

SUBSTITUTE FOR
SENATE BILL NO. 439

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 303 (MCL 436.1303).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The grape and wine industry council ~~is~~ created
2 ~~in~~ **UNDER EXECUTIVE REORGANIZATION ORDER NO. 2014-2, MCL 333.26253,**
3 **SHALL BE HOUSED WITHIN** the department of agriculture **AND RURAL**
4 **DEVELOPMENT. ~~The~~ BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY**
5 **ACT THAT AMENDED THIS SECTION, THE** council **SHALL BE KNOWN AS THE**
6 **MICHIGAN CRAFT BEVERAGE COUNCIL AND** shall consist of ~~all of the~~
7 following **MEMBERS:**
8 ~~(a) Three wine makers.~~
9 ~~(b) A wine grape grower.~~
10 ~~(c) The director of consumer and industry services or his or~~

1 ~~her designee.~~

2 (A) ~~(d)~~—The director of the department of agriculture **AND**
3 **RURAL DEVELOPMENT** or his or her designee **AS A NONVOTING MEMBER.**

4 ~~—— (e) A staff member of Michigan state university appointed by,~~
5 ~~and serving at the pleasure of, the dean of the college of~~
6 ~~agriculture and natural resources of Michigan state university.~~

7 ~~—— (f) The chairperson of the commission or his or her designee,~~
8 ~~as an ex officio member.~~

9 (B) **SUBJECT TO SUBDIVISION (C), THE FOLLOWING VOTING MEMBERS,**
10 **WHOSE PRINCIPAL PLACE OF BUSINESS IS LOCATED IN THIS STATE,**
11 **APPOINTED BY THE GOVERNOR:**

12 (i) ~~(g) A person~~**AN INDIVIDUAL** who operates a retail food
13 establishment that holds a specially designated merchant license
14 and sells Michigan wines or ~~a person~~**BEER OR HIS OR HER DESIGNEE.**

15 (ii) **AN INDIVIDUAL** who operates a restaurant that holds a
16 class C license and serves Michigan wines, **BEER, OR SPIRITS, OR HIS**
17 **OR HER DESIGNEE.**

18 ~~—— (h) A beer and wine wholesaler who markets Michigan wine.~~

19 ~~—— (i) Not more than 2 additional members appointed as prescribed~~
20 ~~in subsection (3).~~

21 (iii) **TWO WINE MAKERS OR THE DESIGNEES OF THOSE WINE MAKERS.**

22 (iv) **A WINE MAKER THAT PRIMARILY MANUFACTURES HARD CIDER OR A**
23 **DESIGNEE OF THAT WINE MAKER.**

24 (v) **A LARGE BREWER OR A DESIGNEE OF THAT LARGE BREWER.**

25 (vi) **ONE OF THE FOLLOWING:**

26 (A) **A MICRO BREWER OR A DESIGNEE OF THE MICRO BREWER.**

27 (B) **AN INDIVIDUAL WHO HOLDS A BREWPUB LICENSE OR HIS OR HER**

1 DESIGNEE.

2 (vii) A SMALL DISTILLER OR A DESIGNEE OF THE SMALL DISTILLER.

3 (viii) A DISTILLER THAT MANUFACTURES MORE THAN 60,000 GALLONS
4 OF SPIRITS PER YEAR OR A DESIGNEE OF THAT DISTILLER, OR AN
5 AUTHORIZED DISTRIBUTION AGENT.

6 (C) ALL OF THE FOLLOWING APPLY TO A DESIGNEE OF A MEMBER
7 APPOINTED UNDER SUBDIVISION (B):

8 (i) THE DESIGNEE'S PRINCIPAL PLACE OF BUSINESS MUST BE LOCATED
9 IN THIS STATE.

10 (ii) THE DESIGNEE MUST NOT BE A LOBBYIST OR A LOBBYIST AGENT
11 AS THOSE TERMS ARE DEFINED IN SECTION 5 OF 1978 PA 472, MCL 4.415.

12 (iii) DURING THE MEMBER'S TERM, THE MEMBER MAY ONLY DESIGNATE
13 1 INDIVIDUAL AS A DESIGNEE.

14 ~~(2) The members of the council described in subsection (1) (a),~~
15 ~~(b), (g), and (h) shall be appointed by the governor. The council~~
16 ~~members appointed under subsection (1) (g) and (h) shall be~~
17 ~~appointed for 2 year terms beginning on October 1, 1991. Of the~~
18 ~~council members appointed for terms beginning October 1, 1991, 1~~
19 ~~shall be appointed for a 1 year term, and 3 shall be appointed for~~
20 ~~terms of 2 years each. All appointments for terms beginning on or~~
21 ~~after October 1, 1992 shall be for 2 years each. A member shall~~
22 ~~continue to serve until a qualified successor has been appointed.~~

23 VOTING MEMBERS OF THE COUNCIL APPOINTED BY THE GOVERNOR UNDER
24 SUBSECTION (1) SHALL SERVE FOR TERMS OF 3 YEARS OR UNTIL A
25 SUCCESSOR IS APPOINTED, WHICHEVER IS LATER, EXCEPT THAT OF THE
26 VOTING MEMBERS FIRST APPOINTED, 3 SHALL SERVE FOR 1 YEAR, 3 SHALL
27 SERVE FOR 2 YEARS, AND 3 SHALL SERVE FOR 3 YEARS. A VOTING member

1 shall not serve more than 2 consecutive terms. A vacancy on the
 2 board shall be filled in the same manner as the original
 3 appointment. The director of the department of agriculture shall
 4 ~~act as~~ **AND RURAL DEVELOPMENT IS THE** chairperson of the council.

5 ~~— (3) The governor may appoint not more than 2 additional~~
 6 ~~members to the council who shall assist the council in performing~~
 7 ~~its duties, but who shall not have the power to vote. The persons~~
 8 ~~appointed under this subsection shall not be members of the~~
 9 ~~classified state civil service, shall serve at the pleasure of the~~
 10 ~~governor, and shall receive salaries and benefits determined and~~
 11 ~~paid by the department of agriculture.~~

12 (3) ~~(4)~~—The council may employ personnel and incur such
 13 expenses ~~as~~ **THAT** are necessary to carry out the purposes of the
 14 council under this act. ~~All such~~ **THE** expenses **OF THE COUNCIL** shall
 15 be paid from fees credited to the ~~wine industry~~ council under
 16 section 543(2) **AND CREDITED TO THE COUNCIL UNDER SECTION 221. THE**
 17 **COUNCIL SHALL EXPEND AT LEAST 50% OF ITS ANNUAL BUDGET ON ANY OF**
 18 **ITS DUTIES DESCRIBED IN SUBSECTION (6) (A), (B), (G), (H), OR (I).** A
 19 member of the council or an employee or agent of the council shall
 20 **IS** not be personally liable on the contracts of the council.

21 (4) ~~(5)~~—A nongovernmental member of the council shall ~~shall~~ **MAY**
 22 receive \$50.00 per day for each day spent in actual attendance at
 23 meetings of the council and traveling expenses while on council
 24 business in accordance with standard travel regulations of the
 25 department of **TECHNOLOGY**, management, and budget.

26 (5) ~~(6)~~—The council shall maintain accurate books and records,
 27 and all ~~funds~~ **MONEY** received by the council shall ~~shall~~ **MUST** be used to

1 implement and enforce this section.

2 (6) ~~(7)~~—The council shall do all of the following:

3 (a) Provide for research on ~~wine grapes~~ **FRUITS USED IN**
4 **WINEMAKING** and wines, including, but not limited to, methods of
5 planting, growing, controlling insects and diseases, charting
6 microclimates and locations for growing desirable varieties of ~~wine~~
7 ~~grapes~~, **FRUITS USED IN WINEMAKING**, marketing, processing,
8 distribution, advertising, sales production, and product
9 development.

10 (B) **PROVIDE FOR RESEARCH ON HOPS, BARLEY, BEER, AND SPIRITS,**
11 **INCLUDING, BUT NOT LIMITED TO, METHODS OF PLANTING, GROWING,**
12 **CONTROLLING INSECTS AND DISEASES, MARKETING, PROCESSING,**
13 **DISTRIBUTION, ADVERTISING, SALES PRODUCTION, AND PRODUCT**
14 **DEVELOPMENT.**

15 (C) ~~(b)~~—Provide the wine industry, including growers,
16 wineries, distributors, and retailers, with information relative to
17 proper methods of handling and selling ~~wine grapes~~ **FRUITS USED IN**
18 **WINEMAKING** and wines.

19 (D) **PROVIDE THE BREWING AND DISTILLING INDUSTRIES, INCLUDING**
20 **GROWERS, BREWERS, DISTILLERS, DISTRIBUTORS, AND RETAILERS, WITH**
21 **INFORMATION RELATIVE TO PROPER METHODS OF HANDLING AND SELLING**
22 **HOPS, BARLEY, BEER, AND SPIRITS.**

23 (E) ~~(c)~~—Provide for market surveys and analyses for purposes
24 of expanding existing markets and creating new and larger markets
25 for ~~wine grapes and~~ **FRUITS USED IN WINEMAKING**, wines, **HOPS, BARLEY,**
26 **BEER, AND SPIRITS.**

27 (F) ~~(d)~~—Provide for the promotion of the sale of Michigan wine

1 ~~grapes and~~ **FRUITS USED IN WINEMAKING**, wines, **HOPS, BARLEY, BEER,**
2 **AND SPIRITS** for the purpose of maintaining or expanding present
3 markets and creating new and larger domestic and foreign markets.

4 (G) ~~(e)~~ Develop and administer financial aid programs to ~~wine~~
5 ~~grape~~ growers **OF FRUITS USED IN WINEMAKING** to encourage the
6 increased planting in this state of desirable ~~grape~~ **FRUIT** varieties
7 in microclimates determined to provide the best conditions for
8 producing quality wines.

9 (H) **DEVELOP AND ADMINISTER FINANCIAL AID PROGRAMS TO HOPS**
10 **GROWERS TO ENCOURAGE INCREASED PLANTING IN THIS STATE OF DESIRABLE**
11 **HOPS VARIETIES IN MICROCLIMATES DETERMINED TO PROVIDE THE BEST**
12 **CONDITIONS FOR PRODUCING QUALITY BEER.**

13 (I) **DEVELOP AND ADMINISTER FINANCIAL AID PROGRAMS TO BARLEY**
14 **GROWERS TO ENCOURAGE INCREASED PLANTING IN THIS STATE OF DESIRABLE**
15 **BARLEY VARIETIES IN MICROCLIMATES DETERMINED TO PROVIDE THE BEST**
16 **CONDITIONS FOR PRODUCING QUALITY BEER.**

17 (J) **PREPARE AND APPROVE AN ANNUAL BUDGET.**

18 (K) **APPLY FOR AND ACCEPT GRANTS OR CONTRIBUTIONS FROM THE**
19 **FEDERAL GOVERNMENT OR ANY OF ITS AGENCIES, THE STATE, OR OTHER**
20 **PUBLIC OR PRIVATE AGENCIES TO BE USED FOR ANY OF THE PURPOSES OF**
21 **THIS SECTION AND TO DO ANY AND ALL THINGS WITHIN ITS EXPRESS OR**
22 **IMPLIED POWERS NECESSARY OR DESIRABLE TO SECURE THAT FINANCIAL OR**
23 **OTHER AID OR COOPERATION IN THE CARRYING OUT OF ANY OF THE PURPOSES**
24 **OF THIS SECTION.**

25 (I) **BASED ON THE INFORMATION PROVIDED TO THE COUNCIL UNDER**
26 **SUBDIVISION (N), ANNUALLY REVIEW AND RECORD RECOMMENDATIONS THAT**
27 **WILL ENHANCE THE MARKETING AND PROMOTION OF MICHIGAN FRUITS USED IN**

1 WINEMAKING, WINES, HOPS, BARLEY, BEER, HARD CIDER, AND SPIRITS. THE
2 COUNCIL SHALL MAKE THESE RECOMMENDATIONS AVAILABLE UPON REQUEST.

3 (M) BASED ON THE INFORMATION PROVIDED TO THE COUNCIL UNDER
4 SUBDIVISION (N), ANNUALLY REVIEW AND RECORD RECOMMENDATIONS
5 CONCERNING CHANGES TO THE STRATEGIES ADOPTED BY THE COUNCIL FOR
6 MARKETING AND PROMOTION OF MICHIGAN FRUITS USED IN WINEMAKING,
7 WINES, HOPS, BARLEY, BEER, HARD CIDER, AND SPIRITS. THE COUNCIL
8 SHALL MAKE THESE RECOMMENDATIONS AVAILABLE UPON REQUEST.

9 (N) INVITE THE CHIEF EXECUTIVE OFFICER OF THE MICHIGAN
10 ECONOMIC DEVELOPMENT CORPORATION OR HIS OR HER DESIGNEE TO ATTEND
11 AT LEAST 1 COUNCIL MEETING ANNUALLY TO INFORM THE COUNCIL ABOUT
12 PARTNERSHIP ACTIVITIES AND OPPORTUNITIES RELATED TO THE MARKETING
13 AND PROMOTION OF MICHIGAN FRUITS USED IN WINEMAKING, WINES, HOPS,
14 BARLEY, BEER, HARD CIDER, AND SPIRITS.

15 (O) INVITE THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND
16 REGULATORY AFFAIRS TO ATTEND AT LEAST 1 COUNCIL MEETING ANNUALLY TO
17 INFORM THE COUNCIL ABOUT FUNDING ACTIVITIES AFFECTING THE COUNCIL.

18 (P) ESTABLISH EDUCATIONAL PARTNERSHIPS TO BENEFIT THE BEER,
19 WINE, AND SPIRITS INDUSTRIES.

20 (7) ~~(8)~~—The council may promulgate rules pursuant to the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328, for the purposes of implementing and enforcing this
23 section. However, ~~a rule~~ **THE COUNCIL** shall not be promulgated
24 **PROMULGATE A RULE** that conflicts with a rule promulgated by the
25 commission pursuant to ~~UNDER~~ section 215.

26 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
27 COUNCIL SHALL NOT ENGAGE IN LOBBYING. THIS SUBSECTION DOES NOT

1 PROHIBIT THE COUNCIL OR A COUNCIL MEMBER OR COUNCIL EMPLOYEE FROM
 2 PROVIDING TECHNICAL INFORMATION TO THE LEGISLATURE OR TO THE
 3 DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT, REGARDLESS OF
 4 WHETHER THE COUNCIL, COUNCIL MEMBER, OR COUNCIL EMPLOYEE IS
 5 APPEARING BEFORE AN OFFICIALLY CONVENED LEGISLATIVE COMMITTEE OR
 6 DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT HEARING PANEL, IF
 7 THE TECHNICAL INFORMATION IS RELATED TO THE COUNCIL'S DUTIES UNDER
 8 THIS SECTION. AS USED IN THIS SUBSECTION:

9 (A) "LOBBYING" MEANS THAT TERM AS DEFINED IN SECTION 5 OF 1978
 10 PA 472, MCL 4.415.

11 (B) "TECHNICAL INFORMATION" MEANS THAT TERM AS DEFINED IN
 12 SECTION 5 OF 1978 PA 472, MCL 4.415.

13 (9) THIS SECTION DOES NOT PREVENT THE COUNCIL FROM
 14 ESTABLISHING A COMMODITY COMMITTEE UNDER THE AGRICULTURE
 15 COMMODITIES MARKETING ACT, 1965 PA 232, MCL 290.651 TO 290.674.

16 (10) ~~(9)~~ As used in this section: ~~"council"~~

17 (A) "COUNCIL" means the ~~grape and wine industry~~ MICHIGAN CRAFT
 18 BEVERAGE council ~~created~~ DESCRIBED in subsection (1).

19 (B) "LARGE BREWER" MEANS A BREWER THAT PRODUCES IN TOTAL AT
 20 LEAST 60,000 BARRELS OF BEER AND NOT MORE THAN 1,000,000 BARRELS OF
 21 BEER PER YEAR. IN DETERMINING THE BARREL THRESHOLD UNDER THIS
 22 SUBDIVISION, ALL BRANDS AND LABELS OF A BREWER, WHETHER BREWED IN
 23 THIS STATE OR OUTSIDE THIS STATE, MUST BE COMBINED AND ALL
 24 FACILITIES FOR THE PRODUCTION OF BEER THAT ARE OWNED OR CONTROLLED
 25 BY THE SAME PERSON ARE TREATED AS A SINGLE FACILITY.

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

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No. 440 of the 99th Legislature is enacted into
3 law.