

**SUBSTITUTE FOR
HOUSE BILL NO. 5798**

(as amended September 24, 2014)

[A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 105, 405, 525, and 609 (MCL 436.1105,
436.1405, 436.1525, and 436.1609), section 105 as amended by 2005
PA 320, section 525 as amended by 2013 PA 236, and section 609 as
amended by 2014 PA 47.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (2) "Alcohol vapor device" means any device that provides for

1 the use of air or oxygen bubbled through alcoholic liquor to
2 produce a vapor or mist that allows the user to inhale this
3 alcoholic vapor through the mouth or nose.

4 (3) "Alcoholic liquor" means any spirituous, vinous, malt, or
5 fermented liquor, **POWDER**, liquids, and compounds, whether or not
6 medicated, proprietary, patented, and by whatever name called,
7 containing 1/2 of 1% or more of alcohol by volume ~~which~~ **THAT** are
8 fit for use for **FOOD PURPOSES OR** beverage purposes as defined and
9 classified by the commission according to alcoholic content as
10 belonging to 1 of the varieties defined in this chapter.

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

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

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

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

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

22 (6) "Beer" means any beverage obtained by alcoholic
23 fermentation of an infusion or decoction of barley, malt, hops, or
24 other cereal in potable water.

25 (7) "Brand" means any word, name, group of letters, symbol,
26 trademark, or combination thereof adopted and used by a supplier to
27 identify a specific beer, malt beverage, wine, mixed wine drink, or

1 mixed spirit drink product and to distinguish that product from
 2 another beer, malt beverage, wine, mixed wine drink, or mixed
 3 spirit drink product that is produced or marketed by that or
 4 another supplier. As used in this section and notwithstanding
 5 sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an
 6 outstate seller of beer, a wine maker, a small wine maker, an
 7 outstate seller of wine, a manufacturer of mixed wine drink, an
 8 outstate seller of a mixed wine drink, a mixed spirit drink
 9 manufacturer, or an outstate seller of mixed spirit drink.

10 (8) "Brand extension" means any brand which incorporates all
 11 or a substantial part of the unique features of a preexisting brand
 12 of the same supplier. As used in this section and notwithstanding
 13 sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an
 14 outstate seller of beer, a wine maker, a small wine maker, an
 15 outstate seller of wine, a manufacturer of mixed wine drink, an
 16 outstate seller of a mixed wine drink, a mixed spirit drink
 17 manufacturer, or an outstate seller of mixed spirit drink.

18 (9) "Brandy" means an alcoholic liquor as defined in 27 CFR
 19 5.22(d) (1980).

20 (10) "Brandy manufacturer" means a ~~person~~ **WINE MAKER OR A**
 21 **SMALL WINE MAKER** licensed under this act to ~~engage in the~~
 22 ~~manufacturing, rectifying or blending, or both, of~~ **MANUFACTURE,**
 23 **RECTIFY, OR BLEND** brandy only and no other ~~distilled spirit. Only a~~
 24 ~~licensed wine maker or a small wine maker is eligible to be a~~
 25 ~~brandy manufacturer.~~ The commission may approve a brandy
 26 manufacturer to sell ~~at retail~~ brandy ~~which~~ **THAT** it manufactures,
 27 blends or rectifies, or both, at its licensed premises or at other

1 premises authorized in this act.

2 (11) "Brewer" means a person located in this state that is
3 licensed to manufacture and sell to licensed wholesalers beer
4 produced by it.

5 (12) "Brewpub" means a license issued in conjunction with a
6 class C, tavern, class A hotel, or class B hotel license that
7 authorizes the person licensed with the class C, tavern, class A
8 hotel, or class B hotel to manufacture and brew not more than ~~5,000~~
9 **18,000** barrels of beer per calendar year in Michigan and sell at
10 those licensed premises the beer produced for consumption on or off
11 the licensed brewery premises in the manner provided for in
12 sections 405 and 407.

13 Sec. 405. (1) Subject to section 407, the commission shall
14 issue a brewpub license to a person who is licensed as a food
15 service establishment under ~~part 129 of the public health code,~~
16 ~~1978 PA 368, MCL 333.12901 to 333.12922,~~ **THE FOOD LAW, 2000 PA 92,**
17 **MCL 289.1101 TO 289.8111,** and who at the time of application for
18 the brewpub license is licensed and continues to be licensed as 1
19 or more of the following:

20 (a) Class C.

21 (b) Tavern.

22 (c) Class A hotel.

23 (d) Class B hotel.

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

27 (3) Agricultural products processed by a manufacturer shall

1 comply with state law and with rules of the department of
2 agriculture.

3 (4) A brewpub shall not sell beer in this state unless it
4 provides for each brand or type of beer sold a label that
5 truthfully describes the content of each container and provides
6 proof that a valid "application for and certification/exemption of
7 label/bottle approval" has been obtained and is unrevoked under the
8 federal malt beverage labeling requirements as published in ~~title~~
9 ~~27, part 7, subpart C, C.F.R. 1935,~~ **27 CFR 7.20 TO 7.29**, which are
10 hereby adopted by reference.

11 (5) Each location of a brewpub shall have a manufacturing
12 operation on the licensed premises that complies with subsection
13 (6). A brewpub shall apply for and obtain a license for each
14 location of that brewpub. In determining the ~~5,000-barrel~~ **18,000-**
15 **BARREL** threshold, all brands and labels of the brewpub produced in
16 this state shall be combined.

17 (6) Beer shall be manufactured pursuant to federal malt
18 beverage regulations published in ~~title 27, part 25, C.F.R. 1935,~~
19 **27 CFR 25.1 TO 25.301**, which are hereby adopted by reference.

20 (7) Each brewpub shall submit to the commission, on forms
21 acceptable to the commission and postmarked not later than January
22 15, April 15, July 15, and October 15 of each year, a beer tax
23 report of all beer sold under their brewpub license during the
24 preceding quarter. Each brewpub shall also submit, with the beer
25 tax report, the payment of the required beer excise tax due
26 pursuant to section 409.

27 (8) A brewpub shall be the holder of a "brewers notice" as

1 issued by the United States department of treasury, ~~bureau of~~
2 ~~alcohol, tobacco and firearms~~ **ALCOHOL AND TOBACCO TAX AND TRADE**
3 **BUREAU** in accordance with ~~title 27, part 25, subpart C, C.F.R.~~
4 ~~1935-27 CFR 25.61 TO 25.85.~~

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

9 (a) Manufacturers of spirits, not including makers, blenders,
10 and rectifiers of wines containing 21% or less alcohol by volume,
11 \$1,000.00.

12 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
13 fraction of a barrel, production annually with a maximum fee of
14 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
15 delivery to retail licensees. A fee increase does not apply to a
16 manufacturer of less than 15,000 barrels production per year.

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

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

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

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

27 (g) Dining cars or other railroad or Pullman cars selling

1 alcoholic liquor, \$100.00 per train.

2 (h) Wholesale vendors other than manufacturers of beer,
3 \$300.00 for the first motor vehicle used in delivery to retail
4 licensees and \$50.00 for each additional motor vehicle used in
5 delivery to retail licensees.

6 (i) Watercraft, licensed to carry passengers, selling
7 alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of
8 \$500.00 per year computed on the basis of \$1.00 per person per
9 passenger capacity.

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

14 (k) Specially designated distributors licensed by the
15 commission to distribute spirits and mixed spirit drink in the
16 original package for the commission for consumption off the
17 premises, \$150.00 per year, and an additional fee of \$3.00 for each
18 \$1,000.00 or major fraction of that amount in excess of \$25,000.00
19 of the total retail value of merchandise purchased under each
20 license from the commission during the previous calendar year.

21 (l) Hotels of class A selling beer and wine, a minimum fee of
22 \$250.00 and \$1.00 for each bedroom in excess of 20, but not more
23 than \$500.00 total.

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

1 shall be paid for each additional public bar, other than a bedroom.

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

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

10 (p) Clubs selling beer, wine, mixed spirit drink, and spirits,
11 \$300.00 for clubs having 150 or fewer accredited members and \$1.00
12 for each member in excess of 150. Clubs shall submit a list of
13 members by a sworn affidavit 30 days before the closing of the
14 license year. The sworn affidavit shall be used only for
15 determining the license fees to be paid under this subdivision.
16 This subdivision does not prevent the commission from checking a
17 membership list and making its own determination from the list or
18 otherwise. The list of members and additional members is not
19 required of a club paying the maximum fee. The maximum fee shall
20 not exceed \$750.00 for any 1 club.

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

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

1 auxiliary of the organization, in a calendar year.

2 (s) Airlines licensed to carry passengers in this state that
3 sell, offer for sale, provide, or transport alcoholic liquor,
4 \$600.00.

5 (t) Brandy manufacturer, \$100.00.

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

7 (v) Brewpub, \$100.00.

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

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

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

12 (z) Small distiller, \$100.00.

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

14 (bb) Nonpublic continuing care retirement center license,
15 \$600.00.

16 (cc) Conditional license approved under subsection ~~(5)~~-(6) and
17 issued under subsection ~~(6)~~-(7), \$300.00.

18 (2) The fees provided in this act for the various types of
19 licenses shall not be prorated for a portion of the effective
20 period of the license. Notwithstanding subsection (1), the initial
21 license fee for any licenses issued under section 531(3) or (4) is
22 \$20,000.00. The renewal license fee shall be the amount described
23 in subsection (1). However, the commission shall not impose the
24 \$20,000.00 initial license fee for applicants whose license
25 eligibility was already approved on July 20, 2005.

26 (3) IF THE COMMISSION REQUIRES AN APPLICANT TO SUBMIT
27 FINGERPRINTS, THE APPLICANT SHALL HAVE THE FINGERPRINTS TAKEN BY A

House Bill No. 5798 (H-1) as amended September 23, 2014

1 LOCAL LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF STATE POLICE, OR
2 ANY OTHER PERSON QUALIFIED TO TAKE FINGERPRINTS AS DETERMINED BY
3 THE DEPARTMENT OF STATE POLICE. THE APPLICANT SHALL SUBMIT THE
4 FINGERPRINTS AND THE APPROPRIATE STATE AND FEDERAL FEES, WHICH
5 SHALL BE BORNE BY THE APPLICANT, TO THE DEPARTMENT OF STATE POLICE
6 AND THE FEDERAL BUREAU OF INVESTIGATION FOR A CRIMINAL HISTORY
7 CHECK. [AFTER CONDUCTING THE CRIMINAL HISTORY CHECK, THE DEPARTMENT OF
8 STATE POLICE SHALL PROVIDE THE COMMISSION WITH A REPORT OF THE CRIMINAL
9 HISTORY CHECK. THE REPORT SHALL CONTAIN CRIMINAL HISTORY RECORD
10 INFORMATION CONCERNING THE PERSON WHO IS THE SUBJECT OF THE CRIMINAL
HISTORY CHECK THAT IS MAINTAINED BY THE DEPARTMENT OF STATE POLICE. IF A
CRIMINAL ARREST FINGERPRINT CARD IS SUBSEQUENTLY SUBMITTED TO THE
DEPARTMENT OF STATE POLICE AND MATCHES AGAINST A FINGERPRINT THAT WAS
SUBMITTED PURSUANT TO THIS ACT AND STORED IN ITS AUTOMATED FINGERPRINT
IDENTIFICATION SYSTEM (AFIS) DATABASE, THE DEPARTMENT OF STATE POLICE
SHALL NOTIFY THE COMMISSION.]

11 (4) ~~(3)~~—Except in the case of any resort or resort economic
12 development license issued under section 531(2), (3), (4), or (5)
13 or a license issued under section 521a, the commission shall issue
14 an initial or renewal license not later than 90 days after the
15 applicant files a completed application. The application is
16 considered to be received the date the application is received by
17 any agency or department of this state. If the commission
18 determines that an application is incomplete, the commission shall
19 notify the applicant in writing, or make the information
20 electronically available, within 30 days after receipt of the
21 incomplete application, describing the deficiency and requesting
22 the additional information. The determination of the completeness
23 of an application is not an approval of the application for the
24 license and does not confer eligibility upon an applicant
25 determined otherwise ineligible for issuance of a license. The 90-
26 day period is tolled for the following periods under any of the
27 following circumstances:

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

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

13 (5) ~~(4)~~—If the commission fails to issue or deny a license
14 within the time required by this section, the commission shall
15 return the license fee and shall reduce the license fee for the
16 applicant's next renewal application, if any, by 15%. The failure
17 to issue a license within the time required under this section does
18 not allow the commission to otherwise delay the processing of the
19 application, and that application, upon completion, shall be placed
20 in sequence with other completed applications received at that same
21 time. The commission shall not discriminate against an applicant in
22 the processing of the application based upon the fact that the
23 license fee was refunded or discounted under this subsection.

24 (6) ~~(5)~~—If, in addition to a completed application under this
25 section, an applicant submits a separate form requesting a
26 conditional license with an acceptable proof of financial
27 responsibility form under section 803, and an executed property

1 document, the commission shall, after considering the arrest and
2 conviction records or previous violation history in the management,
3 operation, or ownership of a licensed business, approve or deny a
4 conditional license. ~~to any of the following:~~ **A CONDITIONAL LICENSE**
5 **ISSUED UNDER SUBSECTION (7) FOR THE TRANSFER OF AN EXISTING LICENSE**
6 **AT THE SAME LOCATION SHALL INCLUDE ANY EXISTING PERMITS AND**
7 **APPROVALS HELD IN CONNECTION WITH THAT LICENSE. THE FOLLOWING**
8 **APPLICANTS MAY REQUEST A CONDITIONAL LICENSE:**

9 (a) An applicant seeking to transfer ownership of or interest
10 in an existing license at the same location ~~under subsection (3)~~ to
11 sell alcoholic liquor for consumption on or off the premises.

12 (b) An applicant seeking an initial license ~~under subsection~~
13 ~~(3)~~, ~~except for~~ **OTHER THAN** a specially designated distributor
14 license or a license for the sale of alcoholic liquor for
15 consumption on the premises.

16 (7) ~~(6)~~ The commission shall issue a conditional license to
17 applicants approved under subsection ~~(5)~~ ~~(6)~~ within 20 business
18 days after receipt of a completed application and a completed
19 conditional license request form and documentation for a
20 conditional license at a single location. The commission may take
21 up to 30 business days to issue conditional licenses to approved
22 applicants seeking conditional licenses at multiple locations.

23 (8) ~~(7)~~ A conditional license approved under subsection ~~(5)~~
24 ~~(6)~~ and issued under subsection ~~(6)~~ ~~(7)~~ is nontransferable and
25 nonrenewable. A conditional license approved under subsection ~~(5)~~
26 ~~(6)~~ and issued under subsection ~~(6)~~ ~~(7)~~ expires when the commission
27 issues an order of denial of the license application that serves as

1 the basis for the conditional license after all administrative
2 remedies before the commission have been exhausted, expires 20
3 business days after the commission issues an order of approval of
4 the license application that serves as the basis for the
5 conditional license, expires when the licensee or conditional
6 licensee notifies the commission in writing that the initial
7 application should be canceled, or expires 1 year after the date
8 the conditional license was issued, whichever occurs first. If a
9 conditionally approved licensee fails to maintain acceptable proof
10 of its financial responsibility, the commission shall, after due
11 notice and proper hearing, suspend the conditional license until
12 the licensee files an acceptable proof of financial responsibility
13 form under section 803. If a conditional license is revoked, the
14 conditional licensee shall not recover from a unit of local
15 government any compensation for property, future income, or future
16 economic loss due to the revocation.

17 (9) ~~(8)~~—Upon issuing a conditional license under subsection
18 ~~(6)~~, ~~(7)~~, the commission shall, until the conditional license
19 expires under subsection ~~(7)~~, ~~(8)~~, place an existing license under
20 subsection ~~(3)~~ ~~(4)~~ in escrow in compliance with R 436.1107 of the
21 Michigan administrative code. If the conditional license expires
22 because a transfer of an existing license was denied or because the
23 license was not transferred within the 1-year period, an existing
24 licensee may do 1 of the following:

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

27 (b) Keep the license in escrow. The escrow date for compliance

1 with R 436.1107 of the Michigan administrative code shall be the
2 date the conditional license expires.

3 (10) ~~(9)~~—The chair of the commission shall submit a report by
4 December 1 of each year to the standing committees and
5 appropriations subcommittees of the senate and house of
6 representatives concerned with liquor license issues. The chair of
7 the commission shall include all of the following information in
8 the report concerning the preceding fiscal year:

9 (a) The number of initial and renewal applications the
10 commission received and completed within the 90-day time period
11 described in subsection ~~(3)~~-(4).

12 (b) The number of applications denied.

13 (c) The number of applicants not issued a license within the
14 90-day time period and the amount of money returned to licensees
15 under subsection ~~(4)~~-(5).

16 (11) ~~(10)~~—As used in this section, "completed application"
17 means an application complete on its face and submitted with any
18 applicable licensing fees as well as any other information,
19 records, approval, security, or similar item required by law or
20 rule from a local unit of government, a federal agency, or a
21 private entity but not from another department or agency of the
22 state of Michigan.

23 Sec. 609. (1) Except as provided in this section and sections
24 605 and 1029, a manufacturer, mixed spirit drink manufacturer,
25 warehouser, wholesaler, outstate seller of beer, outstate seller of
26 wine, outstate seller of mixed spirit drink, or vendor of spirits
27 shall not aid or assist any other vendor by gift, loan of money or

1 property of any description, or other valuable thing, or by the
2 giving of premiums or rebates, and a vendor shall not accept the
3 same. However, if manufacturers of spirits reduce the price of
4 their products, the manufacturer of spirits may refund the amount
5 of the price reductions to specially designated distributor
6 licensees in a manner prescribed by the commission.

7 (2) A manufacturer, mixed spirit drink manufacturer,
8 warehouse, wholesaler, outstate seller of beer, outstate seller of
9 wine, outstate seller of mixed spirit drink, or vendor of spirits
10 may, in a manner consistent with rules, regulations, and orders
11 made by the commission, provide another licensee with advertising
12 items that promote the brands and prices of alcoholic liquor
13 produced by the manufacturer; sold by the outstate seller of beer,
14 the outstate seller of wine, or the outstate seller of mixed spirit
15 drink; or distributed by the wholesaler. Except as otherwise
16 provided under subsection (3), ~~or~~ (4), **OR (5)**, the advertising
17 items shall not have any use or value beyond the actual advertising
18 of brands and prices of the alcoholic liquor.

19 (3) Except for those orders that were approved for specific
20 sponsorships or festivals, a manufacturer, mixed spirit drink
21 manufacturer, warehouse, wholesaler, outstate seller of beer,
22 outstate seller of wine, outstate seller of mixed spirit drink, or
23 vendor of spirits may provide goods and services to another
24 licensee that were approved by the commission pursuant to rules or
25 orders adopted prior to January 1, 2014 and the following
26 ~~advertising~~ items:

27 (a) Alcoholic liquor recipes literature.

- 1 (b) Calendars and matchbooks.
2 (c) Removable tap markers or signs.
3 (d) Table tents.
4 (e) Shelf talkers.
5 (f) Bottle neckers.
6 (g) Cooler stickers.
7 (h) Buttons, blinking and nonblinking.
8 (i) Menu clip-ons.
9 (j) Mirrors.
10 (k) Napkin holders.
11 (l) Spirits cold shot tap machines.
12 (m) Alcoholic liquor drink menus.
13 **(N) KEG COUPLERS THAT ARE LENT TO AN ON-PREMISES RETAILER.**
14 **(O) SPORTING EVENT OR ENTERTAINMENT TICKETS.**

15 **(4) A WHOLESALER MAY SELL BRAND LOGOED ITEMS TO AN OFF-**
16 **PREMISES LICENSEE IF THOSE BRAND LOGOED ITEMS ARE CONTAINED WITHIN**
17 **THE PACKAGING OF AN ALCOHOLIC LIQUOR PRODUCT THAT IS TO BE SOLD TO**
18 **A CONSUMER.**

19 (5) ~~(4)~~A retailer shall not use or possess, at its licensed
20 premises, advertising items that have a use or value beyond the
21 actual advertising of brands and prices of alcoholic liquor except
22 for those allowed in ~~subsection~~**SUBSECTIONS (3) AND (4)** or as
23 otherwise provided in this subsection. A retailer may possess and
24 use brand logoed barware that advertises spirits as long as those
25 items are purchased from a manufacturer of spirits, vendor of
26 spirits, salesperson, broker, or barware retailer. A retailer may
27 possess and use brand logoed barware that advertises beer or wine

1 as long as those items are purchased from a barware retailer. A
2 retailer shall maintain the receipts of all purchased brand logoed
3 barware for at least 3 years and shall make those receipts
4 available for inspection by the commission as provided in section
5 217. Beginning in the 2015 licensing year, a retailer shall
6 disclose, in a manner as prescribed by the commission on the
7 application for renewal of an existing license, if any barware was
8 purchased by the retailer during the immediately preceding license
9 year.

10 (6) ~~(5)~~—In addition to the penalties provided under section
11 903, a manufacturer of beer or wine, mixed spirit drink
12 manufacturer, warehouser, wholesaler, outstate seller of beer,
13 outstate seller of wine, or outstate seller of mixed spirit drink
14 that provides or sells barware and is not authorized to provide or
15 sell barware is subject to a fine in an amount of up to \$2,500.00
16 as determined by the commission. Multiple violations resulting from
17 the same incident may be treated as a single violation for purposes
18 of issuance of any penalty imposed under this act.

19 (7) ~~(6)~~—An on-premises retailer that hosts an on-premises
20 brand promotional event conducted by a wholesaler or supplier has
21 14 days after the event to remove from the premises any brand
22 logoed merchandise from the event to maintain compliance with this
23 section.

24 (8) ~~(7)~~—This act and rules promulgated under this act do not
25 prevent a retailer that holds an off-premises license only from
26 purchasing brand logoed inventory and selling that inventory to its
27 customers.

1 (9) ~~(8) Not sooner than 18 months after the effective date of~~
2 ~~the amendatory act that added this subsection, BEGINNING AFTER~~
3 **SEPTEMBER 25, 2015**, the commission may, by rule, add an item to or
4 remove an item from the definition of barware. The commission shall
5 not add or remove more than 1 item per rule and shall not
6 promulgate more than 1 rule at a time on the definition of barware.
7 The commission shall not issue a rule that adds refrigerator
8 systems, draft systems, or furniture to the definition of barware.
9 A rule, regulation, or order adopted after January 1, 2014 that is
10 not adopted in accordance with this subsection and that is not
11 consistent with this section or is in conflict with this section is
12 void and unenforceable.

13 (10) ~~(9)~~As used in this section:

14 (a) "Barware" means the following brand logoed items:

15 (i) Trays.

16 (ii) Coasters.

17 (iii) Napkins.

18 (iv) Shirts.

19 (v) Hats.

20 (vi) Pitchers.

21 (vii) Drinkware that is intended to be reused.

22 (viii) Bar mats.

23 (ix) Buckets.

24 (x) Bottle openers.

25 (xi) Stir rods.

26 (xii) Patio umbrellas.

27 (xiii) Any packaging used to hold and deliver the alcoholic

1 liquor purchased by the retailer.

2 (xiv) Any other items that have been added by the commission
3 pursuant to subsection ~~(8)~~-(9).

4 (b) "Barware retailer" means a person that offers brand logoed
5 barware for sale to retailers, whether or not it is in their
6 ordinary course of business, and that is not licensed as, or
7 directly or indirectly affiliated with, a manufacturer of beer or
8 wine, mixed spirit drink manufacturer, warehouse, wholesaler,
9 outstate seller of beer, outstate seller of wine, or outstate
10 seller of mixed spirit drink. For purposes of this subdivision, a
11 licensing agreement that authorizes use of a brand logo does not
12 constitute a direct or indirect affiliation.

13 (c) "Broker" means a person, other than an individual, that is
14 licensed by the commission and that is employed or otherwise
15 retained by a manufacturer of spirits or a vendor of spirits to
16 sell, promote, or otherwise assist in the sale or promotion of
17 spirits.

18 (d) "Indirectly affiliated" means, for purposes of this
19 section only, that a person owns 5% or more of the voting interest
20 of another person.

21 (e) "Other valuable thing" means any goods, services, or
22 intangible goods that are given, loaned, leased, or sold to another
23 licensee that have value regardless of whether the value is nominal
24 and includes, but is not limited to, goods, services, or intangible
25 goods that provided any benefit, regardless of how nominal, to the
26 licensee other than advertising the brands and prices of alcoholic
27 liquor produced by the manufacturer, sold by the outstate seller of

House Bill No. 5798 (H-1) as amended September 24, 2014

1 beer, the outstate seller of wine, or the outstate seller of mixed
2 spirit drink, or distributed by the wholesaler, except **FOR**
3 **CONSUMABLE GOODS AND** those goods, services, or intangible goods
4 approved by rule or order of the commission prior to January 1,
5 2014.

6 (f) "Salesperson" means a person who is employed by a vendor
7 of spirits or a broker and who is licensed by the commission to
8 sell, deliver, or promote, or otherwise assist in the sale of,
9 spirits in this state.

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