

Act No. 213
Public Acts of 2010
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STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010

Introduced by Reps. Kandrevas, Rocca, Espinoza, Miller, Geiss, Roy Schmidt, Liss, Womack, Paul Scott, Segal, Byrum, Haase, Polidori, Gonzales, Switalski, Rick Jones, Moore, Melton, Schuitmaker, LeBlanc, Hammel, Robert Jones, Caul, Horn, Proos, Denby, Griffin, Dean, Huckleberry, Warren, Smith, Ebli, Meadows, Neumann, Green, Valentine, Durhal, Agema, Slezak, Hansen, Pavlov, Daley, Crawford, DeShazor, Opsommer, Stamas, Knollenberg, Meltzer, Moss, Marleau, Hildenbrand, Kowall, Johnson, Jackson, Spade, Lund, Walsh, Mayes, Angerer, Byrnes, Haugh, Bolger, Rogers, Stanley, Nathan, Corriveau, Leland, McDowell, Gregory, Constan, Lahti, Pearce, Ball, Clemente, Kennedy, Sheltroun, Slavens and Lisa Brown

ENROLLED HOUSE BILL No. 6224

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending sections 109, 111, 113, 113a, 205, 307, 525, 537, 543, 603, 1025, 1027, 1111, 1113, 1114, and 1115 (MCL 436.1109, 436.1111, 436.1113, 436.1113a, 436.1205, 436.1307, 436.1525, 436.1537, 436.1543, 436.1603, 436.2025, 436.2027, 436.2111, 436.2113, 436.2114, and 436.2115), sections 111 and 537 as amended by 2008 PA 218, section 113 as amended and section 113a as added by 2005 PA 269, sections 205, 525, 543, and 1027 as amended by 2010 PA 175, section 603 as amended by 2009 PA 2, section 1025 as amended by 2008 PA 11, and section 1113 as amended and section 1114 as added by 2004 PA 134, and by adding section 545.

The People of the State of Michigan enact:

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

(2) "Master distributor" means a wholesaler who acts in the same or similar capacity as a brewer, wine maker, outstate seller of wine, or outstate seller of beer for a brand or brands of beer or wine to other wholesalers on a regular basis in the normal course of business.

(3) “Micro brewer” means a brewer that produces in total less than 30,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises. In determining the 30,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

(4) “Minor” means a person less than 21 years of age.

(5) “Mixed spirit drink” means a drink produced and packaged or sold by a mixed spirit drink manufacturer or an outstate seller of mixed spirit drink which contains 10% or less alcohol by volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials and which may also contain 1 or more of the following:

- (a) Water.
- (b) Fruit juices.
- (c) Fruit adjuncts.
- (d) Sugar.
- (e) Carbon dioxide.
- (f) Preservatives.

(6) “Mixed spirit drink manufacturer” means any person licensed under this act to manufacture mixed spirit drink in this state and to sell mixed spirit drink to a wholesaler. For purposes of rules promulgated by the commission, a mixed spirit drink manufacturer shall be treated as a wine manufacturer but is subject to the rules applicable to spirits for purposes of manufacturing and labeling.

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

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

(8) “Outstate seller of beer” means a person licensed by the commission to sell beer which has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission.

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

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

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

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

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

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

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

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

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

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

(9) "Small distiller" means a manufacturer of spirits annually manufacturing in Michigan not exceeding 60,000 gallons of spirits, of all brands combined.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Register with the state of Michigan the labels of the outstate seller of beer or wine.

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

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

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

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

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

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

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

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

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

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

(a) Register with the state of Michigan the labels of the outstate seller of beer or wine.

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

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

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

Sec. 205. (1) The commission shall, as provided in section 203(1), by order appoint authorized distribution agents to engage in the warehousing and delivery of spirits in this state so as to ensure that all retail licensees continue to be properly serviced with spirits. An authorized distribution agent is subject to uniform requirements, including business operating procedures, that the commission may prescribe by rule, subject to this section.

(2) A person is eligible for appointment by the commission as an authorized distribution agent if the following circumstances exist:

(a) The person satisfies all applicable commission rules prescribing qualifications for licensure promulgated under section 215.

(b) The person has entered into a written agreement or contract with a supplier of spirits for the purposes of warehousing and delivering a brand or brands of spirits of that supplier of spirits.

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

(3) An authorized distribution agent shall not have a direct or indirect interest in a supplier of spirits or in a retailer. A supplier of spirits or a retailer shall not have a direct or indirect interest in an authorized distribution agent. An authorized distribution agent shall not hold title to spirits.

(4) An authorized distribution agent shall deliver to each retailer located in its assigned distribution area on at least a weekly basis if the order meets the minimum requirements. Except that in those weeks that accompany a state holiday, the commission may order a modified delivery schedule provided that a retailer waits not longer than 9 days between deliveries due to a modified delivery schedule. The commission shall provide for an integrated on-line ordering system for spirits and shall require the continuance of any ordering system in existence on the activation date of the system established under section 206. The minimum requirements shall be set by the commission and shall be a sufficient number of bottles to comprise not more than 2 cases. A retailer may pick up the product at the authorized distribution agent's warehouse. To avoid occasional emergency outages of spirits, a retail licensee may make up to 12 special emergency orders to an authorized distribution agent per calendar year which order shall be made available to the retail licensee within 18 hours of the placing of the order. A special emergency order placed on Saturday or Sunday shall be made available to the retail licensee before noon on the following Monday. An authorized distribution agent may impose a fee of up to \$20.00 to deliver a special emergency order to a retail licensee.

(5) In locations inaccessible to a motor vehicle as that term is defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, the authorized distribution agent shall arrange that a delivery of spirits to a retailer be in compliance with the following procedures:

(a) After processing an order from a retailer, an authorized distribution agent shall contact a retailer to confirm the quantity of cases or bottles, or both, and the exact dollar total of the order.

(b) The authorized distribution agent shall have the responsibility to coordinate with the retailer the date and time a driver is scheduled to deliver the order to a ferry transport dock, shall arrange any ferry, drayage, or other appropriate service, and shall pick up the retailer's payment at that time.

(c) The ferry transport company or company representing any other form of conveyance shall take the retailer's payment to the mainland dock and give that payment to the authorized distribution agent's driver.

(d) The ferry transport company or company representing any other form of conveyance shall transport the order to the drayage or other appropriate company at the island dock for immediate delivery to the retailer.

(e) The drayage or other appropriate company shall deliver the order to the retailer.

(6) The authorized distribution agent is responsible for the payment of all transportation and delivery charges imposed by the ferry, drayage, or other conveyance company and is responsible for all breakage and any shortages, whether attributable to the ferry, drayage, or other conveyance company or any combination of those companies, until the order is delivered to the retailer's establishment. This subsection does not in any way prevent the authorized distribution agent from seeking reimbursement or damages from any company conveying the authorized distribution agent's product.

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

(8) An authorized distribution agent or prospective authorized distribution agent shall maintain and make available to the commission or its representatives, upon notice, any contract or written agreement it may have with a supplier of spirits or other authorized distribution agent for the warehousing and delivery of spirits in this state.

(9) For any violation of this act, rules promulgated under this act, or the terms of an order appointing an authorized distribution agent, an authorized distribution agent shall be subject to the suspension, revocation, forfeiture, and penalty provisions of sections 903(1) and 907 in the same manner in which a licensee would be subject to those provisions. An authorized distribution agent aggrieved by a penalty imposed by the commission may invoke the hearing and appeal procedures of section 903(2) and rules promulgated under that section.

(10) A specially designated distributor may sell to an on-premises licensee up to 9 liters of spirits during any 1-month period and an on-premises licensee may purchase, collectively from specially designated distributors, up to that amount during any 1-month period. Notwithstanding any other provision of this act or rule promulgated under this act, a specially designated distributor is only liable for knowingly violating this section. Records verifying these purchases shall be maintained by the on-premises licensee and be available to the commission upon request.

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

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

(b) Providing a list of employment opportunities created by the authorized distribution agent in the distribution of liquor in Michigan to each individual whose name and resume is transmitted from the commission.

(c) Providing an opportunity for application and interview to any terminated state worker who indicates an interest in pursuing a job opportunity with the authorized distribution agent.

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

(12) Any former state employees terminated due to privatization who have reason to believe that an authorized distribution agent has not made a good faith effort to provide him or her with employment opportunities as described in subsection (11) may file a complaint with the commission who shall hear the complaint and make a determination on its validity. If the commission determines that the complaint is valid, the violation may be treated as a violation of this act and the authorized distribution agent may be subject to the suspension, revocation, forfeiture, and penalty provisions of sections 903(1) and 907.

(13) In addition to paying a vendor of spirits the acquisition price for purchasing spirits, the commission may pay a vendor of spirits an additional amount of not less than \$4.50 and not more than \$7.50 for each case of spirits purchased as an offset to the costs being incurred by that vendor of spirits in contracting with an authorized distribution agent for the warehousing and delivery of spirits to retailers. The payment described in this subsection shall not be included in the cost of purchasing spirits by the commission and shall not be subject to the commission's markup, special taxes, or state sales tax. The per-case offset established by this subsection may be increased by the state administrative board each January to reflect reasonable increases in the authorized distribution agent's cost of warehousing and delivery. As

used in this subsection, “case” means a container holding twelve 750 ml bottles of spirits or other containers containing spirits which are standard to the industry.

Sec. 307. (1) A manufacturer, an outstate seller of wine, and a master distributor shall grant to each of its wholesalers a sales territory within which the wholesaler shall be a distributor of the specified brand or brands of the manufacturer, outstate seller of wine, or master distributor under an agreement as required under this act. The territory shall be the territory agreed upon between the wholesaler and manufacturer, outstate seller of wine, or master distributor. Except as provided for in subsection (9) and beginning June 1, 2010, a manufacturer, outstate seller of wine, or master distributor shall not grant the right to sell a specified brand or brands of wine in a sales territory to more than 1 wine wholesaler. A master distributor shall not itself distribute a specified brand or brands of wine in the same sales territory where that master distributor has granted the right to distribute that specified brand or brands of wine in that sales territory to another wine wholesaler. Notwithstanding section 109(2), as used in this section, “master distributor” means a wholesaler that acts in the same or similar capacity as a wine maker, wine manufacturer, or outstate seller of wine for a brand or brands of wine to other wholesalers on a regular basis in the normal course of business.

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

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

(4) Until July 1, 1995, a manufacturer or outstate seller of wine who acquired or otherwise obtained the right to assign brands of another manufacturer or outstate seller of wine between January 1, 1994 and July 1, 1995 shall assign a brand extension to the wholesaler that was granted the sales territory for the brand from which the brand extension resulted. Beginning July 1, 1995, a manufacturer or outstate seller of wine who acquires or otherwise obtains the right to assign brands of another manufacturer or outstate seller of wine is not required to assign a new brand extension to the wholesaler that is granted the exclusive sales territory to the brand from which the new brand extension results. Any brand extension assigned between January 1, 1994 and July 1, 1995 shall remain assigned to the assigned wholesaler.

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

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

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

(8) Until July 1, 1995, a manufacturer of a mixed wine drink, mixed spirit drink manufacturer, outstate seller of mixed wine drink, or outstate seller of mixed spirit drink who acquired or otherwise obtained the right to assign brands of another manufacturer of a mixed wine drink, mixed spirit drink manufacturer, outstate seller of a mixed wine drink, or outstate seller of mixed spirit drink between January 1, 1994 and July 1, 1995 shall assign a brand extension to the wholesaler that was granted the exclusive sales territory for the brand from which the brand extension resulted. Beginning July 1, 1995, a manufacturer of mixed wine drink, mixed spirit drink manufacturer, outstate seller of mixed wine drink, or outstate seller of mixed spirit drink who acquires or otherwise obtains the right to assign brands of another manufacturer of mixed wine drink, mixed spirit drink manufacturer, outstate seller of mixed wine drink, or outstate seller of mixed spirit drink is not required to assign a new brand extension to the wholesaler that is granted the exclusive sales territory to the brand from which the new brand extension results. Any brand extension assigned between January 1, 1994 and July 1, 1995 shall remain assigned to the assigned wholesaler.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of \$600.00 and, for all bedrooms in excess of 20, \$3.00 for each additional bedroom. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, the fee entitles the hotel to sell in only 1 public bar, other than a bedroom, and a license shall be secured for each additional public bar, other than a bedroom, the fee for which is \$350.00.

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

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

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

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

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

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

(t) Brandy manufacturer, \$100.00.

- (u) Mixed spirit drink manufacturer, \$100.00.
- (v) Brewpub, \$100.00.
- (w) Class G-1, \$1,000.00.
- (x) Class G-2, \$500.00.
- (y) Motorsports event license, \$250.00.
- (z) Small distiller, \$100.00.
- (aa) Wine auction license, \$50,000.00.
- (bb) Nonpublic continuing care retirement center license, \$600.00.

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

(3) Beginning July 23, 2004, and except in the case of any resort or resort economic development license issued under section 531(2), (3), (4), and (5) and a license issued under section 521, the commission shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the commission, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled under any of the following circumstances:

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

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

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

(5) Beginning October 1, 2005, the chair of the commission shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with liquor license issues. The chair of the commission shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the commission received and completed within the 90-day time period described in subsection (3).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (4).

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

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

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

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

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

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

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

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

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

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

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

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

(i) Class C.

(ii) Tavern.

(iii) Class A hotel.

(iv) Class B hotel.

(k) Micro brewers and brewers selling less than 200,000 barrels of beer per year where beer produced by the micro brewer or brewer may be sold to a consumer for consumption on or off the brewery premises.

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

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

(n) Motorsports event license where beer and wine may be sold for consumption on the premises during sanctioned motorsports events only.

(o) Wine maker where wine may be sold by direct shipment, at retail on the licensed premises, and as provided for in subsections (2) and (3).

(p) Small distiller selling not more than 60,000 gallons of spirits manufactured by that licensee to the consumer at retail for consumption on or off the licensed premises in the manner provided for in section 534.

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

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

(3) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker on the premises where the wine maker is licensed to manufacture wine. The wine maker may charge for the samples.

(4) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:

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

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

(c) The wine tasting locations shall be considered licensed premises, and the wine maker may include a charge for the samples.

(d) Wine tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.

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

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

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

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

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

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

(6) During the time a beer or wine tasting is conducted under subsection (5), specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer, or its agent or employee who has successfully completed a server training program as provided for in section 906, shall devote full time to the beer and wine tasting activity and shall perform no other duties, including the sale of alcoholic liquor for consumption off the licensed premises. Beer and wine used for the tasting must come from the specially designated merchant's inventory, and all open bottles must be removed from the premises on the same business day or resealed and stored in a locked, separate storage compartment on the licensed premises when not being used for the activities allowed by the permit.

(7) A wholesaler is prohibited from conducting or participating in beer and wine tastings allowed by the permit created in subsection (5).

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

(9) A brandy manufacturer or small distiller, with the prior written approval of the commission, may conduct tastings of brandy and spirits made by that brandy manufacturer or small distiller and may sell the brandy and spirits made by that brandy manufacturer or small distiller for consumption off the licensed premises at a location other than the licensed premises where the brandy manufacturer or small distiller is licensed to manufacture brandy or spirits under the following conditions:

- (a) The premises upon which the brandy and spirits tastings occur conform to local and state sanitation requirements.
- (b) Payment of a \$100.00 fee per location is made to the commission.
- (c) The brandy and spirits tasting locations shall be considered licensed premises.
- (d) Brandy and spirits tasting shall take place during the legal hours for selling alcoholic liquor by the licensee.
- (e) The premises and the license comply with and are subject to all applicable rules promulgated by the commission.

Sec. 543. (1) Quarterly, upon recommendation of the commission, the state shall pay pursuant to appropriation in the manner prescribed by law to the city, village, or township in which a full-time police department or full-time ordinance enforcement department is maintained or, if a police department or full-time ordinance enforcement department is not maintained, to the county, to be credited to the sheriff's department of the county in which the licensed premises are located, 55% of the amount of the proceeds of the retailers' license fees and license renewal fees collected in that jurisdiction, for the specific purpose of enforcing this act and the rules promulgated under this act. Forty-one and one-half percent of the amount of the proceeds of retailers' license and license renewal fees collected shall be deposited in a special fund to be annually appropriated to the commission for carrying out the licensing and enforcement provisions of this act. Any unencumbered or uncommitted money in the special fund shall revert to the general fund of the state 12 months after the end of each fiscal year in which the funds were collected. The legislature shall appropriate 3-1/2% of the amount of the proceeds of retailers' license and license renewal fees collected to be credited to a special fund in the state treasury for the purposes of promoting and sustaining programs for the prevention, rehabilitation, care, and treatment of alcoholics. This subsection does not apply to retail license fees collected for railroad or Pullman cars, watercraft, aircraft, or wine auctions or to the transfer fees provided in section 529.

(2) All license and license renewal fees, other than retail license and license renewal fees, shall be credited to the grape and wine industry council created in section 303, to be used as provided in section 303. Money credited to the grape and wine industry council shall not revert to the state general fund at the close of the fiscal year, but shall remain in the account to which it was credited to be used as provided in section 303.

(3) All retail license fees collected for railroad or Pullman cars, watercraft, or aircraft and the transfer fees provided in section 529 shall be deposited in the special fund created in subsection (1) for carrying out the licensing and enforcement provisions of this act.

(4) The license fee enhancement imposed for licenses issued under section 531(3) and (4) shall be deposited into a special fund to be annually appropriated to the commission for enforcement and other related projects determined appropriate by the commission. The money representing that amount of the license fees for identical licenses not issued under section 531(3) and (4) shall be allocated and appropriated under subsection (1).

(5) The license fee imposed on direct shipper licenses and any violation fines imposed by the commission shall be deposited into the direct shipper enforcement revolving fund. The direct shipper enforcement revolving fund is created within the state treasury. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The commission shall expend money from the fund, upon appropriation, only for enforcement of the provisions of section 203 and related projects.

(6) One hundred percent of the wine auction license fee imposed in section 525(1)(aa) shall be deposited into the general fund.

(7) As used in this section, "license fee enhancement" means the money representing the difference between the license fee imposed for a license under section 525(1) and the additional amount imposed for resort and resort economic development licenses under section 525(2).

(8) Notwithstanding any other provision of this section, the additional \$160.00 license fee imposed upon any licensee selling alcoholic liquor between the hours of 7 a.m. on Sunday and 12 noon on Sunday is allocated to the general fund.

Sec. 545. (1) As used in this act, "nonpublic continuing care retirement center" means a residential community that, as determined by the commission, meets both of the following conditions:

(a) Provides full-time residential housing predominantly for individuals over the age of 62.

(b) Is registered as a facility under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844.

(2) The commission, upon submission of a completed application, shall grant a nonpublic continuing care retirement center license to an applicant complying with this section. The total number of licenses issued under this section shall not exceed 20. If the holder of a license issued under this section goes out of business, the license shall be surrendered to the commission. The commission may allow the transfer of such a license to a new business owner upon transfer of the owner's interest in the business.

(3) The nonpublic continuing care retirement center license allows the licensee to sell at retail and serve on the licensed premises beer, wine, mixed spirit drink, mixed wine drink, and spirits, for consumption by a resident or the bona fide guests accompanying the resident, only on the licensed premises.

Sec. 603. (1) Except as provided in subsections (6) to (14) and section 605, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have any financial interest, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(2) Except as provided in subsections (6) to (14) and section 605, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits or a stockholder of a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest by ownership in fee, leasehold, mortgage, or otherwise, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(3) Except as provided in subsections (6) to (14) and section 605, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest directly or indirectly by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor.

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

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

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

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

(8) This section does not prohibit a supplier from having any interest, directly or indirectly, in any other supplier.

(9) The commission may approve the following pursuant to R 436.1023(3) of the Michigan administrative code, subject to the written approval of the United States department of treasury, bureau of alcohol and tobacco tax and trade:

(a) A wine maker participating with 1 or more wine makers in an alternating proprietor operation in accordance with 27 CFR part 24, subpart D, section 24.136.

(b) A brewer participating with 1 or more brewers in an alternating proprietor operation in accordance with 27 CFR part 25, subpart F, section 25.52.

(10) A manufacturer is prohibited from having any interest, directly or indirectly, in a wholesaler.

(11) A wine maker is prohibited from collectively delivering wine, with any other wine maker, to retail licensees.

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

(a) Supplier tier, comprising manufacturers and suppliers.

(b) Wholesaler tier, comprising wholesalers.

(c) Retailer tier, comprising retailers.

(13) Beginning April 30, 2011, the commission shall not allow any of the following:

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

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

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

(14) Subsection (13) shall not be interpreted in a manner that would prohibit a class C, tavern, class A hotel, or class B hotel licensee from receiving a brewpub license or that would prohibit a micro brewer or brewer producing less than 200,000 barrels per year from having an on-site restaurant.

(15) As used in this section:

(a) "Manufacturer" means, notwithstanding section 109(1), a wine maker, small wine maker, brewer, micro brewer, manufacturer of spirits, distiller, small distiller, brandy manufacturer, mixed spirit drink manufacturer, direct shipper, or a person licensed by the commission to perform substantially similar functions.

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

Sec. 1025. (1) A vendor shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business, except manufacturers for consumption on the premises only.

(2) Subsection (1) does not prevent any of the following:

(a) A vendor of spirits, brewer, mixed spirit drink manufacturer, wine maker, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission.

(b) A person from conducting of any sampling or tasting authorized by section 537 or rule of the commission.

(c) A class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from giving away alcoholic liquor to an invitee or guest in connection with a business event or as a part of a room special or promotion for overnight accommodations.

(3) A vendor shall not sell an alcoholic liquor to a person in an intoxicated condition.

(4) Evidence of any breathalyzer or blood alcohol test results obtained in a licensed establishment, or on property adjacent to the licensed premises and under the control or ownership of the licensee, shall not be admissible to prove a violation of this section, section 707(1), (2), (3), or (4), or section 801(2). To establish a violation of this section, section 707(1), (2), (3), or (4), or section 801(2), the person's intoxicated condition at the time of the sale or consumption of alcohol must be proven by direct observation by law enforcement or commission enforcement personnel or through other admissible witness statements or corroborating evidence obtained as part of the standard investigation other than breathalyzer or blood alcohol test results.

Sec. 1027. (1) Unless otherwise provided by rule of the commission, a person shall not conduct samplings or tastings of any alcoholic liquor for a commercial purpose except at premises that are licensed by the commission for the sale and consumption of alcoholic liquor on the premises.

(2) Notwithstanding section 1025(1), a retailer licensed by the commission for consumption on the premises may allow customers to sample beer, wine, and distilled spirits so long as the retailer does not charge for the samples provided to customers. Sample serving sizes shall not exceed 3 ounces for beer, 2 ounces for wine, and 1/2 ounce for distilled spirits. A customer shall not be provided more than 2 samples within a 24-hour period per licensed premises.

(3) This section does not prevent either of the following:

(a) A vendor of spirits, brewer, wine maker, mixed spirit drink manufacturer, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state if the sampling or tasting is conducted pursuant to prior written approval of the commission.

(b) An on-premises licensee from giving a sampling or tasting of alcoholic liquor to an employee of the licensee during the legal hours for consumption for the purpose of educating the employee regarding 1 or more types of alcoholic liquor so long as the employee is at least 21 years of age.

(c) A small distiller licensee from giving a sampling or tasting of brands it manufactures on the licensed premises or an off-site tasting facility operated by that small distiller.

(4) A vendor of spirits or a manufacturer may conduct a consumer sampling event on the premises of a holder of a specially designated distributor license upon submission of a completed application to the commission.

(5) The holder of the consumer sampling event license shall comply with the following:

(a) The commission must be notified in writing a minimum of 10 working days prior to the event with the date, time, and location of the event.

(b) The consumer sampling event is limited to 3 events per vendor of spirits or manufacturer per specially designated distributor license per month.

(c) The vendor of spirits or manufacturer conducting the consumer sampling event must have a licensed representative present at the specially designated distributor's establishment.

(d) Licensed representatives or an authorized representative may distribute merchandise, not to exceed \$100.00 in value, to consumers 21 years of age or older during the event.

(e) Participating specially designated distributor licensees do not receive any fee or other valuable consideration for participating in the event.

(f) Each consumer is limited to 3 samples, which total no more than 1/3 ounce of distilled spirits per serving.

(g) The consumer is not charged for and does not purchase any sample.

(h) The alcoholic liquor used in the consumer sampling event is provided by the vendor of spirits or manufacturer, and purchased at the minimum retail selling price fixed by the commission from the specially designated distributor on whose premises the event is located. The vendor of spirits or manufacturer shall remove any unfinished product from the premises at which the event is held upon completion of the event.

(i) A consumer sampling event shall not be allowed when the sale of alcoholic liquor is otherwise prohibited on the premises at which the event is conducted.

(j) Samples are not to be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic liquor.

(k) A consumer sampling event may be advertised in any type of media and the advertisements may include the date, time, location, and other information regarding the event.

(l) The participating vendor of spirits or manufacturer and specially designated distributor licensees must comply with this act and commission rules.

(m) The vendor of spirits or manufacturer must demonstrate that the individual actually conducting the sampling has successfully completed the server training program in the manner provided for in section 906 and rules promulgated by the commission.

(6) Violation of this section subjects the vendor of spirits or manufacturer to the sanctions and penalties as provided for under this act.

(7) The commission, by rule or issuance of an order, may further define eligibility for licensure and processes for conducting consumer sampling events.

(8) A sampling or tasting of any alcoholic liquor in a home or domicile for other than a commercial purpose is not subject to this section.

(9) For purposes of this section, "commercial purpose" means a purpose for which monetary gain or other remuneration could reasonably be expected.

Sec. 1111. (1) Except as otherwise provided for in subsection (6), the sale of beer and wine between the hours of 7 a.m. on Sunday and 2 a.m. on Monday is allowed, but may be prohibited, in any county, city, village, or township under the following circumstances:

(a) By majority vote of the legislative body voting on the resolution to make such an authorization. Failure of the legislative body to act on such an authorization is grounds for the petitioning of the county, city, village, or township for submission of the question to the voters of the county, city, village, or township under subsection (2).

(b) By submission of a petition under subsection (2) by a majority vote of the electors voting at a regular state election.

(2) Not more often than once in every 4 years, upon the filing of a petition with the county, city, village, or township clerk, by a majority of the electors voting at a regular state election within that county, village, city, or township, as applicable, requesting the submission of the question of the Sunday sale of beer and wine, the clerk shall submit that question to the electors of the county, city, village, or township at the next regular state election held in that county, city, village, or township. A petition filed under this subsection shall be filed not less than 60 days before the regular state election. A ballot question under this subsection shall not be submitted more often than once in any 4-year period.

(3) In the case of a county, city, or township, the petition shall be signed by a number of the registered and qualified electors of the county, city, or township that is not less than 35% of the total number of votes cast for all candidates for the office of secretary of state in that county, city, or township at the last general election held for that purpose and, in the case of a village the petition shall be signed by a number of the registered and qualified electors of the village that is less than 35% of the total number of votes cast for all candidates for the office of president of the village at the last village election held for that purpose.

(4) The question of the Sunday sale of beer and wine shall be submitted by ballot in substantially the following form:

“Shall the sale of beer and wine within (the county, city, village, or township as the case may be) between the hours of 7 a.m. on Sunday and 2 a.m. on Monday be prohibited?

Yes

No

(5) All votes on the question submitted to the electors under this section shall be taken, counted, and canvassed in the same manner as votes cast in county, city, village, or township election, as applicable, are taken, counted, and canvassed. Ballots shall be furnished by the election commission or similar body of the respective county, city, village, or township. If a majority of the electors voting at an election conducted under this section vote in favor of the question submitted, the sale of beer and wine within that county, city, village, or township between the hours of 7 a.m. on Sunday and 2 a.m. on Monday is prohibited.

(6) The sale of beer and wine in any county between the hours of 7 a.m. on Sunday and 2 a.m. on Monday shall not be prohibited under the provisions of subsections (1) through (5) as applied to a motorsports entertainment complex located in more than 1 county if a resolution or referendum under this section results in the question's failing to pass in 1 county but passing in another. Under such circumstances, the commission shall determine the issue of the sale of beer and wine in the motorsports entertainment complex in those counties between the hours of 7 a.m. on Sunday and 2 a.m. on Monday. As used in this section, “motorsports entertainment complex” means a closed-course motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) Has at least 70,000 fixed seats for race patrons.

(b) Has at least 4 scheduled days of motorsports events each calendar year.

(c) Serves food and beverages at the motorsports entertainment complex during motorsports events each calendar year through concession outlets, which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly benefit from the concession outlets' sales.

(d) Engages in tourism promotion.

(e) Has permanent exhibitions of motorsports history, events, or vehicles within the motorsports entertainment complex.

Sec. 1113. (1) Except as provided in subsection (2), (3), or (5) and subject to subsection (6), a licensee enumerated under section 525 may sell at retail, and a person may buy, spirits or mixed spirit drink between the hours of 7 a.m. on Sunday and 2 a.m. on Monday.

(2) Unless the legislative body of a county has prohibited the sale of spirits and mixed spirit drink for consumption on the premises on Sunday, by resolution approved by a majority of the legislative body voting on that resolution, the spirits and mixed spirit drink may be sold after 7 a.m. on Sunday, in an establishment licensed under this act in which the gross receipts derived from the sale of food and other goods and services exceed 50% of the total gross receipts. With respect to an action taken by the legislative body or if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question regarding the prohibition of the sale of spirits and mixed spirit drink for consumption on the premises in addition to beer and wine on Sunday. The petition shall be signed by a number of the registered and qualified electors of the county that is not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election held for that purpose. The question shall not be submitted to the electors of a county more than once every 4 years. The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before

the election. The question regarding the prohibition of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption on the premises be prohibited on Sunday in an establishment licensed under the Michigan liquor control code of 1998 in which the gross receipts derived from the sale of food or other goods and services exceed 50% of the total gross receipts within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No

(3) Unless the legislative body of a county has prohibited the sale of spirits and mixed spirit drink for consumption off the premises on Sunday by resolution approved by a majority of the legislative body voting on the resolution, spirits and mixed spirit drink may be sold after 7 a.m., in a retail establishment licensed under this act. With respect to an action taken by the legislative body or if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question regarding the prohibition of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday. The petition shall be signed by a number of the registered and qualified electors of the county that is not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election shall not be held for that purpose. The question submitted to the electors of a county more than once every 4 years. The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before the election. The question regarding the prohibition of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption off the premises be prohibited on Sunday in a retail establishment licensed under the Michigan liquor control code of 1998 within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No

(4) Votes on a question submitted under this section shall be taken, counted, and canvassed in the same manner as votes cast in county elections are taken, counted, and canvassed. A ballot shall be furnished by the election commission or similar body of the county. If a majority of the electors voting at an election vote in favor of the proposal, the sale of spirits and mixed spirit drink may be prohibited in the county under this act for consumption on the premises or by a retail establishment for consumption off the premises, in addition to beer and wine, on Sunday. The sale shall not be permitted in a city, village, or township in which the sale of spirits and mixed spirit drink is prohibited under this act. A violation of this section is a misdemeanor. This section does not apply to spirits and mixed spirit drink served to a bona fide guest in the residence of a person or sold or furnished for medicinal purposes as provided for in this act.

(5) A licensee enumerated under section 525 or any other person shall not sell at retail, and a person shall not knowingly and willfully buy, alcoholic liquor between the hours of 11:59 p.m. on December 24 and 12 noon on December 25. If December 26 falls on Sunday, the hours of closing shall be determined pursuant to this act. The legislative body of a city, village, or township, by resolution or ordinance, may prohibit the sale of alcoholic liquor on Sunday or a legal holiday, primary election day, general election day, or municipal election day.

(6) The sale of spirits or mixed spirit drink in any county between the hours of 7 a.m. on Sunday and 2 a.m. on Monday shall not be prohibited under the provisions of subsections (1) through (5) as applied to a motorsports entertainment complex located in more than 1 county if a resolution or referendum under this section results in the question's failing to pass in 1 county but passing in another. Under such circumstances, the commission shall determine the issue of the sale of spirits and mixed spirit drink in the motorsports entertainment complex in those counties between the hours of 7 a.m. on Sunday and 2 a.m. on Monday. As used in this section, “motorsports entertainment complex” means a closed-course motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) Has at least 70,000 fixed seats for race patrons.

(b) Has at least 4 scheduled days of motorsports events each calendar year.

(c) Serves food and beverages at the motorsports entertainment complex during motorsports events each calendar year through concession outlets, which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly benefit from the concession outlets' sales.

(d) Engages in tourism promotion.

(e) Has permanent exhibitions of motorsports history, events, or vehicles within the motorsports entertainment complex.

Sec. 1114. (1) Notwithstanding R 436.1403 and R 436.1503 of the Michigan administrative code and except as otherwise provided under this act or rule of the commission, an on-premises and an off-premises licensee shall not sell, give away, or furnish alcoholic liquor between the hours of 2 a.m. and 7 a.m. on any day.

(2) Subsection (1) does not prevent any local governmental unit from prohibiting the sale of beer and wine on Sundays under section 1111 and does not prevent any local governmental unit from prohibiting the sale of spirits and mixed spirit drink on Sundays under section 1113. A licensee selling alcoholic liquor between 7 a.m. and noon on Sunday shall obtain a permit and pay to the commission an annual fee of \$160.00.

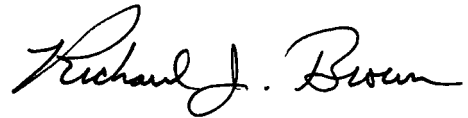
(3) A reference to the time of day under this act or a rule of the commission includes daylight savings time, when observed.

Sec. 1115. (1) A licensee who elects to sell spirits or mixed spirit drink between the hours of 12 noon on Sunday and 2 a.m. on Monday under section 1113 shall not do so until he or she first obtains a permit and pays to the commission an additional fee in the amount of 15% of the fee charged for the issuance of his or her license.

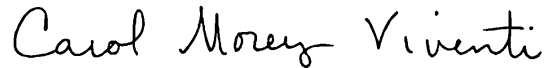
(2) The revenue received from subsection (1) for the sale of spirits or mixed spirit drink between 12 noon on Sunday and 2 a.m. on Monday shall be deposited with the state treasurer in a special fund to be used only by the department of public health in programs for the treatment of alcoholics. Any other revenue resulting from the additional \$160.00 license fee as described in section 1114 for sales of alcoholic liquor permitted under sections 1111 and 1113 shall be deposited into the general fund.

Enacting section 1. Sections 1111, 1113, 1114, and 1115 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2111, 436.2113, 436.2114, and 436.2115, as amended by this amendatory act, take effect December 1, 2010.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor