory. Any agreement which is in existence on
8 June 26, 1984 shall be renewed consistent with this section,
9 except that this section may be incorporated by reference in the
10 agreement.

11 (j) Fix, maintain, or establish the price at which a whole-
12 saler shall sell any beer.

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

16 (l) Require or prohibit any change in the manager or succes-
17 sor manager of any wholesaler who has been approved by the sup-
18 plier as of June 26, 1984. Should a wholesaler change an
19 approved manager or successor manager, a supplier shall not
20 require or prohibit the change unless the person fails to meet
21 the reasonable written standards for Michigan wholesalers of the
22 supplier which standards have been provided to the wholesaler.

23 (m) Require by a provision of any agreement or other instru-
24 ment in connection with the agreement that any dispute arising
25 out of or in connection with that agreement be determined through
26 the application of any other state's laws, be determined in
27 federal court sitting in a state other than Michigan, or be

1 determined in a state court of a state other than the state of
2 Michigan. A provision contained in any agreement or other
3 instrument in connection with the agreement which contravenes
4 this subdivision shall be null and void.

5 (4) A wholesaler shall not sell or deliver beer to a retail
6 licensee located outside the sales territory designated by the
7 supplier of a particular brand or brands of beer. However,
8 during periods of temporary service interruptions impacting a
9 particular sales territory, a wholesaler who normally services
10 the impacted sales territory shall file with the commission a
11 written notice designating the specific wholesaler or wholesalers
12 who will service the sales territory during the period of tempo-
13 rary service interruption and the approximate length of time of
14 the service interruption. When the temporary service interrup-
15 tion is over, the wholesaler who normally services the sales ter-
16 ritory shall notify in writing the commission and the wholesaler,
17 or wholesalers, which is servicing the sales territory on a tem-
18 porary basis of this fact and any wholesaler servicing the sales
19 territory on a temporary basis shall cease servicing the sales
20 territory upon receipt of the notice.

21 A wholesaler who is designated to service the impacted sales
22 territory during the period of temporary service shall not be in
23 violation of this subsection.

24 A wholesaler who has been designated to service the impacted
25 sales territory during the period of temporary service interrup-
26 tion shall not have any of the rights provided under subsections
27 (6) to (12).

1 (5) A supplier or wholesaler shall not restrict or inhibit,
2 directly or indirectly, the right of free association among sup-
3 pliers or wholesalers for any lawful purpose.

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

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

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

14 (b) Has acted in good faith.

15 (c) Has good cause for the cancellation, termination, nonre-
16 newal, discontinuance, or forced resignation.

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

21 (a) There is a failure by the wholesaler to comply with a
22 provision of the agreement which is both reasonable and of mate-
23 rial significance to the business relationship between the whole-
24 saler and the supplier.

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

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

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

6 (e) The wholesaler has been afforded 30 days in which to
7 submit a plan of corrective action to comply with the agreement
8 and an additional 90 days to cure such noncompliance in accord-
9 ance with the plan.

10 (9) For each termination, cancellation, nonrenewal, or dis-
11 continuance, the supplier shall have the burden of showing that
12 it has acted in good faith, that the notice requirements under
13 this section have been complied with, and that there was good
14 cause for the termination, cancellation, nonrenewal, or
15 discontinuance.

16 (10) Notwithstanding any agreement and except as otherwise
17 provided in this section, the supplier shall furnish written
18 notice of the termination, cancellation, nonrenewal, or discon-
19 tinuance of an agreement to the wholesaler not less than 15 days
20 before the effective date of the termination, cancellation, non-
21 renewal, or discontinuance. The notice shall be by certified
22 mail and shall contain all of the following:

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

25 (b) A statement of the reason for the termination, cancella-
26 tion, nonrenewal, or discontinuance.

1 (c) The date on which the termination, cancellation,
2 nonrenewal, or discontinuance takes effect.

3 (11) Notwithstanding subsections (7) and (10), a supplier
4 may terminate, cancel, fail to renew, or discontinue an agreement
5 upon written notice given in the manner and containing the infor-
6 mation required by subsection (10) if any of the following
7 occur:

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

13 (b) Revocation of the wholesaler's license by the commission
14 whereby the wholesaler cannot service the wholesaler's sales ter-
15 ritory for more than 60 days.

16 (c) The wholesaler, or an individual who owns more than 10%
17 of the stock of a corporate wholesaler, has been convicted of a
18 felony. As used in this subdivision, "felony" means a felony
19 under the United States code or the Michigan Compiled Laws.
20 However, an existing approved stockholder or stockholders shall
21 have the right to purchase the stock of the offending stockholder
22 prior to the conviction of the offending stockholder and, if the
23 sale is completed prior to conviction, the provisions of this
24 subdivision shall not apply.

25 (12) Notwithstanding subsections (7), (10), and (11), upon
26 not less than 15 days' prior written notice given in the manner
27 and containing the information required by subsection (10), a

1 supplier may terminate, cancel, fail to renew, or discontinue an
2 agreement if any of the following events occur:

3 (a) There was fraudulent conduct on the part of the whole-
4 saler in dealings with the supplier.

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

11 (c) The sale by the wholesaler of any brand or brands sold
12 by the supplier to the wholesaler and known by the wholesaler to
13 be ineligible for sale prior to the actual sale to the retailer.
14 The supplier shall repurchase the ineligible product from the
15 wholesaler when the ineligibility is caused by the supplier. The
16 supplier must give the wholesaler written notice specifying the
17 ineligible product. This subdivision does not apply when a sup-
18 plier ships a brand or brands to a wholesaler that must be
19 removed within 60 days of the deadline for retail sale of the
20 product. This 60-day period shall commence upon receipt of the
21 product by the wholesaler.

22 (13) Notwithstanding subsections (7), (10), (11), and (12),
23 a supplier may terminate, cancel, not renew, or discontinue an
24 agreement upon not less than 30 days' prior written notice if the
25 supplier discontinues production or discontinues distribution in
26 this state of all the brands sold by the supplier to the
27 wholesaler. Nothing in this section shall prohibit a supplier

1 upon not less than 30 days' notice to discontinue the
2 distribution of any particular brand or package of beer. This
3 subsection does not prohibit a supplier from conducting test mar-
4 keting of a new brand of beer or from conducting the test market-
5 ing of a brand of beer which is not currently being sold in this
6 state provided that the supplier has notified the commission in
7 writing of its plans to test market. The notice shall describe
8 the market area in which the test shall be conducted; the name or
9 names of the wholesaler or wholesalers who will be selling the
10 beer; the name or names of the brand of beer being tested; and
11 the period of time during which the testing will take place. A
12 market testing period shall not exceed 18 months.

13 (14) The wholesaler shall devote reasonable efforts and
14 resources to sales and distribution of all the supplier's pro-
15 ducts which the wholesaler has been granted the right to sell and
16 distribute and shall maintain reasonable sales levels.

17 (15) A brewer, an outstate seller of beer, or a master dis-
18 tributor that has designated a sales territory for a wholesaler
19 shall not enter into an additional agreement with any other
20 wholesaler for the same brand or brands of beer in the same ter-
21 ritory or any portion of that territory.

22 (16) A supplier shall not withhold consent to any transfer
23 of a wholesaler's business if the proposed transferee meets the
24 material and reasonable qualifications and standards required by
25 the supplier. A wholesaler shall give the supplier written
26 notice of intent to transfer the wholesaler's business. A
27 supplier shall not unreasonably delay a response to a request for

1 a proposed transfer of a wholesaler's business. However, a
2 transfer of a wholesaler's business which is not approved by the
3 supplier shall be null and void. A supplier shall not interfere
4 with, or prevent, the transfer of the wholesaler's business if
5 the proposed transferee is a designated member.

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

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

23 (19) The matter of determining the amount of compensation
24 under arbitration may, by agreement of the parties, be submitted
25 to a 5-member arbitration panel consisting of 2 representatives
26 selected by the supplier but unassociated with the affected
27 supplier, 2 wholesaler representatives selected by the wholesaler

1 but unassociated with the wholesaler, and an impartial
2 arbitrator.

3 (20) Not more than 10 days after the notice to enter into
4 arbitration has been sent, each party shall request, in writing,
5 a list of 5 arbitrators from the American arbitration
6 association. Not more than 10 days after the receipt of the list
7 of 5 choices, the wholesaler arbitrators and the supplier arbi-
8 trators may strike and disqualify up to 2 names each from the
9 list. Should either party fail to respond within the 10 days or
10 should more than 1 name remain, the American arbitration associa-
11 tion shall make the selection of the impartial arbitrator.

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

15 (22) Not more than 30 days after the final selection of the
16 arbitration panel is made, the arbitration panel shall convene to
17 decide the dispute. The panel shall render a decision by major-
18 ity vote of the participants within 20 days from the conclusion
19 of the arbitration.

20 (23) The cost of the impartial arbitrator, the stenographer,
21 and the meeting site shall be equally divided between the whole-
22 saler and the supplier. All other costs shall be paid by the
23 party incurring them. The award of the arbitration panel shall
24 be final and binding on the parties.

25 (24) After both parties have agreed to arbitrate should
26 either party fail to abide by the time limitations as prescribed
27 in subsections (20), (21), and (22), or fail or refuse to make

1 the selection of any arbitrators, or fail to participate in the
2 arbitration hearings, the other party shall make the selection of
3 their arbitrators and proceed to arbitration. The party who has
4 failed or refused to comply as prescribed in this subsection
5 shall be considered to be in default. Any party considered to be
6 in default pursuant to this subsection shall have waived any and
7 all rights the party would have had in the arbitration and shall
8 be considered to have consented to the determination of the arbi-
9 tration panel.

10 (25) A wholesaler shall not waive any of the rights granted
11 in any provision of this section. Nothing in this section shall
12 be construed to limit or prohibit good faith dispute settlements
13 voluntarily entered into by the parties.

14 (26) A successor to a supplier that continues in business as
15 a brewer, an outstate seller of beer, or a master distributor
16 shall be bound by all terms and conditions of each agreement of
17 the supplier with a wholesaler licensed in this state that were
18 in effect on the date on which the successor received the distri-
19 bution rights of the previous supplier.

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

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

1 prohibited under this section, a supplier with which the
2 wholesaler has an agreement may maintain a civil action against
3 the wholesaler to recover actual damages reasonably incurred as
4 the result of the prohibited conduct.

5 (29) A supplier that violates any provision of this section
6 is liable for all actual damages and all court costs and reason-
7 able attorney fees incurred by a wholesaler as a result of that
8 violation. A wholesaler that violates any provision of this sec-
9 tion is liable for all actual damages and all court costs and
10 reasonable attorney fees incurred by the supplier as a result of
11 that violation.

12 (30) A supplier or wholesaler may bring an action for
13 declaratory judgment for determination of any controversy arising
14 pursuant to this section.

15 (31) Except as otherwise provided in this section, if a
16 court finds that a supplier has not acted in good faith in
17 effecting an amendment, termination, cancellation, or nonrenewal
18 of any agreement; or has unreasonably withheld its consent to any
19 assignment, transfer, or sale of a wholesaler's business, it may
20 award exemplary damages, as well as actual damages, court costs,
21 and reasonable attorney fees to the wholesaler who has been dam-
22 aged by the action of the supplier.

23 (32) Upon proper application to the court, a supplier or
24 wholesaler may obtain injunctive relief against any violation of
25 this section. If the court grants injunctive relief or issues a
26 temporary restraining order, bond shall not be required to be
27 posted.

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

9 Sec. 405. (1) Subject to section 407, the commission shall
10 issue a brewpub license to a person who is licensed as a food
11 service establishment under part 129 of the public health code,
12 1978 PA 368, MCL 333.12901 to 333.12922, and who at the time of
13 application for the brewpub license is licensed and continues to
14 be licensed as 1 or more of the following:

- 15 (a) Class "C".
- 16 (b) Tavern.
- 17 (c) Class "A" hotel.
- 18 (d) Class "B" hotel.

19 (2) A brewpub shall possess the necessary equipment for a
20 satisfactory operation which shall be maintained in good working
21 order and in a sanitary condition.

22 (3) Agricultural products processed by a manufacturer shall
23 comply with state law and with rules of the department of
24 agriculture.

25 (4) A brewpub shall not sell beer in this state unless it
26 provides for each brand or type of beer sold a label that
27 truthfully describes the content of each container and provides

1 proof that a valid "application for and certification/exemption
2 of label/bottle approval" has been obtained and is unrevoked
3 under the federal malt beverage labeling requirements as pub-
4 lished in title 27, part 7, subpart C, C.F.R. 1935, which are
5 hereby adopted by reference.

6 (5) Each location of a brewpub shall have a manufacturing
7 operation on the licensed premises that complies with subsection
8 (6). A brewpub shall apply for and obtain a license for each
9 location of that brewpub. In determining the 5,000-barrel
10 threshold, all brands and labels of the brewpub produced in this
11 state shall be combined.

12 (6) Beer shall be manufactured pursuant to federal malt bev-
13 erage regulations published in title 27, part 25, C.F.R. 1935,
14 which are hereby adopted by reference.

15 (7) Each brewpub shall submit to the commission, on forms
16 acceptable to the commission and postmarked not later than
17 January 15, April 15, July 15, and October 15 of each year, a
18 beer tax report of all beer sold under their brewpub license
19 during the preceding quarter. Each brewpub shall also submit,
20 with the beer tax report, the payment of the required beer excise
21 tax due pursuant to section 409.

22 (8) A brewpub shall be the holder of a "brewers notice" as
23 issued by the United States department of treasury, bureau of
24 alcohol, tobacco and firearms in accordance with title 27,
25 part 25, subpart G, C.F.R. 1935.

1 Sec. 407. (1) The commission shall grant a brewpub license
2 to a person who, in addition to complying with section 405, does
3 all of the following:

4 (a) Pays the fee as prescribed in section 525.

5 (b) Provides evidence to the commission that not less than
6 25% of the gross sales of the restaurant during the 1-year licen-
7 sure period are derived from the sale of food and nonalcoholic
8 beverages prepared for consumption on the premises.

9 (c) Complies with section 405(3) through (8).

10 (2) The commission shall renew a brewpub license of a person
11 who does all of the following:

12 (a) Pays the fee as prescribed in section 525.

13 (b) Provides evidence to the commission that not less than
14 25% of the gross sales of the restaurant during the 1-year licen-
15 sure period are derived from the sale of food and nonalcoholic
16 beverages prepared for consumption on the premises.

17 (c) Complies with section 405(3) through (8).

18 (3) The commission shall revoke a brewpub license if, during
19 the 1-year licensure period, less than 25% of the gross sales of
20 the restaurant are derived from the sale of food and nonalcoholic
21 beverages prepared for consumption on the premises.

22 Sec. 409. (1) Except as provided in this section, the com-
23 mission shall levy and collect a tax on all beer manufactured or
24 sold in this state at the rate of \$6.30 per barrel if the beer is
25 sold in bulk or in different quantities. The tax shall be paid
26 by the brewer or brewpub if manufactured in this state or by the
27 wholesaler or the person from whom purchased if manufactured

1 outside this state, whichever is designated by the commission.
2 The commission shall establish by rule a method for the collec-
3 tion of the tax levied in this subsection. The rules shall be
4 promulgated pursuant to the administrative procedures act of
5 1969, 1969 PA 306, MCL 24.201 to 24.328.

6 (2) The tax levied in subsection (1) shall not be collected
7 with respect to beer that is consumed on the premises of the man-
8 ufacturer or is damaged in the process of brewing, packaging, and
9 storage and is not offered for sale, except that beer sold by a
10 brewpub for consumption on the premises or beer produced and con-
11 sumed on the premises of a micro brewer shall be subject to the
12 tax levied under subsection (1).

13 (3) The tax collected under subsection (1) shall be rebated
14 to the person who paid the tax if that person provides satisfac-
15 tory proof to the commission that the beer was shipped outside of
16 this state for sale and consumption outside of this state.

17 (4) For the purposes of taxation, a barrel shall be con-
18 strued to contain 31 gallons.

19 (5) An eligible brewer may claim a credit against the tax
20 levied in subsection (1) in the amount of \$2.00 per barrel. As
21 used in this subsection, "eligible brewer" means a brewer,
22 whether or not located in this state, or brewpub that manufac-
23 tures less than 20,000 barrels of beer during the tax year for
24 which the credit is claimed. In determining the number of bar-
25 rels for purposes of the credit, all brands and labels of a
26 brewer shall be combined and all facilities for the production of

1 beer that are owned or controlled by the same person shall be
2 treated as a single facility.

3 CHAPTER 5

4 Sec. 501. (1) The commission may issue licenses as provided
5 in this act upon the payment of the fees provided in section 525
6 and the filing of the bonds required in section 801 or liability
7 insurance as provided in section 803.

8 (2) A full-year license issued by the commission shall
9 expire on April 30 following the date of issuance or the date
10 fixed by the commission. A license issued under this act shall
11 be construed as a contract between the commission and the
12 licensee and shall be signed by both parties. If a licensee
13 dies, the commission may approve the operation of the establish-
14 ment by a personal representative or independent personal repre-
15 sentative duly appointed by a court of competent jurisdiction,
16 pending the settlement of the estate of the deceased licensee.
17 The commission may approve a receiver or trustee appointed by a
18 court of competent jurisdiction to operate the licensed estab-
19 lishment of a licensee. The commission may grant a part-year
20 license for a proportionate part of the license fee specified in
21 section 525. In a resort area the commission shall grant a
22 license for a period of time as short as 3 months. A license may
23 be transferred with the consent of the commission. A class C or
24 specially designated distributor license obtained in a manner
25 other than by transfer shall not be transferred within 3 years
26 after its issuance except under circumstances where the licensee
27 clearly and convincingly demonstrates that unusual hardship will

1 result if the transfer does not receive the consent of the
2 commission. An application for a license to sell alcoholic
3 liquor for consumption on the premises, except in a city having a
4 population of 1,000,000 or more, shall be approved by the local
5 legislative body in which the applicant's place of business is
6 located before the license is granted by the commission, except
7 that in the case of an application for renewal of an existing
8 license, if an objection to a renewal has not been filed with the
9 commission by the local legislative body not less than 30 days
10 before the date of expiration of the license, the approval of the
11 local legislative body shall not be required. The commission
12 shall provide the local legislative body and the local chief of
13 police with the name, home and business addresses, and home and
14 business phone numbers to accomplish the local legislative
15 reviews of new and transferred license applications required by
16 this subsection. Upon request of the local legislative body
17 after due notice and proper hearing by the local legislative body
18 and the commission, the commission shall revoke the license of a
19 licensee granted a license to sell alcoholic liquor for consump-
20 tion on the premises or any permit held in conjunction with that
21 license.

22 (3) A local legislative body, by resolution, may request
23 that the commission revoke the license of a licensee granted a
24 license to sell alcoholic liquor for consumption off the premises
25 whose place of business is located within the local legislative
26 body's jurisdiction and who has been determined pursuant to
27 commission violation hearings to have sold or furnished alcoholic

1 liquor, on at least 3 separate occasions in a single calendar
2 year, to a person who is less than 21 years of age if those vio-
3 lations did not involve the use of falsified or fraudulent iden-
4 tification by the person who is less than 21 years of age. If
5 the commission verifies that the licensee who is the subject of
6 the resolution has been found to have committed the violations as
7 prescribed in this subsection, the commission may suspend or
8 revoke the licensee's license and any permit held in conjunction
9 with that license.

10 (4) This act does not prohibit a hotel which is or was the
11 holder of a license authorizing the retail sale of alcoholic
12 liquor for consumption on the premises from applying for and
13 receiving under this act any other and different type of license
14 authorizing the retail sale of alcoholic liquor for consumption
15 on the premises, and the application for the license shall not be
16 considered a new application for a license so long as the total
17 number of public licenses for consumption on the premises does
18 not exceed the authorized total established in this act and the
19 sale of alcoholic liquor is approved by the electors. The com-
20 mission may divide the state into 3 zones and establish for each
21 zone an anniversary date for renewal of full-year retail licenses
22 in the licensing year. The commission shall promulgate rules
23 pursuant to the administrative procedures act of 1969, 1969 PA
24 306, MCL 24.201 to 24.328, for the effective administration of
25 the renewal of licenses.

26 (5) The commission, with the written approval of the
27 department of commerce in the case of the Michigan state

1 fairgrounds and the department of agriculture in the case of the
2 Upper Peninsula state fairgrounds may issue without regard to the
3 quota provision of section 531 a tavern license to a person as
4 concessionaire leasing or renting a portion of either the Upper
5 Peninsula state fairgrounds or the state fairgrounds, or both, to
6 service the licensed area in use for recreational or exhibition
7 purposes other than at the time of the annual Upper Peninsula
8 state fair under section 2 of 1927 PA 89, MCL 285.142. A license
9 issued under this subsection is not transferable.

10 Sec. 503. (1) A new application for a license to sell alco-
11 holic beverages at retail, or a request to transfer location of
12 an existing license, shall be denied if the contemplated location
13 is within 500 feet of a church or a school building. The dis-
14 tance between the church or school building and the contemplated
15 location shall be measured along the center line of the street or
16 streets of address between 2 fixed points on the center line
17 determined by projecting straight lines, at right angles to the
18 center line, from the part of the church or school building near-
19 est to the contemplated location and from the part of the contem-
20 plated location nearest to the church or school building.

21 (2) This section does not apply to specially designated mer-
22 chants not in conjunction with on the premise licenses.

23 (3) This section does not apply to an outstanding license
24 issued before March 1, 1949, for a location within the aforesaid
25 distance or to the renewal or transfer of the outstanding license
26 at that location, or to a resort license in effect during the
27 1948-1949 licensing year, or to the renewal or transfer of the

1 resort at that location or to an application for a license at
2 that location which has been approved by the commission before
3 March 1, 1949, and licenses so issued, renewed, transferred, or
4 approved shall be conclusively presumed to be valid for purposes
5 of this section only.

6 (4) The commission may waive this section in the case of
7 other classes of licenses. If an objection is not filed by the
8 church or school, the commission may issue the license pursuant
9 to this act. If an objection is filed, the commission shall hold
10 a hearing pursuant to rules established by the commission before
11 making a decision on the issuance of the license.

12 (5) This section shall not be construed to prevent the
13 transfer of a license to a location farther from a church or
14 school, if the license to be transferred is within the 500-foot
15 radius.

16 Sec. 505. Notwithstanding section 501, the commission, with
17 the approval of the state department of aeronautics, may issue
18 without regard to the quota provision of section 531, not more
19 than 1 class "C" or class "B" hotel license for each state-owned
20 airport serviced by scheduled commercial passenger airlines.
21 Such license shall not be transferable.

22 Sec. 507. The commission may issue, without regard to the
23 quota provisions of section 531, licenses to the owner or lessee,
24 or both, to sell alcoholic beverages for consumption on the
25 premises of buildings in the passenger terminal complex of each
26 publicly owned airport that is served by scheduled commercial
27 passenger airlines certificated to enplane and deplane passengers

1 on a scheduled basis by the federal aviation agency or the civil
2 aeronautics board. A license issued under this section is not
3 transferable.

4 Sec. 509. The commission may issue, without regard to the
5 quota provisions of section 531, licenses to a commission, board,
6 or authority, governing or operating any municipal civic center
7 or civic auditorium or to 1 or more of its concessionaires, or to
8 both, if the center or auditorium is within a city or township
9 having a population of not less than 9,500, if the center or
10 auditorium is owned and operated as a municipal enterprise and if
11 the legislative body of the municipality first authorizes the
12 operating authority of the civic center or civic auditorium or
13 its concessionaire to apply to the commission for a license.
14 Licenses issued under this section shall not be transferable,
15 shall not be issued to an educational institution or for a facil-
16 ity operated in connection with an educational institution, and
17 shall authorize the sale of alcoholic liquor only in connection
18 with a scheduled event at the licensed premises.

19 Sec. 511. (1) Notwithstanding section 501, the commission
20 may issue the following licenses without regard to the quota pro-
21 visions of section 531:

22 (a) With the approval of the Mackinac Island state park com-
23 mission, not more than 1 class "C" or class "B" hotel license for
24 each hotel which is located within the Mackinac Island state park
25 and is owned by the Mackinac Island state park commission and not
26 more than 1 class "C" license to a concessionaire of the Mackinac

1 Island state park commission who operates a restaurant located
2 within Fort Mackinac.

3 (b) A license for the sale of alcoholic liquor for consump-
4 tion on or off the premises at the Presque Isle harbor marina.

5 (2) A license issued under this section is not transferable
6 as to ownership or location.

7 Sec. 513. (1) The commission may issue to the governing
8 board of a college or university, without regard to the quota
9 provisions of section 531, a license to sell alcoholic liquor for
10 consumption on the premises of a conference center operated by
11 the governing board. Licenses granted under this subsection may
12 be used only for the sale of alcoholic liquor at regularly sched-
13 uled conference center activities. The sale of alcoholic liquor
14 to unscheduled patrons or at unscheduled events is prohibited
15 under this subsection.

16 (2) Subject to the provisions of section 531, the commission
17 may issue a license to a private entity for the sale of alcoholic
18 liquor for consumption on the premises of a hotel located on land
19 owned by central Michigan university if both of the following
20 circumstances exist:

21 (a) The land is leased or subleased at fair market value to
22 a private entity that owns, leases, or subleases the hotel build-
23 ing and its fixtures.

24 (b) The hotel and land are located within an industrial,
25 research, or commercial development park established by the gov-
26 erning board of central Michigan university.

1 (3) Licenses issued pursuant to this section are
2 nontransferable, and the licensee shall pay the fee required
3 under section 525.

4 (4) As used in this section:

5 (a) "College" or "university" means a 2-year or 4-year state
6 supported institution of higher education.

7 (b) "Conference center" means a building or portion of a
8 building, other than a student residence hall or student center,
9 which has meeting rooms, banquet areas, social halls, overnight
10 accommodations, and related facilities for special activities
11 scheduled by the college or university, which in the judgment of
12 the commission, has been regularly used for conferences and lodg-
13 ing of guests. The Hoyt conference center and the corporate edu-
14 cation center at eastern Michigan university, the Kirkhof and
15 Eberhard centers at Grand Valley state university, the Bernhard
16 center at western Michigan university, the Wadsworth center at
17 Michigan technological university, the West complex at Saginaw
18 valley state university, the conference center at Big Rapids and
19 the applied technology center at Grand Rapids of Ferris state
20 university, Grand Rapids junior college, the Waterman campus
21 center at Schoolcraft college, the Mendel center at Lake Michigan
22 community college, the McGregor memorial conference center at
23 Wayne state university, and the Michigan state university manage-
24 ment educational center shall be considered conference centers
25 for the purposes of this act. The license issued for the
26 Michigan state university management education center is not
27 subject to the limitation and quota provisions of section 531.

1 Sec. 515. (1) The commission may issue in a county with a
2 population of 1,000,000 or more, without regard to the quota pro-
3 visions of section 531, a class "C" license for a golf course
4 that is owned by a county, city, village, or township and is open
5 to the public.

6 (2) The commission shall not transfer a license issued under
7 this section to another location. If a licensee who receives a
8 license under this section goes out of business, the license
9 issued under this section shall be surrendered to the
10 commission.

11 Sec. 517. (1) The commission may issue national or interna-
12 tional sporting event licenses for the sale of alcoholic liquor
13 for consumption on the premises if all of the following circum-
14 stances are found by the commission to exist:

15 (a) The premises to be licensed are located in the central
16 business district of a city having a population of 70,000 or more
17 and the city is an official host of a national or international
18 sporting event.

19 (b) The premises to be licensed are located in a theme area
20 or theme areas designated by the governing body of the city in
21 connection with the national or international sporting event.

22 (c) It is reasonably expected that the national or interna-
23 tional sporting event will attract a substantial number of tour-
24 ists from outside this state to the city.

25 (d) The applicant holds a valid Michigan license for the
26 sale of alcoholic liquor for consumption on the premises or is
27 the promoter of the event.

1 (2) Licenses issued under this section shall be for a period
2 of not more than 30 consecutive days and are not transferable as
3 to ownership or location. The license shall be for specific des-
4 ignated time periods that include the sporting event and activi-
5 ties associated with the sporting event.

6 (3) Not more than 40 licenses shall be issued under this
7 section for use at the same time in a theme area or theme areas.

8 (4) The governing body of a city described in subsection (1)
9 shall supply to the commission for the commission's review a list
10 containing the names of applicants and the locations of the
11 premises to be licensed under this section. The governing body
12 of the city shall recommend the number of licenses to be issued
13 pursuant to this section in the theme area or theme areas. The
14 commission shall not issue any licenses pursuant to this section
15 that are not recommended by the governing body of the city.

16 (5) The governing body of the city shall provide, in con-
17 junction with the list described in subsection (4), written cer-
18 tification to the commission that all premises to be licensed
19 under this section comply with applicable state and local build-
20 ing, safety, and health laws, rules, and regulations.

21 (6) An applicant for a license under this section shall pay
22 to the commission a license fee of \$100.00 at the time of
23 application.

24 Sec. 519. (1) Except as otherwise provided in this act, the
25 commission shall not issue a license to sell alcoholic liquor,
26 either on or off the premises, if the property or establishment

1 to be covered by the license is situated in or on state owned
2 land.

3 (2) Subsection (1) does not apply to a special license which
4 has been approved by the governing authority of that state owned
5 land.

6 (3) Subsection (1) does not apply to the following land:

7 (a) The Michigan state fairgrounds.

8 (b) The Upper Peninsula state fairgrounds.

9 (c) Armories, air bases, and naval installations owned or
10 leased by the state or provided by the federal government by
11 either lease, license, or use permit and used by outside parties
12 of a nonmilitary or nonstate governmental nature.

13 (d) Land which was under lease to a person licensed in the
14 calendar year 1954 and on which a licensed establishment is pres-
15 ently located.

16 (e) Land located in the Upper Peninsula which was owned or
17 leased by the federal government, used as a military installa-
18 tion, and transferred to this state before December 31, 2000 pur-
19 suant to 1978 PA 151, MCL 3.551 to 3.561, or 1993 PA 159, MCL
20 3.571 to 3.580. The commission may issue 2 additional licenses
21 pursuant to this subdivision for establishments located on this
22 state land without regard to or without the effect upon the quota'
23 provisions of section 531 in the local governmental unit in which
24 the license will be issued subject to the recommendation of the
25 authority established pursuant to those acts. A person issued a
26 license pursuant to this subdivision may renew the license and
27 transfer ownership of the license, without regard to or without

1 the effect upon the quota provisions of section 531, if title to
2 the property covered by the license is transferred from the state
3 to another person or to another governmental unit. The commis-
4 sion shall not transfer a license issued under this subdivision
5 to another location. Before the issuance of a license, and annu-
6 ally thereafter before the issuance of a license for a new
7 licensing period, the applicant for a license shall submit to the
8 commission a certificate from the department or agency charged
9 with control of the land setting forth that the issuance of a
10 license is not incompatible with the objects and purposes
11 entrusted to that department or agency under the law establishing
12 control of the land in the department or agency. This subsection
13 does not prohibit the issuance of a license pursuant to
14 section 513.

15 (f) Property owned by the Michigan state waterways commis-
16 sion and leased to persons under part 791 (harbor development) of
17 the natural resources and environmental protection act, 1994 PA
18 451, MCL 324.79101 to 324.79118. A license may be issued under
19 this subdivision to a lessee without regard to the quota provi-
20 sions of section 531, but the license shall not be issued without
21 the written approval of the Michigan state waterways commission
22 or its designee. A license issued under this subdivision shall
23 not be transferable as to ownership or location, and, if the
24 licensee goes out of business, the license shall be surrendered
25 to the commission.

26 (g) Property owned by the state treasurer of this state when
27 acting in the capacity of custodian of the assets of the state

1 retirement systems created by the public school employees
2 retirement act of 1979, 1979 PA 300, MCL 38.1301 to 38.1437; the
3 state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69;
4 the state police retirement act of 1986, 1986 PA 182, MCL 38.1601
5 to 38.1648; and the judges retirement act of 1992, 1992 PA 234,
6 MCL 38.2101 to 38.2670.

7 Sec. 521. (1) In addition to any licenses for the sale of
8 alcoholic liquor for consumption on the premises that may be
9 available in the local governmental unit under section 531(1),
10 and the resort licenses authorized in section 531(2), (3), and
11 (4), the commission may issue not more than 50 tavern or class
12 "C" licenses to persons who operate businesses that meet all of
13 the following conditions:

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

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

18 (c) At least 50% of the gross receipts of the business are
19 derived from the sale of food for consumption on the premises.

20 For purposes of this subdivision, food does not include beer and
21 wine.

22 (d) The business has dining facilities to seat not less than
23 25 persons.

24 (e) The business is located in a development district with a
25 population of not more than 50,000, in which the authority, after
26 a public hearing, has found that the issuance of the license
27 would prevent further deterioration within the development

1 district and promote economic growth within the development
2 district. The commission shall not issue the license unless the
3 local unit of government within which the authority is located,
4 after holding a public hearing, passes a resolution concurring in
5 the findings of the authority.

6 (f) The business demonstrates to the commission that an
7 escrowed license is not readily available in any local unit of
8 government in which the development district is located.

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

14 (3) Not more than 1 license shall be issued under subsection
15 (1) to any individual, partnership, limited partnership, limited
16 liability company, corporation, or any combination of any of the
17 above, including stockholders, general partners, or limited
18 partners.

19 (4) The commission shall not issue a specially designated
20 merchant license, specially designated distributor license, or
21 any other license that allows the sale of alcoholic liquor for
22 consumption off the premises in conjunction with a license issued
23 under subsection (1) or at the premises for which a license has
24 been issued under subsection (1).

25 (5) The commission may issue the licenses under this section
26 without regard to the order in which the applications for the
27 licenses are received.

1 (6) As used in this section:

2 (a) "Development district" means any of the following:

3 (i) An authority district established under the tax incre-
4 ment finance authority act, 1980 PA 450, MCL 125.1801 to
5 125.1830.

6 (ii) An authority district established under the local
7 development financing act, 1986 PA 281, MCL 125.2151 to
8 125.2174.

9 (iii) A downtown district established under 1975 PA 197, MCL
10 125.1651 to 125.1681.

11 (iv) A principal shopping district established under 1961 PA
12 120, MCL 125.981 to 125.987, before January 1, 1996.

13 (b) "Escrowed license" means a license in which the rights
14 of the licensee in the license or to the renewal of the license
15 are still in existence and are subject to renewal and activation
16 in the manner provided for in R 436.1107 of the Michigan adminis-
17 trative code.

18 (c) "Readily available" means available under a standard of
19 economic feasibility, as applied to the specific circumstances of
20 the applicant, that includes but is not limited to the
21 following:

22 (i) The fair market value of the license, if determinable.

23 (ii) The size and scope of the proposed operation.

24 (iii) The existence of mandatory contractual restrictions or
25 inclusions attached to the sale of the license.

26 Sec. 523. (1) A person who holds or whose spouse holds,
27 either by appointment or election, a public office that involves

1 the duty to enforce any of the penal laws of the United States,
2 the penal laws of this state, or a penal ordinance or resolution
3 of any municipal subdivision of the state, except civil defense
4 volunteer police, mayors or council members of cities, village
5 presidents, mayors of home rule cities whose law enforcement
6 authority under the city charter is restricted to emergency situ-
7 ations, or the state treasurer of this state when acting in the
8 capacity of custodian of the assets of the state retirement sys-
9 tems created by the public school employees retirement act of
10 1979, 1980 PA 300, MCL 38.1301 to 38.1437; the state employees'
11 retirement act, 1943 PA 240, MCL 38.1 to 38.69; the state police
12 retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648; and
13 the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to
14 38.2670, and members of these state retirement systems only if
15 the state treasurer makes an investment in the name of the
16 respective retirement system to which such members belong, shall
17 not be issued a license or have an interest, directly or indi-
18 rectly, in a license. However, a nonprofit fraternal organiza-
19 tion incorporated under the laws of this state, whose membership
20 is not totally composed of law enforcement personnel or public
21 officeholders charged with the duty of enforcing any penal laws
22 or ordinances of a governmental body, may be issued a club liquor'
23 license if the organization is otherwise qualified.

24 (2) As used in this section, "law enforcement personnel"
25 does not include the mayor of a city or the state treasurer of
26 this state when acting in the capacity of custodian of the assets
27 of the state retirement systems created by the public school

1 employees act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437; the
2 state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69;
3 the state police retirement act of 1986, 1986 PA 182, MCL 38.1601
4 to 38.1648; and the judges retirement act of 1992, 1992 PA 234,
5 MCL 38.2101 to 38.2670, and members of these state retirement
6 systems only if the state treasurer makes an investment in the
7 name of the respective retirement system to which such members
8 belong.

9 Sec. 525. (1) The following license fees shall be paid at
10 the time of filing applications or as otherwise provided in this
11 act:

12 (a) Manufacturers of spirits, but not including makers,
13 blenders, and rectifiers of wines containing 21% or less alcohol
14 by volume, \$10,000.00.

15 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
16 fraction of a barrel, production annually with a maximum fee of
17 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
18 delivery to retail licensees. A fee increase shall not apply to
19 a manufacturer of less than 15,000 barrels production per year.

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

22 (d) Wine makers, blenders, and rectifiers of wine, including
23 makers, blenders, and rectifiers of wines containing 21% or less
24 alcohol by volume, \$100.00. The small wine maker license fee
25 shall be \$25.00.

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

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

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

5 (h) Wholesale vendors other than manufacturers of beer,
6 \$300.00 for the first motor vehicle used in delivery to retail
7 licensees and \$50.00 for each additional motor vehicle used in
8 delivery to retail licensees.

9 (i) Watercraft, licensed to carry passengers, selling alco-
10 holic liquor, a minimum fee of \$100.00 and a maximum fee of
11 \$500.00 per year computed on the basis of \$1.00 per person per
12 passenger capacity.

13 (j) Specially designated merchants, for selling beer or wine
14 for consumption off the premises only but not at wholesale,
15 \$100.00 for each location regardless of the fact that the loca-
16 tion may be a part of a system or chain of merchandising.

17 (k) Specially designated distributors licensed by the com-
18 mission to distribute spirits and mixed spirit drink in the orig-
19 inal package for the commission for consumption off the premises,
20 \$150.00 per year, and an additional fee of \$3.00 for each
21 \$1,000.00 or major fraction of that amount in excess of
22 \$25,000.00 of the total retail value of merchandise purchased
23 under each license from the commission during the previous calen-
24 dar year.

25 (l) Hotels of class A selling beer and wine, a minimum fee
26 of \$250.00 and, for all bedrooms in excess of 20, \$1.00 for each
27 additional bedroom, but not more than \$500.00.

1 (m) Hotels of class B selling beer, wine, mixed spirit
2 drink, and spirits, a minimum fee of \$600.00 and, for all bed-
3 rooms in excess of 20, \$3.00 for each additional bedroom. If a
4 hotel of class B sells beer, wine, mixed spirit drink, and spir-
5 its in more than 1 public bar, the fee shall entitle the hotel to
6 sell in only 1 public bar, other than a bedroom, and a license
7 shall be secured for each additional public bar, other than a
8 bedroom, the fee for which shall be \$350.00.

9 (n) Taverns, selling beer and wine, \$250.00.

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

17 (p) Clubs selling beer, wine, mixed spirit drink, and spir-
18 its, \$300.00 for clubs having 150 or fewer duly accredited mem-
19 bers and \$1.00 for each additional member. The membership list
20 for the purpose only of determining the license fees to be paid
21 under this section shall be the accredited list of members as
22 determined by a sworn affidavit 30 days before the closing of the
23 license year. This section shall not prevent the commission from
24 checking a membership list and making its own determination from
25 the list or otherwise. The list of members and additional mem-
26 bers shall not be required of a club paying the maximum fee. The
27 maximum fee shall not exceed \$750.00 for any 1 club.

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

3 (r) Special licenses, a fee of \$50.00 per day, except that
4 the fee for that license or permit issued to any bona fide non-
5 profit association, duly organized and in continuous existence
6 for 1 year before the filing of its application, shall be
7 \$25.00. Not more than 5 special licenses may be granted to any
8 organization, including an auxiliary of the organization, in a
9 calendar year.

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

13 (t) Brandy manufacturer, \$100.00.

14 (u) Mixed spirit drink manufacturer, \$100.00.

15 (v) Brewpub, \$100.00.

16 (2) The fees provided in this act for the various types of
17 licenses shall not be prorated for a portion of the effective
18 period of the license.

19 Sec. 527. (1) The commission may issue a special license to
20 a nonprofit charitable organization that is exempt from the pay-
21 ment of taxes under the internal revenue code for the purpose of
22 allowing the organization to sell, at auction, wine donated to
23 the organization.

24 (2) A special license issued pursuant to subsection (1) is
25 not transferable. The organization applying for the special
26 license shall pay the fee required under section 525(1)(r).

1 (3) An auction permitted under subsection (1) may occur upon
2 premises which are otherwise licensed under this act to allow the
3 sale of alcoholic liquor for consumption on the licensed
4 premises.

5 Sec. 529. (1) A license or an interest in a license shall
6 not be transferred from 1 person to another without the prior
7 approval of the commission. For purposes of this section, the
8 transfer in the aggregate to another person during any single
9 licensing year of more than 10% of the outstanding stock of a
10 licensed corporation or more than 10% of the total interest in a
11 licensed limited partnership shall be considered to be a transfer
12 requiring the prior approval of the commission.

13 (2) Not later than July 1 of each year, each privately held
14 licensed corporation and each licensed limited partnership shall
15 notify the commission as to whether any of the shares of stock in
16 the corporation, or interest in the limited partnership, have
17 been transferred during the preceding licensing year. The com-
18 mission may investigate the transfer of any number of shares of
19 stock in a licensed corporation, or any amount of interest in a
20 licensed limited partnership, for the purpose of ensuring compli-
21 ance with this act and the rules promulgated under this act.

22 (3) Except as otherwise provided in subdivisions (a) through
23 (f), upon approval by the commission of a transfer subject to
24 subsection (1), there shall be paid to the commission a transfer
25 fee equal to the fee provided in this act for the class of
26 license being transferred. A transfer fee shall not be prorated
27 for a portion of the effective period of the license. If a

1 person holding more than 1 license or more than 1 interest in a
2 license at more than 1 location, but in the name of a single
3 legal entity, transfers all of the licenses or interests in
4 licenses simultaneously to another single legal entity, the
5 transfers shall be considered 1 transfer for purposes of deter-
6 mining a transfer fee, payable in an amount equal to the highest
7 license fee provided in this act for any of the licenses, or
8 interests in licenses, being transferred. A transfer fee shall
9 not be required in regard to any of the following:

10 (a) The transfer, in the aggregate, of less than 50% of the
11 outstanding shares of stock in a licensed corporation or less
12 than 50% of the total interest in a licensed limited partnership
13 during any licensing year.

14 (b) The exchange of the assets of a licensed sole proprie-
15 torship, licensed general partnership, or licensed limited part-
16 nership for all outstanding shares of stock in a corporation in
17 which either the sole proprietor, all members of the general
18 partnership, or all members of the limited partnership are the
19 only stockholders of that corporation. An exchange under this
20 subdivision shall not be considered an application for a license
21 for the purposes of section 501.

22 (c) The transfer of the interest in a licensed business of a
23 deceased licensee, a deceased stockholder, or a deceased member
24 of a general or limited partnership to the deceased person's
25 spouse or children.

1 (d) The removal of a member of a firm, a stockholder, a
2 member of a general partnership or limited partnership, or
3 association of licensees from a license.

4 (e) The addition to a license of the spouse, son, daughter,
5 or parent of any of the following:

6 (i) A licensed sole proprietor.

7 (ii) A stockholder in a licensed corporation.

8 (iii) A member of a licensed general partnership, licensed
9 limited partnership, or other licensed association.

10 (f) The occurrence of any of the following events:

11 (i) A corporate stock split of a licensed corporation.

12 (ii) The issuance to a stockholder of a licensed corporation
13 of previously unissued stock as compensation for services
14 performed.

15 (iii) The redemption by a licensed corporation of its own
16 stock.

17 (4) A nonrefundable inspection fee of \$70.00 shall be paid
18 to the commission by an applicant or licensee at the time of
19 filing any of the following:

20 (a) An application for a new license or permit.

21 (b) A request for approval of a transfer of ownership or
22 location of a license.

23 (c) A request for approval to increase or decrease the size
24 of the licensed premises, or to add a bar.

25 (d) A request for approval of the transfer in any licensing
26 year of any of the shares of stock in a licensed corporation from

1 1 person to another, or any part of the total interest in a
2 licensed limited partnership from 1 person to another.

3 (5) An inspection fee shall be returned to the person by
4 whom it was paid if the purpose of the inspection was to inspect
5 the physical premises of the licensee, and the inspection was not
6 actually conducted. An inspection fee shall not be required for
7 any of the following:

8 (a) The issuance or transfer of a special license, salesper-
9 son license, limited alcohol buyer license, corporate salesperson
10 license, hospital permit, military permit, or Sunday sale of
11 spirits permit.

12 (b) The issuance of a new permit, or the transfer of an
13 existing permit, if the permit is issued or transferred simulta-
14 neously with the issuance or transfer of a license or an interest
15 in a license.

16 (c) The issuance of authorized but previously unissued cor-
17 porate stock to an existing stockholder of a licensed
18 corporation.

19 (d) The transfer from a corporation to an existing stock-
20 holder of any of the corporation's stock that is owned by the
21 corporation itself.

22 (6) All inspection fees collected under this section shall
23 be deposited in the special fund in section 543 for carrying out
24 of the licensing and enforcement provisions of this act.

25 Sec. 531. (1) A public license shall not be granted for the
26 sale of alcoholic liquor for consumption on the premises in
27 excess of 1 license for each 1,500 of population or major

1 fraction thereof. On-premise escrowed licenses issued under this
2 subsection are available subject to section 501(2) to an appli-
3 cant whose proposed operation is located within any local govern-
4 mental unit in a county with a population of under 500,000 in
5 which the escrowed license was located. If the local governmen-
6 tal unit within which the former licensee's premises were located
7 spans more than 1 county, an escrowed license is available
8 subject to section 501(2) to an applicant whose proposed opera-
9 tion is located within any local governmental unit in either
10 county. If an escrowed license is activated within a local gov-
11 ernmental unit other than that local governmental unit within
12 which the escrowed license was originally issued, the commission
13 shall count that activated license against the local governmental
14 unit originally issuing the license. This quota does not bar the
15 right of an existing licensee to renew a license or transfer the
16 license and does not bar the right of a tavern or class A hotel
17 from requesting reclassification of a license to class C, unless
18 local option laws prevent the sale of spirits and mixed spirit
19 drinks by those licensed premises, subject to the consent of the
20 commission. The upgrading of a license resulting from a request
21 under this subsection shall be approved by the local governmental
22 unit having jurisdiction.

23 (2) In a resort area, the commission may issue 1 or more
24 licenses for a period not to exceed 12 months without regard to a
25 limitation because of population, but not in excess of 550, and
26 with respect to the resort license the commission, by rule, shall
27 define and classify resort seasons by months and may issue 1 or

1 more licenses for resort seasons without regard to the calendar
2 year or licensing year.

3 (3) In addition to the resort licenses authorized in subsec-
4 tion (2), the commission may issue not more than 10 additional
5 licenses per year for the years 1996 and 1997 to establishments
6 whose business and operation, as determined by the commission, is
7 designed to attract and accommodate tourists and visitors to the
8 resort area, and whose primary purpose is not for the sale of
9 alcoholic liquor. In counties having a population of less than
10 50,000, as determined by the last federal decennial census or as
11 determined pursuant to subsection (11) and subject to
12 subsection (17) in the case of a class A hotel or a class B
13 hotel, the commission shall not require the establishments to
14 have dining facilities to seat more than 50 persons. The commis-
15 sion may cancel the license if the resort is no longer active or
16 no longer qualifies for the license. Before January 16 of each
17 year the commission shall transmit to the legislature a report
18 giving details as to the number of applications received under
19 this subsection; the number of licenses granted and to whom; the
20 number of applications rejected and the reasons; and the number
21 of the licenses revoked, suspended, or other disciplinary action
22 taken and against whom and the grounds for revocation, suspen-
23 sion, or disciplinary action.

24 (4) In addition to any licenses for the sale of alcoholic
25 liquor for consumption on the premises that may be available in
26 the local governmental unit under subsection (1) and the resort
27 licenses authorized in subsections (2) and (3), the commission

1 may issue not more than 25 additional resort licenses per year
2 for the years 1996 and 1997 if all of the following conditions
3 are met:

4 (a) The establishment's business and operation, as deter-
5 mined by the commission, is designed to attract and accommodate
6 tourists and visitors to the resort area.

7 (b) The establishment's primary business is not the sale of
8 alcoholic liquor.

9 (c) The capital investment in real property, leasehold
10 improvement, fixtures, and inventory for the premises to be
11 licensed is in excess of \$1,000,000.00.

12 (5) In governmental units having a population of 50,000 per-
13 sons or less, as determined by the last federal decennial census
14 or as determined pursuant to subsection (11), in which the quota
15 of specially designated distributor licenses, as provided by com-
16 mission rule, has been exhausted, the commission may issue not
17 more than 10 additional specially designated distributor licenses
18 per year for the years 1996 and 1997 to established merchants
19 whose business and operation, as determined by the commission, is
20 designed to attract and accommodate tourists and visitors to the
21 resort area. A specially designated distributor license issued
22 pursuant to this subsection may be issued at a location within
23 2,640 feet of existing specially designated distributor license
24 locations. A specially designated distributor license issued
25 pursuant to this subsection shall not bar another specially des-
26 igned distributor licensee from transferring location to within
27 2,640 feet of said licensed location.

1 (6) In addition to any licenses for the sale of alcoholic
2 liquor for consumption on the premises that may be available in
3 the local governmental unit under subsection (1), and the resort
4 licenses authorized in subsections (2), (3), and (4), and not-
5 withstanding section 501(3), the commission may issue not more
6 than 5 additional special purpose licenses in any calendar year
7 for the sale of beer and wine for consumption on the premises. A
8 special purpose license issued pursuant to this subsection shall
9 be issued only for events which are to be held from May 1 to
10 September 30, are artistic in nature, and which are to be held on
11 the campus of a public university with an enrollment of 30,000 or
12 more students. A special purpose license shall be valid for 30
13 days or for the duration of the event for which it is issued,
14 whichever is less. The fee for a special purpose license shall
15 be \$50.00. A special purpose license may be issued only to a
16 corporation which is all of the following:

17 (a) Is a nonprofit corporation organized pursuant to the
18 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
19 450.3192.

20 (b) Has a board of directors constituted of members of whom
21 half are elected by the public university at which the event is
22 scheduled and half are elected by the local governmental unit.

23 (c) Has been in continuous existence for not less than 6
24 years.

25 (7) Notwithstanding the local legislative body approval pro-
26 vision of section 501(2) and notwithstanding the provisions of
27 section 519, the commission may issue, without regard to the

1 quota provisions of subsection (1) and with the approval of the
2 governing board of the university, either a tavern or class C
3 license which may be used only for regularly scheduled events at
4 a public university's established outdoor program or festival at
5 a facility on the campus of a public university having a head
6 count enrollment of 10,000 students or more. A license issued
7 under this subsection may only be issued to the governing board
8 of a public university, a person that is the lessee or conces-
9 sionaire of the governing board of the university, or both. A
10 license issued under this subsection is not transferable as to
11 ownership or location. A license issued under this subsection
12 may not be issued at an outdoor stadium customarily used for
13 intercollegiate athletic events.

14 (8) In issuing a resort license under subsection (3), (4),
15 or (5) the commission shall consider economic development factors
16 of the area in the issuance of licenses to establishments
17 designed to stimulate and promote the resort and tourist
18 industry. The commission shall not transfer a resort license
19 issued under subsection (3), (4), or (5) to another location, and
20 if the licensee goes out of business the license shall be surren-
21 dered to the commission.

22 (9) The limitations and quotas of this section shall not be
23 applicable to the issuance of a new license to a veteran of the
24 armed forces of the United States who was honorably discharged or
25 released under honorable conditions from the armed forces of the
26 United States and who had by forced sale disposed of a similar
27 license within 90 days before or after entering or while serving

1 in the armed forces of the United States, as a part of the
2 person's preparation for that service if the application for a
3 new license is made for the same governmental unit in which the
4 previous license was issued and within 60 days after the dis-
5 charge of the applicant from the armed forces of the United
6 States.

7 (10) The limitations and quotas of this section shall not be
8 applicable to the issuance of a new license or the renewal of an
9 existing license where the property or establishment to be
10 licensed is situated in or on land on which an airport owned by a
11 county or in which a county has an interest is situated.

12 (11) For purposes of implementing this section a special
13 state census of a local governmental unit may be taken at the
14 expense of the local governmental unit by the federal bureau of
15 census or the secretary of state under section 6 of 1909 PA 279,
16 MCL 117.6. The special census shall be initiated by resolution
17 of the governing body of the local governmental unit involved.
18 The secretary of state may promulgate additional rules necessary
19 for implementing this section pursuant to the administrative pro-
20 cedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 (12) Before granting an approval as required in
22 section 501(2) for a license to be issued under subsection (2),
23 (3), or (4), a local legislative body shall disclose the avail-
24 ability of transferable licenses held in escrow for more than 1
25 licensing year within that respective local governmental unit.
26 Public notice of the meeting to consider the granting of the

1 license by the local governmental unit shall be made 2 weeks
2 before the meeting.

3 (13) The person signing the application for an on-premise
4 resort license shall state and verify that he or she attempted to
5 secure an on-premise escrowed or quota license and that, to the
6 best of his or her knowledge, an on-premise escrowed or quota
7 license is not readily available within the local governmental
8 unit in which the applicant for the on-premise resort license
9 proposes to operate.

10 (14) The commission shall not issue an on-premise resort
11 license if the local governmental unit within which the resort
12 license applicant proposes to operate has not issued all
13 on-premise licenses available under subsection (1) or if an
14 on-premise escrowed license exists and is readily available
15 within the local governmental unit in which the applicant for the
16 on-premise resort license proposes to operate. The commission
17 may waive the provisions of this subsection upon a showing of
18 good cause.

19 (15) The commission shall not require a class A hotel or a
20 class B hotel licensed pursuant to subsection (2), (3), or (4) to
21 provide food service to registered guests or to the public.

22 (16) As used in this section:

23 (a) "Escrowed license" means a license in which the rights
24 of the licensee in the license or to the renewal of the license
25 are still in existence and are subject to renewal and activation
26 in the manner provided for in R 436.1107 of the Michigan
27 administrative code.

1 (b) "Readily available" means available under a standard of
2 economic feasibility, as applied to the specific circumstances of
3 the applicant, that includes but is not limited to the
4 following:

5 (i) The fair market value of the license, if determinable.

6 (ii) The size and scope of the proposed operation.

7 (iii) The existence of mandatory contractual restrictions or
8 inclusions attached to the sale of the license.

9 Sec. 533. A retail vendor licensed under this act to sell
10 for consumption on the premises may apply for a license as a spe-
11 cially designated merchant. A specially designated distributor
12 may apply for a license as a specially designated merchant. In
13 cities, incorporated villages, or townships, the commission shall
14 issue only 1 specially designated distributor license for each
15 3,000 of population, or fraction of 3,000.

16 Sec. 535. A vendor shall be a person authorized to do busi-
17 ness under the laws of this state.

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

20 (a) Taverns where beer and wine may be sold for consumption
21 on the premises only.

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

24 (c) Clubs where beer, wine, mixed spirit drink, and spirits
25 may be sold for consumption on the premises only to bona fide
26 members, who have attained the age of 21 years.

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

6 (e) Specially designated merchants, where beer and wine may
7 be sold for consumption off the premises only.

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

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

14 (h) Dining cars or other railroad or pullman cars, water-
15 craft, or aircraft, where alcoholic liquor may be sold for con-
16 sumption on the premises only, subject to rules promulgated by
17 the commission.

18 (i) Brewpubs where beer manufactured on the premises by the
19 licensee may be sold for consumption on or off the premises by
20 any of the following licensees:

21 (i) Class "C".

22 (ii) Tavern.

23 (iii) Class "A" hotel.

24 (iv) Class "B" hotel.

25 (j) Micro brewers where beer produced by the micro brewer
26 may be sold to a consumer for consumption on or off the brewery
27 premises.

1 (2) A wine maker may sell wine made by that wine maker in a
2 restaurant for consumption on or off the premises if the restau-
3 rant is owned by another person or operated under an agreement
4 approved by the commission and located on the premises where the
5 wine maker is licensed.

6 (3) A wine maker, with the prior written approval of the
7 commission, may conduct wine tastings of wines made by that wine
8 maker and may sell the wine made by that wine maker for consump-
9 tion off the premises at a location other than the premises where
10 the wine maker is licensed to manufacture wine, under the follow-
11 ing conditions:

12 (a) The premises upon which the wine tasting occurs conforms
13 to local and state sanitation requirements.

14 (b) Not more than 1 wine tasting location as described in
15 this subsection, per wine maker, may be approved by the commis-
16 sion in a licensing year.

17 (c) Payment of a \$100.00 fee per location is made to the
18 commission.

19 (d) The wine tasting locations shall be considered licensed
20 premises.

21 (e) Wine tasting does not take place between the hours of 2
22 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and
23 12 noon on Sunday.

24 (f) The premises and the licensee comply with and are
25 subject to all applicable rules promulgated by the commission.

26 Sec. 539. A marina that is situated on 1 of the Great
27 Lakes, on that part of an inland waterway or tributary connected

1 to and navigable to 1 of the Great Lakes, or on a Great Lakes
2 connecting waterway may be issued a license as a specially desig-
3 nated merchant or specially designated distributor, notwithstand-
4 ing the fact that the marina maintains motor vehicle fuel pumps
5 on or adjacent to the licensed premises, or maintains a financial
6 interest in any motor vehicle fuel pumps if both of the following
7 conditions are met:

8 (a) The marina's primary business is the sale of boats or
9 the provision of services and supplies to recreational power
10 cruisers and sailboats of the type that typically travel on the
11 Great Lakes.

12 (b) The fuel pumps are used for dispensing fuel only to
13 boats described in subdivision (a).

14 Sec. 541. (1) The commission shall not prohibit an appli-
15 cant for or the holder of a specially designated distributor
16 license or specially designated merchant license from owning or
17 operating motor vehicle fuel pumps on or adjacent to the licensed
18 premises, if both of the following conditions are met:

19 (a) One or both of the following conditions exist:

20 (i) The applicant or licensee is located in a neighborhood
21 shopping center composed of 1 or more commercial establishments
22 organized or operated as a unit which is related in location,
23 size, and type of shop to the trade area that the unit serves,
24 which provides not less than 50,000 square feet of gross leasable
25 retail space, and which provides 5 private off-street parking
26 spaces for each 1,000 square feet of gross leasable retail
27 space.

1 (ii) The applicant or licensee maintains a minimum inventory
2 on the premises, excluding alcoholic liquor and motor vehicle
3 fuel, of not less than \$250,000.00, at cost, of those goods and
4 services customarily marketed by approved types of businesses.

5 (b) The site of payment and selection of alcoholic liquor is
6 not less than 50 feet from that point where motor vehicle fuel is
7 dispensed.

8 (2) The commission shall not prohibit an applicant for or
9 the holder of a specially designated merchant license from owning
10 or operating motor vehicle fuel pumps on or adjacent to the
11 licensed premises if both of the following conditions are met:

12 (a) The applicant or licensee is located in either of the
13 following:

14 (i) A city, incorporated village, or township with a popula-
15 tion of 3,000 or less and a county with a population of 31,000 or
16 more.

17 (ii) A city, incorporated village, or township with a popu-
18 lation of 3,500 or less and a county with a population of less
19 than 31,000.

20 (b) The applicant or licensee maintains a minimum inventory
21 on the premises, excluding alcoholic liquor and motor vehicle
22 fuel, of not less than \$10,000.00, at cost, of those goods and
23 services customarily marketed by approved types of businesses.

24 (3) The commission shall not prohibit an applicant for or
25 the holder of a specially designated distributor license from
26 owning or operating motor vehicle fuel pumps on or adjacent to

1 the licensed premises if both of the following conditions are
2 met:

3 (a) The applicant or licensee is located in either of the
4 following:

5 (i) A city, incorporated village, or township with a popula-
6 tion of 3,000 or less and a county with a population of 31,000 or
7 more.

8 (ii) A city, incorporated village, or township with a popu-
9 lation of 3,500 or less and a county with a population of less
10 than 31,000.

11 (b) The applicant or licensee maintains a minimum inventory
12 on the premises, excluding alcoholic liquor and motor vehicle
13 fuel, of not less than \$12,500.00, at cost, of those goods and
14 services customarily marketed by approved types of businesses.

15 (4) A person who was issued a specially designated merchant
16 license or specially designated distributor license at a location
17 at which another person owned, operated or maintained motor vehi-
18 cle fuel pumps at the same location may have or acquire an inter-
19 est in the ownership, operation or maintenance of those motor
20 vehicle fuel pumps.

21 (5) The commission may transfer ownership of a specially
22 designated merchant license or specially designated distributor
23 license to a person who owns or is acquiring an interest in motor
24 vehicle fuel pumps already in operation at the same location at
25 which the license is issued.

26 Sec. 543. (1) Quarterly, upon recommendation of the
27 commission, the state shall pay in the manner prescribed by law

1 to the city, village, or township in which a full-time police
2 department or full-time ordinance enforcement department is main-
3 tained or, if a police department or full-time ordinance enforce-
4 ment department is not maintained, to the county, to be credited
5 to the sheriff's department of the county in which the licensed
6 premises are located, 55% of the amount of the proceeds of the
7 retailers' license fees and license renewal fees collected in
8 that jurisdiction, for the specific purpose of enforcing this act
9 and the rules promulgated under this act. Forty-one and one-half
10 percent of the amount of the proceeds of retailers' license and
11 license renewal fees collected shall be deposited in a special
12 fund to be annually appropriated to the commission for carrying
13 out the licensing and enforcement provisions of this act. Any
14 unencumbered or uncommitted money in the special fund shall
15 revert to the general fund of the state 12 months after the end
16 of each fiscal year in which the funds were collected. The leg-
17 isature shall appropriate 3-1/2% of the amount of the proceeds
18 of retailers' license and license renewal fees collected to be
19 credited to a special fund in the state treasury for the purposes
20 of promoting and sustaining programs for the prevention, rehabil-
21 itation, care, and treatment of alcoholics. This subsection does
22 not apply to retail license fees collected for railroad or
23 Pullman cars, watercraft, or aircraft, or to the transfer fees
24 provided in section 529.

25 (2) All license and license renewal fees, other than retail
26 license and license renewal fees, shall be credited to the grape
27 and wine industry council created in section 303, to be used as

1 provided in section 303. Money credited to the grape and wine
2 industry council shall not revert to the state general fund at
3 the close of the fiscal year, but shall remain in the account to
4 which it was credited to be used as provided in section 303.

5 (3) All retail license fees collected for railroad or
6 Pullman cars, watercraft, or aircraft, and the transfer fees pro-
7 vided in section 529 shall be deposited in the special fund cre-
8 ated in subsection (1) for carrying out the licensing and
9 enforcement provisions of this act.

10

CHAPTER 6

11 Sec. 601. (1) A wholesale licensee or an applicant for a
12 wholesale license, if an individual, shall be licensed only if
13 that individual has resided in this state for not less than 1
14 year immediately prior to the date of issuance of the license.

15 (2) A wholesale licensee or an applicant for a wholesale
16 license, if a partnership other than a limited partnership, shall
17 be licensed only if all of its members have resided in this state
18 for not less than 1 year immediately prior to the date of issu-
19 ance of the license.

20 (3) A wholesale licensee or an applicant for a wholesale
21 license, if a limited partnership, shall be licensed only if the
22 limited partnership is authorized to do business under the laws
23 of this state, and if the general partner and all limited part-
24 ners have resided in this state for not less than 1 year immedi-
25 ately preceding the date of issuance of the license. If the gen-
26 eral partner is a corporation, the limited partnership shall be
27 licensed only if the corporation has been authorized to do

1 business under the laws of this state for not less than 1 year
2 immediately preceding the date on which the corporation obtained
3 an interest in the limited partnership. A limited partnership
4 that holds a wholesale license shall not admit as a new limited
5 partner an individual who has not resided in this state for at
6 least 1 year immediately preceding the date on which the limited
7 partnership interest was acquired by the individual.

8 (4) A wholesale licensee or an applicant for a wholesale
9 license, if a corporation, shall be licensed only if the corpora-
10 tion is authorized to do business under the laws of this state
11 and if all stockholders of the corporation have resided in this
12 state for not less than 1 year immediately preceding the date of
13 issuance of the license. A corporation that holds a wholesale
14 license shall not issue shares of the corporation's stock to a
15 person who has not resided in this state for at least 1 year
16 immediately preceding the date on which the corporate stock was
17 acquired by the person.

18 Sec. 603. (1) Except as provided in subsection (6) and sec-
19 tion 605, a manufacturer, mixed spirit drink manufacturer, ware-
20 houser, wholesaler, outstate seller of beer, outstate seller of
21 wine, outstate seller of mixed spirit drink, or vendor of spirits
22 shall not have any financial interest, directly or indirectly, in
23 the establishment, maintenance, operation, or promotion of the
24 business of any other vendor.

25 (2) Except as provided in subsection (6) and section 605, a
26 manufacturer, mixed spirit drink manufacturer, warehouser,
27 wholesaler, outstate seller of beer, outstate seller of wine,

1 outstate seller of mixed spirit drink, or vendor of spirits or a
2 stockholder of a manufacturer, mixed spirit drink manufacturer,
3 warehouse, wholesaler, outstate seller of beer, outstate seller
4 of wine, outstate seller of mixed spirit drink, or vendor of
5 spirits shall not have an interest by ownership in fee, lease-
6 hold, mortgage, or otherwise, directly or indirectly, in the
7 establishment, maintenance, operation, or promotion of the busi-
8 ness of any other vendor.

9 (3) Except as provided in subsection (6) and section 605, a
10 manufacturer, mixed spirit drink manufacturer, warehouse, whole-
11 saler, outstate seller of beer, outstate seller of wine, outstate
12 seller of mixed spirit drink, or vendor of spirits shall not have
13 an interest directly or indirectly by interlocking directors in a
14 corporation or by interlocking stock ownership in a corporation
15 in the establishment, maintenance, operation, or promotion of the
16 business of any other vendor.

17 (4) Except as provided in subsection (6) and section 605, a
18 person shall not buy the stocks of a manufacturer, mixed spirit
19 drink manufacturer, warehouse, wholesaler, outstate seller of
20 beer, outstate seller of wine, outstate seller of mixed spirit
21 drink, or vendor of spirits and place the stock in any portfolio
22 under an arrangement, written trust agreement, or form of invest-
23 ment trust agreement and issue participating shares based upon
24 the portfolio, trust agreement, or investment trust agreement,
25 and sell the participating shares within this state.

26 (5) The commission may approve a brandy manufacturer to sell
27 brandy made by that brandy manufacturer in a restaurant for

1 consumption on or off the premises if the restaurant is owned by
2 the brandy manufacturer or operated by another person under an
3 agreement approved by the commission and is located on the
4 premises where the brandy manufacturer is licensed. Brandy sold
5 for consumption off the premises under this subsection shall be
6 sold at the uniform price established by the commission.

7 (6) A brewpub may have an interest in up to 2 other brewpubs
8 so long as the combined production of all the locations in which
9 the brewpub has an interest does not exceed 5,000 barrels of beer
10 per calendar year.

11 Sec. 605. (1) A brewer, or the parent company, a subsid-
12 iary or an affiliate of a brewer which parent company, subsid-
13 iary, or affiliate is located in this state may acquire, develop,
14 sell, lease, finance, maintain, operate, or promote real property
15 occupied or to be occupied by another vendor, except a wholesal-
16 er, if all of the following exist:

17 (a) The brewer has received written approval of the commis-
18 sion before entering into any arrangement or contract between the
19 parties regarding the real property.

20 (b) The legislative body of the city, village, or township
21 where the property is located certifies to the commission that
22 the real property is in an urban, commercial, or community rede-
23 velopment area and is designated as such by a state or federal
24 agency.

25 (c) Any arrangement or contract entered into between the
26 brewer, its parent company, subsidiary, or affiliate and another
27 vendor shall not directly or indirectly influence or control the

1 brand of alcoholic liquor sold or to be sold by the vendor and
2 shall only be concerned with real property.

3 (2) The commission may deny or approve an arrangement or
4 contract to be entered into under this section. In denying or
5 approving an arrangement or contract, the commission shall con-
6 sider all of the following:

7 (a) That the arrangement or contract to be entered into is
8 concerned only with real property.

9 (b) That the certification required under subsection (1)(b)
10 has been received by the commission.

11 (c) That the arrangement or contract does not violate this
12 act or the rules promulgated under this act.

13 (3) The commission may review any arrangement or contract
14 under this section at the time that 1 of the parties to the
15 arrangement or contract applies for or renews a license. The
16 commission may deny, revoke, or suspend the license of a party to
17 the arrangement or contract if the commission finds that the
18 party to the arrangement or contract has violated this act or the
19 rules promulgated under this act.

20 (4) Except as otherwise provided in subsection (5), a whole-
21 saler shall not be a party to, directly or indirectly, an
22 arrangement or contract under this section.

23 (5) A manufacturer, mixed spirit drink manufacturer, ware-
24 houser, wholesaler, authorized distribution agent, outstate
25 seller of beer, outstate seller of wine, outstate seller of mixed
26 spirit drink, or vendor of spirits may acquire, develop, sell,
27 lease, finance, maintain, operate, or promote a condominium

1 project or own a condominium unit as its sole property, under the
2 condominium act, 1978 PA 59, MCL 559.101 to 559.275, if that con-
3 dominium unit is not the licensed premises owned separately by a
4 retailer and if all of the following apply:

5 (a) Condominium assessments in the condominium project are
6 based on the proportional area each condominium unit has to the
7 total area.

8 (b) A condominium unit operating as a licensed premises
9 operates under a separate name from the condominium project
10 except that cooperative advertising shall be permitted among
11 owners of condominium units for the purpose of promoting the con-
12 dominium project if the name of a brand or brands of an alcoholic
13 liquor is not mentioned in the advertising.

14 (c) Ownership of a condominium unit and participation in a
15 condominium association under this section is not considered a
16 financial interest, interest by ownership, or interest by inter-
17 locking directors on stock ownership prohibited by section 603.

18 (d) A retailer separately owning a separate condominium unit
19 as sole property does not directly purchase alcoholic liquor from
20 the manufacturer, warehouser, wholesaler, outstate seller of
21 mixed spirit drink, or vendor of spirits who owns, leases, main-
22 tains, finances, or operates the condominium project.

23 (e) A wholesaler who has a direct or indirect interest in a
24 condominium unit in which a retailer is located does not sell
25 alcoholic liquor to any licensed retail business in which that
26 retailer, or any person having an ownership interest in that
27 retailer, has an ownership interest; and, a retail licensed

1 business in which that retailer, or any person having an
2 ownership interest in that retailer, has an ownership interest
3 does not purchase alcoholic liquor from a wholesaler who has a
4 direct or indirect interest in a condominium or condominium unit
5 in which that retailer is located.

6 (f) A retailer acquiring a separate condominium unit as sole
7 property pays the fair market value for the unit.

8 (6) Subsection (5) does not apply to a manufacturer, mixed
9 spirit drink manufacturer, warehouse, wholesaler, authorized
10 distribution agent, outstate seller of beer, outstate seller of
11 wine, outstate seller of mixed spirit drink, or vendor of spirits
12 with a direct or indirect interest in a license under the
13 Michigan gaming control and revenue act, the Initiated Law of
14 1996, MCL 432.201 to 432.216. Subsection (5) does not prohibit a
15 direct physical connection between a condominium unit which is
16 the licensed premises and a condominium unit which is not the
17 licensed premises.

18 Sec. 607. (1) Except as provided in section 537(2), a ware-
19 houser, mixed spirit drink manufacturer, wholesaler, outstate
20 seller of beer, outstate seller of wine, outstate seller of mixed
21 spirit drink, or vendor of spirits shall not be licensed as a
22 specially designated merchant or a specially designated distribu-
23 tor or permitted to sell or deliver to the consumer any quantity
24 of alcoholic liquor at retail.

25 (2) A specially designated distributor or specially desig-
26 nated merchant or any other retailer shall not hold a mixed
27 spirit drink manufacturer, wholesale, warehouse, outstate seller

1 of beer, outstate seller of mixed spirit drink, or outstate
2 seller of wine license.

3 (3) A brewer, warehouser, or wholesaler shall not be
4 licensed as a specially designated merchant, except for brewers
5 who manufacture less than 200,000 barrels of beer per year. This
6 subsection shall not affect the operation of a brewery hospital-
7 ity room.

8 (4) A wholesaler may sell or deliver beer and alcoholic
9 liquor to hospitals, military establishments, governments of fed-
10 eral Indian reservations, and churches requiring sacramental
11 wines and may sell to the wholesaler's own employees to a limit
12 of 2 cases of 24 12-ounce units or its equivalent of malt bever-
13 age per week, or 1 case of 12 1-liter units or its equivalent of
14 wine or mixed spirit drink per week.

15 Sec. 609. Except as provided in section 605, a manufactur-
16 er, mixed spirit drink manufacturer, warehouser, wholesaler, out-
17 state seller of beer, outstate seller of wine, outstate seller of
18 mixed spirit drink, or vendor of spirits shall not aid or assist
19 any other vendor by gift, loan of money or property of any
20 description, or other valuable thing, or by the giving of premi-
21 ums or rebates, and a vendor shall not accept the same. However,
22 if manufacturers of spirits reduce the price of their products,
23 the manufacturer of spirits may refund the amount of the price
24 reductions to specially designated distributor licensees in a
25 manner prescribed by the commission.

26 Sec. 611. (1) A refund or credit of the tax on wine or
27 mixed spirit drink paid under section 301 and of the tax on beer

1 paid under section 409 shall be made by the commission to a
2 brewer, wine maker, outstate seller of beer, outstate seller of
3 wine, outstate seller of mixed spirit drink, manufacturer of
4 mixed spirit drink, wholesaler, or retail licensee who paid the
5 tax if the wine, beer, or mixed spirit drink was sold to a mili-
6 tary installation or Indian reservation in this state or, subject
7 to subsection (2), if the wine, beer, or mixed spirit drink is
8 lost, made unmarketable, or condemned by order of the commission
9 as the result of a fire, flood, casualty, or other occurrence. A
10 refund or credit shall not be made as the result of theft.

11 (2) A refund or credit of taxes as provided in subsection
12 (1) shall be made for damaged wine, beer, or mixed spirit drink
13 only if all of the following circumstances exist:

14 (a) At the time of the fire, flood, casualty, or other
15 occurrence, the wine, beer, or mixed spirit drink was being held
16 for sale by the vendor claiming the refund or credit.

17 (b) The refund or credit of the amount claimed or any part
18 of the amount claimed has not been and will not be claimed for
19 the same wine, beer, or mixed spirit drink under any other law or
20 rule.

21 (c) The vendor claiming the refund or credit is not indemni-
22 fiable by any valid claim of insurance or otherwise for the tax
23 on the wine, beer, or mixed spirit drink covered by the claim.

24 (d) The amount claimed for a refund or credit is more than
25 \$250.00 or the refund or credit is claimed for defective wine,
26 beer, or mixed spirit drink for which the commission has
27 authorized a manufacturer, outstate seller of beer, outstate

1 seller of wine, outstate seller of mixed spirit drink,
2 manufacturer of mixed spirit drink, or wholesaler to make an
3 exchange, have replaced, or be reimbursed.

4 (e) The occurrence was not caused by an intentional act of
5 the vendor claiming the refund or credit or an agent of that
6 vendor.

7 (3) A claim for a refund or credit of the tax as provided in
8 subsection (1) shall be made not later than 3 months after either
9 of the following:

10 (a) The date upon which the damage occurred or was first
11 discovered.

12 (b) The date of the sale to a military installation or
13 Indian reservation in this state.

14 (4) A claim for a refund or credit of the tax as provided in
15 subsection (1) shall be submitted to the commission on a form
16 approved by the commission. The claim shall contain the follow-
17 ing information, as applicable:

18 (a) The name and business address of the vendor claiming the
19 refund or credit.

20 (b) The address where the wine, beer, or mixed spirit drink
21 was lost, made unmarketable, or condemned, if different from the
22 business address.

23 (c) The address of the military installation or Indian res-
24 ervation to which the wine, beer, or mixed spirit drink was
25 sold.

26 (d) The kind of wine, beer, or mixed spirit drink.

1 (e) The size of bottles or containers.

2 (f) The number of bottles or containers.

3 (g) The total amount of wine, beer, or mixed spirit drink
4 that was sold or damaged. The amount shall be stated in liters
5 or portions of liters for wine and mixed spirit drink and barrels
6 or portions of barrels for beer.

7 (h) A statement that other claims for a refund or credit of
8 the amount claimed or for any part of the amount claimed have not
9 been and will not be made.

10 (i) A statement that the vendor has not been indemnified by
11 a valid claim of insurance or otherwise for the tax on the wine,
12 beer, or mixed spirit drink covered by the claim.

13 (j) Evidence that the tax on the wine, beer, or mixed spirit
14 drink has been paid.

15 (k) Evidence that the wine, beer, or mixed spirit drink was
16 lost, made unmarketable, or condemned by reason of damage sus-
17 tained as the result of a fire, flood, casualty, or other
18 occurrence.

19 (l) A statement as to the type and date of the occurrence.

20 (m) A statement that the occurrence was not caused by an
21 intentional act of the vendor claiming the refund or credit or an
22 agent of that vendor.

23 (5) The vendor claiming the refund or credit for damaged
24 wine, beer, or mixed spirit drink shall support a claim with any
25 evidence, such as an inventory, statement, invoice, bill, record,
26 or label, relating to the quantity of wine, beer, or mixed spirit
27 drink on hand at the time of the fire, flood, casualty, or other

1 disaster and alleged to have been lost, made unmarketable, or
2 condemned as a result of the damage.

3 (6) Before or after a tax refund or credit has been made for
4 damaged wine, beer, or mixed spirit drink, the wine, beer, or
5 mixed spirit drink upon which the refund or credit is based shall
6 be removed from this state or destroyed under the supervision of
7 the commission.

8 (7) In addition to the provisions of this section, the tax
9 paid on wine or mixed spirit drink pursuant to section 301 shall
10 be rebated to the person who paid the tax upon the presentation
11 of satisfactory proof to the commission that the wine or mixed
12 spirit drink was shipped outside of this state for sale and con-
13 sumption outside of this state.

14 CHAPTER 7

15 Sec. 701. (1) Alcoholic liquor shall not be sold or fur-
16 nished to a minor. Except as otherwise provided in
17 subsection (2) and subject to subsection (4), a person who know-
18 ingly sells or furnishes alcoholic liquor to a minor, or who
19 fails to make diligent inquiry as to whether the person is a
20 minor, is guilty of a misdemeanor. A retail licensee or a retail
21 licensee's clerk, agent, or employee who violates this subsection
22 shall be punished in the manner provided for licensees in
23 section 909. Notwithstanding section 909 and except as otherwise
24 provided in subsection (2), a person who is not a retail licensee
25 or a retail licensee's clerk, agent, or employee and who violates
26 this subsection shall be fined \$1,000.00 and may be sentenced to
27 imprisonment for up to 60 days for a first offense, shall be

1 fined \$2,500.00 and shall be sentenced to imprisonment for up to
2 90 days for a second or subsequent offense, and may be ordered to
3 perform community service. A suitable sign describing the con-
4 tent of this section and the penalties for its violation shall be
5 posted in a conspicuous place in each room where alcoholic liquor
6 is sold. The signs shall be approved and furnished by the
7 commission.

8 (2) A person who is not a retail licensee or the retail
9 licensee's clerk, agent, or employee and who violates
10 subsection (1) is guilty of a felony, punishable by imprisonment
11 for not more than 10 years, or a fine of not more than \$5,000.00,
12 or both, if the subsequent consumption of the alcoholic liquor by
13 the minor is a direct and substantial cause of that person's
14 death or an accidental injury that causes that person's death.

15 (3) If a violation occurs in an establishment that is
16 licensed by the commission for consumption of alcoholic liquor on
17 the licensed premises, a person who is a licensee or the clerk,
18 agent, or employee of a licensee shall not be charged with a vio-
19 lation of subsection (1) or section 801(2) unless the licensee or
20 the clerk, agent, or employee of the licensee knew or should have
21 reasonably known with the exercise of due diligence that a person
22 less than 21 years of age possessed or consumed alcoholic liquor
23 on the licensed premises and the licensee or clerk, agent, or
24 employee of the licensee failed to take immediate corrective
25 action.

26 (4) If the enforcing agency involved in the violation is the
27 state police or a local police agency, a licensee shall not be

1 charged with a violation of subsection (1) or section 801(2)
2 unless enforcement action under section 703 is taken against the
3 minor who purchased or attempted to purchase, consumed or
4 attempted to consume, or possessed or attempted to possess alco-
5 holic liquor and, if applicable, enforcement action is taken
6 under this section against the person 21 years of age or older
7 who sold or furnished the alcoholic liquor to the minor. If the
8 enforcing agency is the commission, then the commission shall
9 recommend to a local law enforcement agency that enforcement
10 action be taken against a violator of this section or section 703
11 who is not a licensee. However, this subsection does not apply
12 under any of the following circumstances:

13 (a) The person against whom enforcement action is taken
14 under section 703 or the person 21 years of age or older who sold
15 or furnished alcoholic liquor to the minor is not alive or is not
16 present in this state at the time the licensee is charged.

17 (b) The violation of subsection (1) is the result of an
18 undercover operation in which the minor purchased or received
19 alcoholic liquor under the direction of the person's employer and
20 with the prior approval of the local prosecutor's office as part
21 of an employer-sponsored internal enforcement action.

22 (c) The violation of subsection (1) is the result of an
23 undercover operation in which the minor purchased or received
24 alcoholic liquor under the direction of the state police, the
25 commission, or a local police agency as part of an enforcement
26 action. However, any initial or contemporaneous purchase or
27 receipt of alcoholic liquor by the minor shall have been under

1 the direction of the state police, the commission, or the local
2 police agency and shall have been part of the undercover
3 operation.

4 (5) If a minor participates in an undercover operation in
5 which the minor is to purchase or receive alcoholic liquor under
6 the supervision of a law enforcement agency, his or her parents
7 or legal guardian shall consent to the participation if that
8 person is less than 18 years of age.

9 (6) In an action for the violation of this section, proof
10 that the defendant or the defendant's agent or employee demanded
11 and was shown, before furnishing alcoholic liquor to a minor, a
12 motor vehicle operator's or chauffeur's license or a registration
13 certificate issued by the federal selective service, or other
14 bona fide documentary evidence of the age and identity of that
15 person, shall be a defense to an action brought under this
16 section.

17 (7) The commission shall provide, on an annual basis, a
18 written report to the department of state police as to the number
19 of actions heard by the commission involving violations of this
20 section and section 801(2). The report shall include the dispo-
21 sition of each action and contain figures representing the fol-
22 lowing categories:

23 (a) Decoy operations.

24 (b) Off-premises violations.

25 (c) On-premises violations.

26 (d) Repeat offenses within the 3 years preceding the date of
27 that report.

1 (8) As used in this section:

2 (a) "Corrective action" means action taken by a licensee or
3 a clerk, agent, or employee of a licensee designed to prevent a
4 minor from further possessing or consuming alcoholic liquor on
5 the licensed premises. Corrective action includes, but is not
6 limited to, contacting a law enforcement agency and ejecting the
7 minor and any other person suspected of aiding and abetting the
8 minor.

9 (b) "Diligent inquiry" means a diligent good faith effort to
10 determine the age of a person, which includes at least an exami-
11 nation of an official Michigan operator's or chauffeur's license,
12 an official Michigan personal identification card, or any other
13 bona fide picture identification which establishes the identity
14 and age of the person.

15 Sec. 703. (1) A minor shall not purchase or attempt to pur-
16 chase alcoholic liquor, consume or attempt to consume alcoholic
17 liquor, or possess or attempt to possess alcoholic liquor, except
18 as provided in this section. Notwithstanding section 909, a
19 minor who violates this subsection is guilty of a misdemeanor
20 punishable by the following fines and sanctions, and is not
21 subject to the penalties prescribed in section 909:

22 (a) For the first violation a fine of not more than \$100.00,
23 and may be ordered to participate in substance abuse prevention
24 or substance abuse treatment and rehabilitation services as
25 defined in section 6107 of the public health code, 1978 PA 368,
26 MCL 333.6107, and designated by the administrator of substance
27 abuse services, and may be ordered to perform community service

1 and to undergo substance abuse screening and assessment at his or
2 her own expense as described in subsection (3).

3 (b) For a second violation a fine of not more than \$200.00,
4 and may be ordered to participate in substance abuse prevention
5 or substance abuse treatment and rehabilitation services as
6 defined in section 6107 of the public health code, 1978 PA 368,
7 MCL 333.6107, and designated by the administrator of substance
8 abuse services, to perform community service, and to undergo sub-
9 stance abuse screening and assessment at his or her own expense
10 as described in subsection (3). The person is also subject to
11 sanctions against his or her operator's or chauffeur's license
12 imposed in subsection (4).

13 (c) For a third or subsequent violation a fine of not more
14 than \$500.00, and may be ordered to participate in substance
15 abuse prevention or substance abuse treatment and rehabilitation
16 services as defined in section 6107 of the public health code,
17 1978 PA 368, MCL 333.6107, and designated by the administrator of
18 substance abuse services, to perform community service, and to
19 undergo substance abuse screening and assessment at his or her
20 own expense as described in subsection (3). The person is also
21 subject to sanctions against his or her operator's or chauffeur's
22 license imposed in subsection (4).

23 (2) A person who furnishes fraudulent identification to a
24 minor, or notwithstanding subsection (1) a minor who uses fraudu-
25 lent identification to purchase alcoholic liquor, is guilty of a
26 misdemeanor. The court shall order the secretary of state to
27 suspend, pursuant to section 319(5) of the Michigan vehicle code,

1 1949 PA 300, MCL 257.319, for a period of 90 days, the operator
2 or chauffeur license of a person who is convicted of furnishing
3 or using fraudulent identification in violation of this subsec-
4 tion and the operator or chauffeur license of that person shall
5 be surrendered to the court. The court shall immediately forward
6 the surrendered license and an abstract of conviction to the sec-
7 retary of state. A suspension ordered under this subsection
8 shall be in addition to any other suspension of the person's
9 operator or chauffeur license.

10 (3) The court may order the person found violating subsec-
11 tion (1) to undergo screening and assessment by a person or
12 agency as designated by the substance abuse coordinating agency
13 as defined in section 6103 of the public health code, 1978 PA
14 368, MCL 333.6103, in order to determine whether the person is
15 likely to benefit from rehabilitative services, including alcohol
16 or drug education and alcohol or drug treatment programs.

17 (4) Immediately upon the entry of a conviction or a probate
18 court disposition for a violation of subsection (1), the court
19 shall consider all prior convictions or probate court disposi-
20 tions of subsection (1), or a local ordinance or law of another
21 state substantially corresponding to subsection (1), and shall
22 impose the following sanctions:

23 (a) If the court finds that the person has 1 such prior con-
24 viction or probate court disposition, the court shall order the
25 secretary of state to suspend the operator's or chauffeur's
26 license of the person for a period of not less than 90 days or
27 more than 180 days. The court may order the secretary of state

1 to issue to the person a restricted license after the first 30
2 days of the period of suspension in the manner described in sub-
3 section (5) and provided for in section 319 of the Michigan vehi-
4 cle code, 1949 PA 300, MCL 257.319. In the case of a person who
5 does not possess an operator's or chauffeur's license, the secre-
6 tary of state shall deny the application for an operator's or
7 chauffeur's license for the applicable suspension period.

8 (b) If the court finds that the person has 2 or more such
9 prior convictions or probate court dispositions, the court shall
10 order the secretary of state to suspend the operator's or
11 chauffeur's license of the person for a period of not less than
12 180 days or more than 1 year. The court may order the secretary
13 of state to issue to the person a restricted license after the
14 first 60 days of the period of suspension in the manner described
15 in subsection (5) and provided for in section 319 of the Michigan
16 vehicle code, 1949 PA 300, MCL 257.319. In the case of a person
17 who does not possess an operator's or chauffeur's license, the
18 secretary of state shall deny the application for an operator's
19 or chauffeur's license for the applicable suspension period.

20 (5) In those cases in which a restricted license is allowed
21 under this section, the court shall not order the secretary of
22 state to issue a restricted license unless the person states
23 under oath, and the court finds based upon the record in open
24 court, that the person is unable to take public transportation to
25 and from his or her work location, place of alcohol or drug edu-
26 cation treatment, probation department, court-ordered community
27 service program, or educational institution, and does not have

1 any family members or others able to provide transportation. The
2 court order under subsection (4) and the restricted license shall
3 indicate the work location of the person to whom it is issued,
4 the approved route or routes and permitted times of travel, and
5 shall permit the person to whom it is issued only to do 1 or more
6 of the following:

7 (a) Drive to and from the person's residence and work
8 location.

9 (b) Drive in the course of the person's employment or
10 occupation.

11 (c) Drive to and from the person's residence and an alcohol
12 or drug education or treatment program as ordered by the court.

13 (d) Drive to and from the person's residence and the court
14 probation department, or a court-ordered community service pro-
15 gram, or both.

16 (e) Drive to and from the person's residence and an educa-
17 tional institution at which the person is enrolled as a student.

18 (6) If license sanctions are imposed, immediately upon the
19 entry of a court-ordered sanction pursuant to subsection (4), the
20 court shall order the person convicted for the violation to sur-
21 render to the court his or her operator's or chauffeur's
22 license. The court shall immediately forward a notice of
23 court-ordered license sanctions to the secretary of state. If
24 the license is not forwarded to the secretary of state, an expla-
25 nation of the reason why the license is absent shall be
26 attached. If the finding is appealed to the circuit court, the
27 court may, ex parte, order the secretary of state to stay the

1 suspension issued pursuant to this section pending the outcome of
2 the appeal. Immediately following imposition of the sanction,
3 the court shall forward a notice to the secretary of state indi-
4 cating the sanction imposed.

5 (7) A peace officer who has reasonable cause to believe a
6 minor has consumed alcoholic liquor may require the person to
7 submit to a preliminary chemical breath analysis. A peace offi-
8 cer may arrest a person based in whole or in part upon the
9 results of a preliminary chemical breath analysis. The results
10 of a preliminary chemical breath analysis or other acceptable
11 blood alcohol test are admissible in a criminal prosecution to
12 determine whether the minor has consumed or possessed alcoholic
13 liquor. A minor who refuses to submit to a preliminary chemical
14 breath test analysis as required in this subsection is responsi-
15 ble for a state civil infraction and may be ordered to pay a
16 civil fine of not more than \$100.00.

17 (8) A law enforcement agency, upon determining that a person
18 less than 18 years of age who is not emancipated pursuant to 1968
19 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, pur-
20 chased, or attempted to consume, possess, or purchase alcoholic
21 liquor in violation of subsection (1) shall notify the parent or
22 parents, custodian, or guardian of the person as to the nature of
23 the violation if the name of a parent, guardian, or custodian is
24 reasonably ascertainable by the law enforcement agency. The
25 notice required by this subsection shall be made not later than
26 48 hours after the law enforcement agency determines that the
27 person who allegedly violated subsection (1) is less than 18

1 years of age and not emancipated pursuant to 1968 PA 293, MCL
2 722.1 to 722.6. The notice may be made by any means reasonably
3 calculated to give prompt actual notice including, but not
4 limited to, notice in person, by telephone, or by first-class
5 mail. If a person less than 17 years of age is incarcerated for
6 violating subsection (1), his or her parents or legal guardian
7 shall be notified immediately as provided in this subsection.

8 (9) This section does not prohibit a minor from possessing
9 alcoholic liquor during regular working hours and in the course
10 of his or her employment if employed by a person licensed by this
11 act, by the commission, or by an agent of the commission, if the
12 alcoholic liquor is not possessed for his or her personal
13 consumption.

14 (10) This section shall not be construed to limit the civil
15 or criminal liability of the vendor or the vendor's clerk, ser-
16 vant, agent, or employee for a violation of this act.

17 (11) The consumption of alcoholic liquor by a minor who is
18 enrolled in a course offered by an accredited postsecondary edu-
19 cational institution in an academic building of the institution
20 under the supervision of a faculty member is not prohibited by
21 this act if the purpose of the consumption is solely educational
22 and is a necessary ingredient of the course.

23 (12) The consumption by a minor of sacramental wine in con-
24 nection with religious services at a church, synagogue, or temple
25 is not prohibited by this act.

26 (13) Subsection (1) does not apply to a minor who
27 participates in either or both of the following:

1 (a) An undercover operation in which the minor purchases or
2 receives alcoholic liquor under the direction of the person's
3 employer and with the prior approval of the local prosecutor's
4 office as part of an employer-sponsored internal enforcement
5 action.

6 (b) An undercover operation in which the minor purchases or
7 receives alcoholic liquor under the direction of the state
8 police, the commission, or a local police agency as part of an
9 enforcement action except that any initial or contemporaneous
10 purchase or receipt of alcoholic liquor by the minor is under the
11 direction of the state police, the commission, or the local
12 police agency and is part of the undercover operation. The state
13 police, the commission, or a local police agency shall not
14 recruit or attempt to recruit a minor for participation in an
15 undercover operation at the scene of a violation of
16 subsection (1), section 801(2), or section 701(1).

17 (14) As used in this section:

18 (a) "Probate court disposition" means an order of dispo-
19 sition of the probate court or the family division of the circuit
20 court for a child found to be within the provisions of chapter
21 XIIIA of 1939 PA 288, MCL 712A.1 to 712A.32.

22 (b) "Work location" means, as applicable, either the spe-
23 cific place or places of employment, or the territory or territo-
24 ries regularly visited by the person in pursuance of the person's
25 occupation, or both.

26 Sec. 705. (1) A sheriff or deputy sheriff; village or
27 township marshal; an officer or member of a village, township, or

1 city police department; an officer of the department of state
2 police; or an inspector of the commission who witnesses a viola-
3 tion of section 703 or a local ordinance corresponding to that
4 section may stop and detain the person for purposes of obtaining
5 satisfactory identification, seizing illegally possessed alco-
6 holic liquor, and issuing an appearance ticket.

7 (2) As used in this section, "appearance ticket" means a
8 complaint or written notice, issued and subscribed by a law
9 enforcement officer of the type described in subsection (1) or
10 inspector of the commission, directing a designated person to
11 appear in a designated district, municipal, or probate court at a
12 designated time in connection with the alleged violation. The
13 appearance ticket shall consist of the following parts:

14 (a) The original which shall be a complaint or notice to
15 appear by the officer and filed with the court.

16 (b) The first copy which shall be the abstract of court
17 record.

18 (c) The second copy which shall be delivered to the alleged
19 violator.

20 (d) The third copy which shall be retained by the law
21 enforcement agency.

22 (3) The court may accept a plea of guilty by the defendant
23 of the allegations of an appearance ticket and the court shall
24 then impose a fine, license suspension, or other sanction as fur-
25 ther authorized by section 703. If the defendant denies the
26 allegations of the appearance ticket, the court shall then set a
27 date for trial or hearing.

1 (2) A retail licensee shall not directly, individually, or
2 by a clerk, agent, or servant sell, furnish, or give alcoholic
3 liquor to a minor except as otherwise provided in this act. A
4 retail licensee shall not directly or indirectly, individually or
5 by a clerk, agent, or servant sell, furnish, or give alcoholic
6 liquor to a person who is visibly intoxicated.

7 (3) Except as otherwise provided in this section, an indi-
8 vidual who suffers damage or who is personally injured by a minor
9 or visibly intoxicated person by reason of the unlawful selling,
10 giving, or furnishing of alcoholic liquor to the minor or visibly
11 intoxicated person, if the unlawful sale is proven to be a proxi-
12 mate cause of the damage, injury, or death, or the spouse, child,
13 parent, or guardian of that individual, shall have a right of
14 action in his or her name against the person who by selling,
15 giving, or furnishing the alcoholic liquor has caused or contrib-
16 uted to the intoxication of the person or who has caused or con-
17 tributed to the damage, injury, or death. In an action pursuant
18 to this section, the plaintiff shall have the right to recover
19 actual damages in a sum of not less than \$50.00 in each case in
20 which the court or jury determines that intoxication was a proxi-
21 mate cause of the damage, injury, or death.

22 (4) An action under this section shall be instituted within
23 2 years after the injury or death. A plaintiff seeking damages
24 under this section shall give written notice to all defendants
25 within 120 days after entering an attorney-client relationship
26 for the purpose of pursuing a claim under this section. Failure
27 to give written notice within the time specified shall be grounds

1 for dismissal of a claim as to any defendants that did not
2 receive that notice unless sufficient information for determining
3 that a retail licensee might be liable under this section was not
4 known and could not reasonably have been known within the 120
5 days. In the event of the death of either party, the right of
6 action under this section shall survive to or against his or her
7 personal representative. In each action by a husband, wife,
8 child, or parent, the general reputation of the relation of hus-
9 band and wife or parent and child shall be prima facie evidence
10 of the relation, and the amount recovered by either the husband,
11 wife, parent, or child shall be his or her sole and separate
12 property. The damages, together with the costs of the action,
13 shall be recovered in an action under this section. If the par-
14 ents of the individual who suffered damage or who was personally
15 injured are entitled to damages under this section, the father
16 and mother may sue separately, but recovery by 1 is a bar to
17 action by the other.

18 (5) An action under this section against a retail licensee
19 shall not be commenced unless the minor or the alleged intoxi-
20 cated person is a named defendant in the action and is retained
21 in the action until the litigation is concluded by trial or
22 settlement.

23 (6) Any licensee subject to the provisions of subsection (3)
24 regarding the unlawful selling, furnishing, or giving of alco-
25 holic liquor to a visibly intoxicated person shall have the right
26 to full indemnification from the alleged visibly intoxicated
27 person for all damages awarded against the licensee.

1 (7) All defenses of the alleged visibly intoxicated person
2 or the minor shall be available to the licensee. In an action
3 alleging the unlawful sale of alcoholic liquor to a minor, proof
4 that the defendant retail licensee or the defendant's agent or
5 employee demanded and was shown a Michigan driver license or
6 official state personal identification card, appearing to be gen-
7 uine and showing that the minor was at least 21 years of age,
8 shall be a defense to the action.

9 (8) There shall be a rebuttable presumption that a retail
10 licensee, other than the retail licensee who last sold, gave, or
11 furnished alcoholic liquor to the minor or the visibly intoxi-
12 cated person, has not committed any act giving rise to a cause of
13 action under subsection (3).

14 (9) The alleged visibly intoxicated person shall not have a
15 cause of action pursuant to this section and a person shall not
16 have a cause of action pursuant to this section for the loss of
17 financial support, services, gifts, parental training, guidance,
18 love, society, or companionship of the alleged visibly intoxi-
19 cated person.

20 (10) This section provides the exclusive remedy for money
21 damages against a licensee arising out of the selling, giving, or
22 furnishing of alcoholic liquor.

23 (11) Except as otherwise provided for under this section and
24 section 815, a civil action under subsection (3) against a retail
25 licensee shall be subject to the revised judicature act of 1961,
26 1961 PA 236, MCL 600.101 to 600.9947.

1 Sec. 803. (1) Except as otherwise provided in
2 subsection (2), before the renewal or approval and granting of a
3 retail license, a retail licensee or applicant for a retail
4 license shall file with the commission proof of financial respon-
5 sibility providing security for liability under section 801(3) of
6 not less than \$50,000.00. The proof of financial responsibility
7 may be in the form of cash, unencumbered securities, a policy or
8 policies of liquor liability insurance, a constant value bond
9 executed by a surety company authorized to do business in this
10 state, or membership in a group self-insurance pool authorized by
11 law that provides security for liability under section 801.

12 (2) If the commissioner of insurance certifies, pursuant to
13 section 2409b of the insurance code of 1956, 1956 PA 218, MCL
14 500.2409b, that liquor liability insurance is not reasonably
15 available in this state or is not available at a reasonable pre-
16 mium, the commission may waive the requirements of subsection (1)
17 with regard to any affected retail licensees and applicants for a
18 retail license until the commissioner of insurance certifies that
19 liquor liability insurance is reasonably available or is avail-
20 able at a reasonable premium, as applicable, to the affected
21 licensees and applicants.

22 (3) A licensee may furnish proof of financial responsibility
23 that exceeds the requirements of this section.

24 (4) An insurer under a policy or policies of liquor liabil-
25 ity insurance or a surety under such a bond shall not be named as
26 a defendant in an action brought against the insured or bonded
27 licensee for liability under section 801. Bankruptcy of the

1 insured shall not discharge an insurer or surety under this
2 section from liability. Insurance policies and bonds issued for
3 purposes under this section shall continue from year to year
4 unless sooner canceled by the insurer.

5 (5) An insured retail licensee shall not cancel any such
6 liquor liability insurance except upon 30 days' prior written
7 notice to the commission and unless new proof of financial
8 responsibility complying with this section is procured by the
9 retail licensee and delivered to the commission prior to the
10 expiration of the 30-day period, the license of that licensee
11 shall be revoked.

12 (6) This section does not apply to a special licensee or
13 applicant for a special license.

14 (7) The commission shall promulgate rules pursuant to the
15 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
16 24.328, to implement and enforce this section.

17 Sec. 805. If an action is instituted against a retailer as
18 defendant in any court of competent jurisdiction to enforce the
19 liability provided in section 801 and service of process has not
20 been effected in the manner provided for by law, and either the
21 sheriff or constable to whom process has been delivered for serv-
22 ice shall make return that he or she has not been able to serve
23 the defendant for a period of 30 days, in which period he or she
24 has made 3 or more attempts to serve the defendant at his or her
25 residence or place of business, or the plaintiff or another
26 person with knowledge of the facts files an affidavit in the
27 cause stating that the defendant has ceased to be a resident of

1 the state of Michigan or has been absent from the state for a
2 continuous period of 6 months, then it shall be competent for the
3 plaintiff to cause service of process to be made upon the
4 defendant by service of the process upon the commission, the
5 liability for which suit is brought arose during the period in
6 which the defendant was a licensed retailer and was insured under
7 the provisions of section 803. Such service of process shall be
8 made in duplicate on the commission, and return showing such
9 service shall be made to the court. The commission shall mail a
10 copy of the process served upon it to the defendant at the
11 address shown in the consent to service of process, and shall
12 immediately transmit to the clerk of the court in which the
13 action is pending an acknowledgment of the mailing of the copy of
14 that process by the commission to the defendant. Whenever the
15 foregoing provisions of this section have been complied with, the
16 court may proceed to hear and determine the matter as fully and
17 effectually as though the defendant retailer had been personally
18 served with process within the jurisdiction of the court. The
19 commission shall also notify the insurer under the liability
20 policy of the defendant, on file with the commission, that the
21 commission has received service of that process, stating the
22 names of the parties to the action and the court in which the
23 action is pending. If the defendant retailer is deceased, serv-
24 ice of process may be made upon the executor or administrator of
25 the deceased defendant by service on the commission, in an action
26 in which that service would be authorized by this section upon

1 the defendant if he or she were living, in the manner provided in
2 this section.

3 Sec. 807. The insurer shall file with the commission, at
4 Lansing, Michigan, at least 30 days before the effectiveness of
5 any termination or cancellation of the contract or policy, a
6 notice giving the date at which it is proposed to terminate or
7 cancel the contract or policy. Any termination of the contract
8 or policy shall not be effective as far as the insured covered by
9 the policy is concerned until 30 days after such notice of the
10 proposed termination or cancellation is received by the
11 commission.

12 Sec. 809. Except as otherwise provided for by law or the
13 Michigan court rules, when an action for damages brought under
14 this act has been reduced to a judgment, the insurer shall,
15 within 90 days from the date of the judgment, pay the judgment
16 together with the costs in full, unless the judgment has been
17 paid or settled by the insured. If the insurer fails or neglects
18 to pay the judgment and costs within 90 days, it shall be subject
19 to punitive damages in the amount of \$1,000.00, in addition to
20 the amount of the judgment and interest on the judgment. The
21 amount of the judgment, with interest on the judgment, and the
22 punitive damages provided for in this section may be recovered by'
23 the person or persons entitled to damages under the judgment in
24 an action against the insurer in any court of competent jurisdic-
25 tion in this state.

1 Sec. 811. The insurance policy described in this chapter
2 shall cover the liability imposed by section 801 and shall
3 contain the following conditions:

4 That no condition, provision, stipulation or limitation con-
5 tained in the policy, or any other endorsement thereon, shall
6 relieve the insurer from liability (within the statutory limits
7 provided by section 803 of the Michigan liquor control code of
8 1997), for the payment of any claim for which the insured may be
9 held legally liable under section 801 of said act.

10 Sec. 813. No false statement or breach of authority or act
11 or omission on the part of the insured shall vitiate this insur-
12 ance, unless the intention of the insured to conceal a hazard of
13 perpetrating fraud is proven; and this policy cannot be cancelled
14 by the insured or the company without first giving thirty days'
15 written notice to the commission in Lansing, Michigan.

16 Sec. 815. (1) In defense of a civil action under section
17 801, a retail licensee may present evidence that, at the time of
18 the selling, giving, or furnishing of the alcoholic liquor, the
19 retail licensee was adhering to responsible business practices.
20 Responsible business practices are those business policies, pro-
21 cedures, and actions which an ordinarily prudent person would
22 follow in like circumstances. The compensating of an employee of'
23 an on premises retail licensee on a commission basis constitutes
24 an unreasonable business practice for purposes of this section.

25 (2) The compensation of an employee of an on premises retail
26 licensee shall not be on a commission basis.

1

CHAPTER 9

2 Sec. 901. A person, directly or indirectly, himself or her-
3 self or by his or her clerk, agent, or employee, shall not manu-
4 facture, manufacture for sale, sell, offer or keep for sale,
5 barter, furnish, import, import for sale, transport for hire,
6 transport, or possess any alcoholic liquor unless the person com-
7 plies with this act.

8 Sec. 903. (1) The commission or any commissioner or duly
9 authorized agent of the commission designated by the chairperson
10 of the commission, upon due notice and proper hearing, may sus-
11 pend or revoke any license upon a violation of this act or any of
12 the rules promulgated by the commission under this act. The com-
13 mission or any commissioner or duly authorized agent of the com-
14 mission designated by the chairperson of the commission, may
15 assess a penalty of not more than \$300.00 for each violation of
16 this act or rules promulgated under this act, or not more than
17 \$1,000.00 for each violation of section 801(2), in addition to or
18 in lieu of revocation or suspension of the license, which penalty
19 shall be paid to the commission and deposited with the state
20 treasurer and shall be credited to the general fund of the
21 state. The commission shall hold a hearing and order the suspen-
22 sion or revocation of a license if the licensee has been found
23 liable, within a 24-month period, for 3 or more separate viola-
24 tions of section 801(2) which violations occurred on different
25 occasions.

26 (2) The commission shall provide a procedure by which a
27 licensee who is aggrieved by any penalty imposed under subsection

1 (1) and any suspension or revocation of a license ordered by the
2 commission, a commissioner, or a duly authorized agent of the
3 commission may request a hearing for the purpose of presenting
4 any facts or reasons to the commission as to why the penalty,
5 suspension, or revocation should be modified or rescinded. Any
6 such request shall be in writing and accompanied by a fee of
7 \$25.00. The commission, after reviewing the record made before a
8 commissioner or a duly authorized agent of the commission, may
9 allow or refuse to allow the hearing in accordance with the
10 commission's rules. The right to a hearing provided in this sub-
11 section, however, shall not be interpreted by any court as cur-
12 tailing, removing, or annulling the right of the commission to
13 suspend or revoke licenses as provided for in this act. A
14 licensee does not have a right of appeal from the final determi-
15 nation of the commission, except by leave of the circuit court.
16 Notice of the order of suspension or revocation of a license or
17 of the assessment of a penalty, or both, shall be given in the
18 manner prescribed by the commission. The suspension or revoca-
19 tion of a license or the assessment of a penalty, or both, by the
20 commission or a duly authorized agent of the commission does not
21 prohibit the institution of a criminal prosecution for a viola-
22 tion of this act. The institution of a criminal prosecution for
23 a violation of this act or the acquittal or conviction of a
24 person for a violation of this act does not prevent the suspen-
25 sion or revocation of a license or the assessment of a penalty,
26 or both, by the commission. In a hearing for the suspension or
27 revocation of a license issued under this act, proof that the

1 defendant licensee or an agent or employee of the licensee
2 demanded and was shown, before furnishing any alcoholic liquor to
3 a minor, a motor vehicle operator or chauffeur license or a reg-
4 istration certificate issued by the federal selective service, or
5 other bona fide documentary evidence of majority and identity of
6 the person, may be offered as evidence in a defense to a proceed-
7 ing for the suspension or revocation of a license issued under
8 this act. A licensee who has reason to believe that a minor has
9 used fraudulent identification to purchase alcoholic liquor in
10 violation of section 703 shall file a police report concerning
11 the violation with a local law enforcement agency and shall also
12 present the alleged fraudulent identification to the local law
13 enforcement agency at the time of filing the report if the iden-
14 tification is in the possession of the licensee. The commission
15 may promulgate rules pursuant to the administrative procedures
16 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the
17 utilization by licensees of equipment designed to detect altered
18 or forged driver licenses, state identification cards, and other
19 forms of identification.

20 (3) In addition to the hearing commissioners provided for in
21 section 209, the chairperson of the commission may designate not
22 more than 2 duly authorized agents to hear violation cases. A
23 person appointed under this subsection shall be a member in good
24 standing of the state bar of Michigan.

25 (4) A duly authorized agent who has been designated by the
26 chairperson pursuant to subsection (3) shall have, in the hearing
27 of violation cases, the same authority and responsibility as does

1 a hearing commissioner under this act and the rules promulgated
2 under this act.

3 (5) A duly authorized agent who has been designated by the
4 chairperson pursuant to subsection (3) shall be ineligible for
5 appointment to the commission for a period of 1 year after the
6 person ceases to serve as a duly authorized agent.

7 Sec. 905. (1) Notwithstanding section 903, if a retail
8 licensee or a retail licensee's clerk, agent, or employee vio-
9 lates this act by selling or furnishing alcoholic liquor to a
10 minor, or by allowing a minor to consume alcoholic liquor or pos-
11 sess alcoholic liquor for personal consumption on the licensed
12 premises, and if the enforcing agency involved in the prosecution
13 of the violation is the state police or a local police agency,
14 the commission shall not take any action under section 903 to
15 suspend or revoke the licensee's license or assess a penalty
16 against the licensee unless enforcement action is taken against
17 the minor who purchased, consumed, or received the alcoholic
18 liquor from the retail licensee or the retail licensee's clerk,
19 agent, or employee and, if applicable, enforcement action is
20 taken under this section against the person 21 years of age or
21 older who sold or furnished the alcoholic liquor to the minor.

22 (2) Subsection (1) does not apply under either of the fol-
23 lowing circumstances:

24 (a) The enforcing agent involved in the prosecution is a
25 commission inspector rather than a police agency.

26 (b) The prosecution of the violation is the result of an
27 undercover operation in which the minor who purchased, consumed,

1 or received the alcoholic liquor acted under the direction of the
2 state police or a local police agency as part of the enforcement
3 action and such enforcement action is otherwise in compliance
4 with section 701(4).

5 Sec. 907. (1) Upon revocation of a license issued under
6 this act, any and all privileges conferred by that license shall
7 be forfeited and the commission shall seize any and all alcoholic
8 liquor found in the possession of the licensee.

9 (2) The commission shall remit to that licensee the purchase
10 price less 10%, paid by the licensee to the commission for all
11 alcoholic liquor seized. All other alcoholic liquor seized shall
12 be disposed of by order of the commission and no payment shall be
13 made for that alcoholic liquor.

14 (3) A person whose license has been revoked for cause or
15 whose license has been ordered transferred to another person for
16 cause is not eligible for issuance or reissuance of a license
17 under this act for a period of at least 2 years.

18 Sec. 909. (1) Except as otherwise provided in this act, a
19 person, other than a person required to be licensed under this
20 act, who violates this act is guilty of a misdemeanor.

21 (2) Except as otherwise provided in this act, a licensee who
22 violates this act, or a rule or regulation promulgated under this'
23 act, is guilty of a misdemeanor punishable by imprisonment for
24 not more than 6 months or a fine of not more than \$500.00, or
25 both.

26 (3) A person who performs any act for which a license is
27 required under this act without first obtaining that license or

1 who sells alcoholic liquor in a county that has prohibited the
2 sale of alcoholic liquor under section 1107 is guilty of a felony
3 punishable by imprisonment for not more than 1 year or by a fine
4 of not more than \$1,000.00, or both.

5 (4) It is the intent of the legislature that the court, in
6 imposing punishment under this section, should discriminate
7 between casual or slight violations and habitual sales of alco-
8 holic liquor or attempts to commercialize violations of this act
9 or the rules or regulations promulgated under this act.

10 Sec. 911. (1) If a person fails or refuses to pay the tax
11 required by this act, the commission shall assess the tax against
12 that person and the tax shall become due and payable together
13 with a penalty or penalties that the commission considers appro-
14 priate, but not to exceed \$5,000.00, upon demand by the commis-
15 sion or a person designated by the commission. If the tax
16 remains unpaid for 15 days after that demand is made, the commis-
17 sion may issue its warrant under its official seal, directed to
18 the sheriff of any county or other officer, to levy upon and sell
19 the taxpayer's property, either personal or real, used in connec-
20 tion with the business for the privilege of doing which the tax
21 is levied, found within his or her jurisdiction, for the payment
22 of the amount of the tax with the added penalties, interest and
23 cost of executing the warrant. A warrant issued under this sec-
24 tion shall be returned to the commission, together with the money
25 collected by virtue of the warrant, within the time specified in
26 the warrant, which time shall be not less than 20 or more than 90
27 days from the date of the warrant. The sheriff or other officer

1 to whom the warrant is directed shall proceed upon the warrant in
2 all respects, with like effect, and in the same manner as pre-
3 scribed by law in respect to executions issued against property
4 upon judgments by a court of record, and shall be entitled to the
5 same fees for his service in executing the warrant, to be col-
6 lected in the same manner. The state of Michigan, through the
7 commission or an officer or agent designated by it, is authorized
8 to bid for and purchase any property sold under this section.

9 (2) In addition to the mode of collection provided in sub-
10 section (1), the commission may bring an action at law in the
11 county in which the business or any part of the business is car-
12 ried on, to collect and recover the amount of taxes, interest, or
13 penalties, or any combination of taxes, interest, or penalties,
14 due from a taxpayer.

15 Sec. 913. (1) A person shall not maintain, operate, lease,
16 or otherwise furnish to any person, any premises or place which
17 is not licensed under this act within which the other person may
18 engage in the drinking of alcoholic liquor for consideration.

19 (2) A person shall not consume alcoholic liquor in a commer-
20 cial establishment selling food if the commercial establishment
21 is not licensed under this act. A person owning, operating, or
22 leasing a commercial establishment selling food which is not
23 licensed under this act shall not allow the consumption of alco-
24 holic liquor on its premises.

25 (3) This section shall not apply to any hotel or any
26 licensee under this act.

1 (4) This section shall not be construed to repeal or amend
2 section 1019.

3 (5) As used in this section, "consideration" includes any
4 fee, cover charge, the storage of alcoholic liquor, the sale of
5 food, ice, mixers, or other liquids used with alcoholic liquor
6 drinks, or the furnishing of glassware or other containers for
7 use in the consumption of alcoholic liquor in conjunction with
8 the sale of food.

9 Sec. 915. (1) Alcoholic liquor shall not be consumed on the
10 public highways.

11 (2) Except as provided in subsections (3) and (4), alcoholic
12 liquor may be possessed or consumed in public parks, public
13 places of amusement, or a publicly owned area not licensed to
14 sell for consumption on the premises.

15 (3) The governing body of a local governmental unit may pro-
16 hibit by ordinance, order, or resolution the possession or con-
17 sumption of alcoholic liquor in any public park, public place of
18 amusement, or publicly owned area that is owned or administered,
19 or both, by that local governmental unit. When land is leased
20 from a department or agency of this state, an ordinance, order,
21 or resolution adopted pursuant to this subsection shall be
22 subject to the approval of the department or agency.

23 (4) A department or agency of this state that administers
24 public lands may prohibit by rule, order, or resolution the pos-
25 session or consumption of alcoholic liquor on the public land
26 under its jurisdiction.

1 (5) As used in this section:

2 (a) "Local governmental unit" means a county, city,
3 township, village, or charter authority.

4 (b) "Publicly owned area" means an area under the jurisdic-
5 tion of a local governmental unit.

6 Sec. 917. (1) A person who engages in the business of sell-
7 ing or keeping for sale alcoholic liquor in violation of this
8 act, whether as owner, clerk, agent, servant, or employee, is
9 equally liable, as principal, both civilly and criminally, for
10 the violation of this act.

11 (2) A person or principal is liable, both civilly and crimi-
12 nally, for the acts of his or her clerk, servant, agent, or
13 employee, in violating this act.

14 Sec. 919. A person who falsely or fraudulently makes, simu-
15 lates, forges, alters, or counterfeits a document, label, or
16 stamp prescribed by the commission under this act or rules
17 promulgated under this act, or who causes or procures to be
18 falsely or fraudulently made, simulated, forged, altered, or
19 counterfeited any such document, label, or stamp, who knowingly
20 and willfully utters, publishes, passes, or tenders as true, any
21 such false, altered, forged, or counterfeited document, label, or
22 stamp, or who uses more than once any label or stamp prescribed
23 by the commission pursuant to this act or the rules promulgated
24 under this act is guilty of a felony punishable by imprisonment
25 for not more than 1 year or by a fine of not more than \$1,000.00,
26 or both.

1 parties of a nonmilitary or state governmental nature and on the
2 state military reservation during the field training periods of
3 the Michigan national guard, either in state or federal service,
4 as he or she determines are for the best interests of the mili-
5 tary service.

6 Sec. 1003. A person who makes a false or fraudulent state-
7 ment to the commission, orally or in writing, for the purpose of
8 inducing the commission to act or refrain from taking action or
9 for the purpose of enabling or assisting a person to evade the
10 provisions of this act is guilty of a violation of this act and
11 is punishable in the manner provided for in section 909.

12 Sec. 1005. (1) A licensee who, by himself or herself or by
13 his or her agent or employee, sells, offers for sale, exposes for
14 sale, or possesses alcoholic liquor that is adulterated, mis-
15 branded, or in bottles that have been refilled is guilty of a
16 violation of this act.

17 (2) For purposes of this section, alcoholic liquor is adul-
18 terated if it contains any liquid or other ingredient that was
19 not placed there by the original manufacturer or bottler.

20 (3) For purposes of this section alcoholic liquor is mis-
21 branded if it is not plainly labeled, marked, or otherwise
22 designated.

23 (4) For purposes of this section, alcoholic liquor bottles
24 have been refilled when the bottles contain any liquid or other
25 ingredient not placed in the bottles by the original manufacturer
26 or bottler.

1 (5) This section does not apply to beer containers.

2 Sec. 1007. (1) A search warrant may be issued in accordance
3 with the code of criminal procedure, 1927 PA 175, MCL 760.1 to
4 776.21. Under such a search warrant the officer may seize any
5 alcoholic liquor, containers, implements, or conveyances used in
6 connection with the violation of this act or any rule promulgated
7 under this act. A property right does not exist in any alcoholic
8 liquor had, kept, transported, or possessed contrary to law or in
9 any receptacle or container of any kind in which the alcoholic
10 liquor is found, and all such are hereby declared contraband and
11 forfeited to the state and shall be seized. All alcoholic
12 liquor, containers, implements, or conveyances seized under any
13 such search warrant shall be turned over to the commission by
14 direction of the court or magistrate and shall be disposed of in
15 accordance with the rules promulgated under this act, which shall
16 guarantee the return of such property, or payment of money
17 received for the sale of that property, to the owner unless the
18 owner is charged and convicted of the alleged offense or offenses
19 in connection with which the search and seizure was made.

20 (2) All alcoholic liquor that is manufactured, transported,
21 sold, or possessed without the consent of the commission is
22 hereby declared contraband and shall be disposed of by order of
23 the commission.

24 Sec. 1009. (1) If alcoholic liquor is seized under a judg-
25 ment rendered against a licensee or if a licensee becomes insol-
26 vent, the officer seizing that alcoholic liquor or the trustee in
27 bankruptcy of the insolvent licensee shall deliver to the

1 commission all alcoholic liquor found in the licensee's
2 possession.

3 (2) Within 1 month after the date of delivery of alcoholic
4 liquor to the commission by an officer or trustee in bankruptcy
5 under this section, the commission shall pay over to the officer
6 or trustee in bankruptcy the purchase price, less 10%, paid by
7 the licensee to the commission for all legal alcoholic liquor
8 seized and the value, less 10%, as established by the commission,
9 of other legally acquired alcoholic liquor delivered to the com-
10 mission under this section. Alcoholic liquor delivered to the
11 commission under this section that was illegally acquired by the
12 licensee shall be disposed of by order of the commission and pay-
13 ment shall not be made for that alcoholic liquor.

14 Sec. 1011. Alcoholic liquor for consumption on the premises
15 shall be sold only in accordance with a printed price list that
16 is readily available to customers.

17 Sec. 1013. A sale or purchase of alcoholic liquor made in a
18 state liquor store and by all types of licensees shall be for
19 cash only, except for the following:

20 (a) A customer's charge account with a specially designated
21 merchant who is not a holder of a license authorizing sale of
22 alcoholic liquor for consumption on the premises.

23 (b) A sale to a bona fide registered guest of a class
24 B-hotel or class A-hotel, if the extension of credit does not
25 exceed 30 days.

26 (c) A sale to an industrial account if the extension of
27 credit does not exceed 30 days.

1 (d) A sale to a person holding an authorized credit card
2 from a credit card agency.

3 (e) A sale to a professional account, or an industrial
4 account of class C-licensee or a tavern, whose major business is
5 food, if the extension of credit does not exceed 30 days.

6 (f) A sale by a private club to a bona fide member.

7 Sec. 1015. (1) A nonlicensee, or a person who holds either
8 a special license or a club license under this act, may offer and
9 award unopened alcoholic liquor having a value of less than
10 \$200.00 to a person 21 years of age or older in a drawing or
11 raffle or as a door prize, pursuant to a lawful fund raising
12 activity. The alcoholic liquor awarded shall not be consumed on
13 the premises at which it is awarded.

14 (2) A person who holds either a special license or a club
15 license under this act and who has purchased alcoholic liquors to
16 be awarded as provided for in subsection (1) shall be exempt from
17 sections 1021(2) and 1025 for those purchases.

18 (3) A person who holds either a special license or a club
19 license under this act shall not sell or award alcoholic liquor
20 to a person who is in an intoxicated condition.

21 Sec. 1017. Alcoholic liquor shall not be served to a person
22 for consumption on the premises unless the glass in which the
23 alcoholic liquor is to be served has been sterilized by a method
24 and in a manner as prescribed by the commission.

25 Sec. 1019. (1) Alcoholic liquor may be served by any hotel
26 licensed individually under this act in the room of a bona fide
27 guest.

1 (2) A person shall not consume or offer for consumption
2 spirits or mixed spirit drink in any place licensed under this
3 act to sell beer or wine and not licensed to sell spirits or
4 mixed spirit drink.

5 Sec. 1021. (1) A regulation shall not be made requiring the
6 purchase or serving of food with the purchase of alcoholic
7 liquor. The commission shall not require a class A hotel or
8 class B hotel to provide food services to registered guests or to
9 the public.

10 (2) Alcoholic liquor sold by vendors for consumption on the
11 premises shall not be removed from those premises.

12 Sec. 1023. The commission shall not prohibit licensees from
13 allowing pinball machines on the premises for the purpose of
14 amusement.

15 Sec. 1025. (1) A vendor shall not give away any alcoholic
16 liquor of any kind or description at any time in connection with
17 his or her business, except manufacturers for consumption on the
18 premises only.

19 (2) Subsection (1) does not prevent either of the
20 following:

21 (a) A vendor of spirits, brewer, mixed spirit drink manufac-
22 turer, wine maker, small wine maker, outstate seller of beer,
23 outstate seller of wine, or outstate seller of mixed spirit
24 drink, or a bona fide market research organization retained by
25 of the persons named in this subsection, from conducting sam-
26 plings or tastings of an alcoholic liquor product before it is

1 approved for sale in this state, if the sampling or tasting is
2 conducted pursuant to prior written approval of the commission.

3 (b) A person from conducting of any sampling or tasting
4 authorized by rule of the commission.

5 (3) A vendor shall not sell an alcoholic liquor to a person
6 in an intoxicated condition.

7 Sec. 1027. (1) Unless otherwise provided by rule of the
8 commission, a person shall not conduct samplings or tastings of
9 any alcoholic liquor for a commercial purpose except at premises
10 that are licensed by the commission for the sale and consumption
11 of alcoholic liquor on the premises.

12 (2) This section does not prevent a vendor of spirits,
13 brewer, wine maker, mixed spirit drink manufacturer, small wine
14 maker, outstate seller of beer, outstate seller of wine, or out-
15 state seller of mixed spirit drink, or a bona fide market
16 research organization retained by 1 of the persons named in this
17 subsection, from conducting samplings or tastings of an alcoholic
18 liquor product before it is approved for sale in this state if
19 the sampling or tasting is conducted pursuant to prior written
20 approval of the commission.

21 (3) A sampling or tasting of any alcoholic liquor in a home
22 or domicile for other than a commercial purpose is not subject to
23 this section.

24 (4) For purposes of this section, "commercial purpose" means
25 a purpose for which monetary gain or other remuneration could
26 reasonably be expected.

1

CHAPTER 11

2 Sec. 1101. (1) Spirits and mixed spirit drink for consump-
3 tion on the premises, in addition to beer and wine, may be sold
4 by restaurants, hotels, and establishments approved by the com-
5 mission under this act in the following cities, villages, or
6 townships if the legislative body of the city, village, or town-
7 ship by resolution of a majority vote of the members elect, votes
8 in favor of allowing that sale. A petition may be filed with the
9 city, village, or township clerk requesting the submission of the
10 question of sale of spirits and mixed spirit drink for consump-
11 tion on the premises, in addition to beer and wine. In the case
12 of a city or township, the petition shall be signed by a number
13 of the registered and qualified electors which shall be not less
14 than 35% of the total number of votes cast for all candidates for
15 the office of secretary of state in that city or township at the
16 last general election held for that purpose. In the case of a
17 village, the petition shall be signed by a number of the regis-
18 tered and qualified electors that is not less than 35% of the
19 total number of votes cast for all candidates for the office of
20 president of the village at the last village election held for
21 that purpose. The question shall not be submitted to the elec-
22 tors of a city, village, or township more often than once in
23 every 2 years. The city, village, or township clerk shall,
24 within 10 days after the petition is filed with the clerk, give
25 notice of the filing by publication of notice setting forth the
26 essential facts of the petition in a newspaper published or in
27 general circulation in the city, village, or township. The city,

1 village, or township clerk shall submit the question at the next
2 regular state election held in the city, village, or township if
3 the petitions are filed at least 60 days before the election.

4 Class C licensees in a newly incorporated city or village shall
5 continue to be licensed by the commission until the question of
6 the sale of spirits and mixed spirit drink for consumption on the
7 premises, in addition to beer and wine, is submitted to the elec-
8 tors of the city or village as provided in this section. The
9 question of the sale of spirits and mixed spirit drink for con-
10 sumption on the premises, in addition to beer and wine, shall be
11 submitted by ballot in substantially the following form:

12 "Shall the sale of spirits and mixed spirit drink in addi-
13 tion to beer and wine be permitted for consumption on the
14 premises within the city, village, or township of
15 under the provisions of the law governing same?

16 Yes

17 No".

18 (2) All votes on the question submitted by ballot under sub-
19 section (1) shall be taken, counted, and canvassed in the same
20 manner as votes cast in city, village, or township elections, as
21 applicable, are taken, counted, and canvassed. Ballots shall be
22 furnished by the election commission or similar body of the
23 respective city, village, or township. If a majority of the
24 electors voting at an election conducted under this section shall
25 vote in favor of the question submitted by ballot under
26 subsection (1), spirits and mixed spirit drink may be sold under

1 this act in that city, village, or township for consumption on
2 the premises, in addition to beer and wine.

3 (3) At any time within 18 months after an election conducted
4 under this section has resulted in a tie vote, the question shall
5 be resubmitted to the electors upon the filing of a petition with
6 the legislative body of the city, village, or township. The
7 petition shall be signed by a number of electors not less than
8 that required under subsection (1) for the calling of an election
9 on an original petition. The question shall be resubmitted to
10 the electors by the city, village, or township clerk at the next
11 regular election if that election occurs not less than 30 days
12 and not more than 60 days after the filing of the petition or at
13 a special election called for that purpose and to be held within
14 not less than 30 days and not more than 60 days after the filing
15 of the petition.

16 (4) This section shall not be used by the legislative body
17 of a city, village, or township to nullify the results of a ref-
18 erendum vote of the electors of the city, village, or township.

19 Sec. 1103. (1) If spirits and mixed spirit drink for con-
20 sumption on the premises, in addition to beer and wine, may be
21 sold by restaurants, hotels, and establishments approved by the
22 commission in a city, village, or township and all or a part of
23 that city, village, or township becomes annexed to and a part of
24 a city or village that does not, at the time of annexation,
25 permit those sales, class C licensees in that annexed area shall
26 continue to be licensed by the commission until the next regular,
27 city, or village election, at which election, without the need to

1 file a petition, the question of the sale of spirits and mixed
2 spirit drink for consumption on the premises, in addition to beer
3 and wine, shall be submitted to the electors of the city or vil-
4 lage to which the territory has been annexed.

5 (2) The form of the ballot, the voting and canvassing of
6 votes, and the effect of the votes shall be as provided in sec-
7 tion 1101.

8 (3) The fact that a vote has been taken upon that question
9 either in the annexing municipality or in the annexed area, or in
10 both, within 4 years before the annexation is not a bar to the
11 submission of the question as provided in this section.

12 Sec. 1105. (1) When the question of the sale of spirits and
13 mixed spirit drink for consumption on the premises is submitted
14 to and approved by the electors of a city, village, or township,
15 and immediately after certification of the results of the elec-
16 tion, all currently approved licensed establishments for consump-
17 tion of beer and wine on the premises in the city, village, or
18 township shall be licensed to serve spirits and mixed spirit
19 drink in addition to beer and wine for consumption on the
20 premises upon application to and approval by the commission and
21 payment of the applicable license fee as specified in section
22 525.

23 (2) A township having incorporated villages within its
24 boundaries may submit to the voters in the unincorporated portion
25 of the township the question of sale of spirits and mixed spirit
26 drink for consumption on the premises and the will of the

1 electors outside of the incorporated villages shall decide the
2 question for the unincorporated portion of the township.

3 Sec. 1107. (1) Upon the filing with the county clerk of a
4 petition signed by not less than 20% of the registered and quali-
5 fied electors of any county of the entire vote cast for the
6 office of secretary of state in that county at the last general
7 election requesting the submission to the electors of that county
8 of the question of the manufacture or sale of alcoholic liquor,
9 or both, within that county, the county clerk shall submit the
10 question at the next regular state election held in that county.
11 A petition filed under this subsection shall be filed at least 60
12 days before the election. A ballot question under this subsec-
13 tion shall not be submitted to the electors more often than once
14 in any 4-year period.

15 (2) All votes on the question shall be taken, counted, and
16 canvassed in the same manner as votes cast for county offices are
17 taken, counted, and canvassed. The vote on that question shall
18 be by ballot, which ballots shall be furnished by the board of
19 election commissioners of the county and shall be substantially
20 in 1 of the following forms:

21 "1. Shall the manufacture of alcoholic liquor be prohibited
22 in the county of

23 Yes

24 No

25 2. Shall the sale of alcoholic liquor be prohibited in the
26 county of

1 Yes

2 No

3 3. Shall the manufacture and sale of alcoholic liquor be
4 prohibited in the county of

5 Yes

6 No"

7 (3) The effective date of the prohibition of the manufacture
8 or sale, or both, as applicable, shall be 30 days after the board
9 of county canvassers has determined that a majority of those
10 voting on that question have voted in favor of the prohibition.
11 The county clerk shall give notice of the effective date of the
12 prohibition by publishing the date at least once in a newspaper
13 published in that county or, if no newspaper is published within
14 the county, in a newspaper published in an adjoining county.

15 Sec. 1109. (1) Notwithstanding section 1101, a city, vil-
16 lage, or township in which there are no retail licenses for the
17 sale of alcoholic liquor may, by ordinance, prohibit the retail
18 sale of alcoholic liquor within its borders.

19 (2) An ordinance adopted under subsection (1) remains in
20 effect until the next general or special election held not less
21 than 45 days after the adoption of the ordinance. At that elec-
22 tion, the ordinance shall be submitted to the electors of the
23 city, village, or township for affirmance or revocation. A revo-
24 cation of the ordinance is effective on the date the election
25 results are certified.

26 (3) The commission shall not issue a license that violates
27 an ordinance adopted under subsection (1).

1 Sec. 1111. (1) The sale of beer and wine between the hours
2 of 2 a.m. and 12 midnight on Sunday may be prohibited in any
3 county, city, village, or township by a majority vote of the
4 electors voting at a regular state election. Not more often than
5 once in every 4 years, upon the filing of a petition with the
6 county, city, village, or township clerk, as applicable, request-
7 ing the submission of the question of the Sunday sale of beer and
8 wine, the clerk shall submit that question to the electors of the
9 county, city, village, or township at the next regular state
10 election held in that county, city, village or township. A peti-
11 tion filed under this subsection shall be filed not less than 60
12 days before the regular state election. A ballot question under
13 this subsection shall not be submitted more often than once in
14 any 4-year period.

15 (2) In the case of a county, city, or township, the petition
16 shall be signed by a number of the registered and qualified elec-
17 tors of the county, city, or township that is not less than 35%
18 of the total number of votes cast for all candidates for the
19 office of secretary of state in that county, city, or township at
20 the last general election held for that purpose and, in the case
21 of a village the petition shall be signed by a number of the reg-
22 istered and qualified electors of the village that is less than
23 35% of the total number of votes cast for all candidates for the
24 office of president of the village at the last village election
25 held for that purpose.

26 (3) The question of the Sunday sale of beer and wine shall
27 be submitted by ballot in substantially the following form:

1 "Shall the sale of beer and wine within (the county, city,
2 village, or township as the case may be) between the hours of 2
3 a.m. and 12 midnight on Sunday be prohibited?

4 Yes

5 No".

6 (4) All votes on the question submitted to the electors
7 under this section shall be taken, counted, and canvassed in the
8 same manner as votes cast in county, city, village, or township
9 election, as applicable, are taken, counted, and canvassed.
10 Ballots shall be furnished by the election commission or similar
11 body of the respective county, city, village, or township. If a
12 majority of the electors voting at an election conducted under
13 this section vote in favor of the question submitted, the sale of
14 beer and wine within that county, city, village, or township
15 between the hours of 2 a.m. and 12 midnight on Sunday is
16 prohibited.

17 Sec. 1113. (1) Except as provided in subsection (2), (3),
18 or (5), a licensee enumerated under section 525 or any other
19 person shall not sell at retail, give away, or furnish, and a
20 person shall not knowingly and willfully buy, spirits or mixed
21 spirit drink between the hours of 2 a.m. and 12 midnight on
22 Sunday. If January 1 falls on Sunday, the hours may be extended
23 to 4 a.m.

24 (2) If the legislative body of a county has authorized the
25 sale of spirits and mixed spirit drink for consumption on the
26 premises on Sunday, by resolution approved by a majority of the
27 legislative body voting on that resolution, the spirits and mixed

1 spirit drink may be sold after 12 noon in an establishment
2 licensed under this act in which the gross receipts derived from
3 the sale of food and other goods and services exceed 50% of the
4 total gross receipts. With respect to an action taken by the
5 legislative body or if the legislative body fails to act, a peti-
6 tion may be filed with the county clerk requesting the submission
7 of the question of the sale of spirits and mixed spirit drink for
8 consumption on the premises in addition to beer and wine on
9 Sunday. The petition shall be signed by a number of the regis-
10 tered and qualified electors of the county that is not less than
11 8% of the total number of votes cast for all candidates for the
12 office of secretary of state in the county at the last general
13 election held for that purpose. The question shall not be sub-
14 mitted to the electors of a county more than once every 4 years.
15 The county clerk shall submit the question at the next regular
16 state election held in the county if the petitions are filed not
17 less than 60 days before the election. The question of the sale
18 of spirits and mixed spirit drink for consumption on the
19 premises, in addition to beer and wine, on Sunday shall be sub-
20 mitted by ballot in substantially the following form:

21 "Shall the sale of spirits and mixed spirit drink for con-
22 sumption on the premises be permitted on Sunday in an establish-
23 ment licensed under the Michigan liquor control code of 1997 in
24 which the gross receipts derived from the sale of food or other
25 goods and services exceed 50% of the total gross receipts within
26 the county of under the provisions of the law

1 governing the sale of spirits and mixed spirit drink for
2 consumption?

3 Yes

4 No "

5 (3) If the legislative body of a county has authorized the
6 sale of spirits and mixed spirit drink for consumption off the
7 premises on Sunday by resolution approved by a majority of the
8 legislative body voting on the resolution, spirits and mixed
9 spirit drink may be sold after 12 noon in a retail establishment
10 licensed under this act. With respect to an action taken by the
11 legislative body or if the legislative body fails to act, a peti-
12 tion may be filed with the county clerk requesting the submission
13 of the question of the sale of spirits and mixed spirit drink for
14 consumption off the premises, in addition to beer and wine, in a
15 retail establishment licensed under this act on Sunday. The
16 petition shall be signed by a number of the registered and quali-
17 fied electors of the county that is not less than 8% of the total
18 number of votes cast for all candidates for the office of secre-
19 tary of state in the county at the last general election held for
20 that purpose. The question shall not be submitted to the elec-
21 tors of a county more than once every 4 years. The county clerk
22 shall submit the question at the next regular state election held
23 in the county if the petitions are filed not less than 60 days
24 before the election. The question of the sale of spirits and
25 mixed spirit drink for consumption off the premises, in addition
26 to beer and wine, in a retail establishment licensed under this

1 act on Sunday shall be submitted by ballot in substantially the
2 following form:

3 "Shall the sale of spirits and mixed spirit drink for con-
4 sumption off the premises be permitted on Sunday in a retail
5 establishment licensed under the Michigan liquor control code of
6 1997 within the county of under the provisions of the
7 law governing the sale of spirits and mixed spirit drink for
8 consumption?

9 Yes

10 No".

11 (4) Votes on a question submitted under this section shall
12 be taken, counted, and canvassed in the same manner as votes cast
13 in county elections are taken, counted, and canvassed. A ballot
14 shall be furnished by the election commission or similar body of
15 the county. If a majority of the electors voting at an election
16 vote in favor of the proposal, spirits and mixed spirit drink may
17 be sold in the county under this act for consumption on the
18 premises or by a retail establishment for consumption off the
19 premises, in addition to beer and wine, on Sunday. The sale
20 shall not be permitted in a city, village, or township in which
21 the sale of spirits and mixed spirit drink is prohibited under
22 this act. A violation of this section is a misdemeanor. This
23 section does not apply to spirits and mixed spirit drink served
24 to a bona fide guest in the residence of a person or sold or fur-
25 nished for medicinal purposes as provided for in this act.

26 (5) A licensee enumerated under section 525 or any other
27 person shall not sell at retail, and a person shall not knowingly

1 (3) If section 1201 is repealed, every licensee, who has on
2 hand any spirits on the effective date of the repeal, shall file
3 a complete inventory of those spirits with the commission within
4 20 days after the repeal. The commission shall credit to such a
5 licensee an amount equal to 4% of the retail selling price of
6 those spirits on future purchases of spirits from the
7 commission.

8 Sec. 1203. (1) In addition to any and all taxes imposed by
9 law, there is imposed, levied upon, and collected a specific tax
10 equal to 4% retail selling price of spirits. The tax shall be
11 collected by the commission at the time of sale by the
12 commission. In the case of sales to licensees, the tax shall be
13 computed on the retail selling price established by the commis-
14 sion without allowance of discount.

15 (2) Upon collection, the commission shall deposit the entire
16 proceeds in the state treasury, to the credit of the state school
17 aid fund established by sections 8, 10, and 11 of article IX of
18 the state constitution.

19 Sec. 1205. (1) In addition to any and all taxes imposed by
20 law, there is imposed and levied upon and collected a specific
21 tax equal to 1.85% of the retail selling price of spirits for
22 consumption off the premises. The tax shall be collected by the
23 commission at the time of the sale by the commission.

24 (2) Upon collection, the commission shall deposit the entire
25 proceeds in the state treasury, to the credit of the liquor pur-
26 chase revolving fund.

1 Sec. 1207. (1) The legislature finds and declares that
2 there exists in this state a continuing need for programs to
3 promote tourism and convention business in order to assist in the
4 prevention of unemployment and the alleviation of the conditions
5 of unemployment, to preserve existing jobs, and to create new
6 jobs to meet the employment demands of population growth. In
7 order to achieve these purposes, it is necessary to assist and
8 encourage local units of government to acquire, construct,
9 improve, enlarge, renew, replace, repair, furnish, and equip con-
10 vention facilities and the real property on which they are
11 located.

12 (2) In addition to any other taxes imposed by law, there is
13 imposed, levied upon, and collected a specific tax equal to 4.0%
14 of the retail selling price of spirits for consumption on the
15 premises. The tax shall be collected by the commission at the
16 time of sale by the commission. In the case of sales to licens-
17 ees, the tax shall be computed on the retail selling price estab-
18 lished by the commission without allowance of discount.

19 (3) In addition to any other taxes imposed by law, there is
20 imposed, levied upon, and collected a specific tax equal to 4.0%
21 of the retail selling price of spirits for consumption off the
22 premises. The tax shall be collected by the commission at the
23 time of the sale by the commission.

24 (4) Upon collection, the commission shall deposit the pro-
25 ceeds of the taxes imposed pursuant to subsections (2) and (3) in
26 the state treasury to the credit of the convention facility
27 development fund created by the state convention facility

1 development act, 1985 PA 106, MCL 207.621 to 207.640, for
2 distribution and use only in the manner and for the purposes
3 stated in that act.

4 (5) The tax imposed by this act shall not be levied during
5 any period in which the tax imposed pursuant to the state conven-
6 tion facility development act, 1985 PA 106, MCL 207.621 to
7 207.640, is not levied.

8 (6) This section shall not be construed as making
9 appropriations.

10

CHAPTER 13

11 Sec. 1301. The following acts and parts of acts are
12 repealed:

13 (a) The Michigan liquor control act, 1933 (Ex Sess) PA 8,
14 MCL 436.1 to 436.58.

15 (b) 1959 PA 94, MCL 436.101 to 436.103.

16 (c) 1962 PA 218, MCL 436.121 to 436.125.

17 (d) 1972 PA 213, MCL 436.131 to 436.133.

18 (e) The tourism and convention facility promotion tax act,
19 1985 PA 107, MCL 436.141 to 436.148.

20 Sec. 1303. This act does not impair or affect any act done,
21 offense committed or right accruing, accrued or acquired, or pen-
22 alty, forfeiture or punishment incurred prior to the time this
23 act takes effect, but the same may be enjoyed, asserted,
24 enforced, prosecuted or inflicted, as fully and to the same
25 extent as if this act had not been passed.

26 Sec. 1305. This act takes effect January 1, 1998.