

SUBSTITUTE FOR
HOUSE BILL NO. 5355

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 609a (MCL 436.1609a), as added by 2016 PA 81.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 609a. (1) A manufacturer or wholesaler shall file with
2 the commission a schedule of net cash prices to the ~~retail-licensee~~
3 **retailer** for all brands of case and keg beer for its market area.
4 **If a person sells beer that has not received a registration number**
5 **from the commission in violation of subrule (1) (d) of R 436.1611 of**
6 **the Michigan Administrative Code and if a wholesaler files a**
7 **schedule of net cash prices as required under this subsection, both**
8 **of the following apply:**

9 (a) The wholesaler is not considered to have violated subrule



1 (1) (d) of R 436.1611 of the Michigan Administrative Code.

2 (b) A retailer is not considered to have violated subrule

3 (1) (d) of R 436.1611 of the Michigan Administrative Code.

4 (2) A manufacturer or wholesaler shall file with the
5 commission a beer package price reduction for its market area. The
6 manufacturer or wholesaler shall file the price reduction before
7 its effective date. A price reduction under this subsection must
8 continue for at least 90 days after the effective date.

9 (3) The beer package price for a market area may be increased
10 during the 90-day period described in subsection (2) for any of the
11 following reasons:

12 (a) To reflect a tax increase in the market area.

13 (b) To reflect a general industry price increase in the market
14 area.

15 (4) The beer package price for a market area may be decreased
16 during the 90-day period described in subsection (2) if both of the
17 following conditions are met:

18 (a) The price reduction is not greater on a cents-per-case
19 basis than the price reduction filed by the competition.

20 (b) The price reduction continues for the balance of the 90
21 days filed by the competition.

22 (5) A manufacturer or wholesaler shall not sell beer at a
23 quantity discount.

24 (6) A net cash price filed under subsection (1) and a price
25 reduction filed under subsection (2) are exempt from disclosure
26 under section 13 of the freedom of information act, 1976 PA 442,
27 MCL 15.243, until 1 year after the net cash price or price
28 reduction is filed, as applicable.

29 (7) The commission shall periodically compare a manufacturer's



1 or wholesaler's filing under subsection (1) or (2) with the
2 manufacturer's or wholesaler's tax filing under section 409.

3 (8) This section does not apply to a brewpub.

4 (9) Beginning on the effective date of the amendatory act that
5 added this subsection, the commission shall not implement or
6 enforce subrule (1) (c) and (d) of R 436.1611 of the Michigan
7 Administrative Code for products manufactured by a brewer and for
8 products that a micro brewer or brewer sell exclusively at its
9 tasting room or at a beer festival. As used in this subsection,
10 "beer festival" means that term as defined in section 526.

11 (10) ~~(8)~~—The regulation described in this section is necessary
12 for both of the following reasons:

13 (a) To promote temperance and the public health and welfare.

14 (b) To promote a stable 3-tier distribution system with
15 orderly markets for wine and malt beverage products in which there
16 is no price discrimination by a wholesaler in its sales to
17 retailers within the wholesaler's sales territory.

18 Enacting section 1. This amendatory act does not take effect
19 unless all of the following bills of the 100th Legislature are
20 enacted into law:

21 (a) House Bill No. 5341.

22 (b) House Bill No. 5342.

23 (c) House Bill No. 5343.

24 (d) House Bill No. 5344.

25 (e) House Bill No. 5345.

26 (f) House Bill No. 5346.

27 (g) House Bill No. 5347.

28 (h) House Bill No. 5348.

29 (i) House Bill No. 5349.



- 1 (j) House Bill No. 5350.
- 2 (k) House Bill No. 5351.
- 3 (l) House Bill No. 5352.
- 4 (m) House Bill No. 5353.
- 5 (n) House Bill No. 5354.
- 6 (o) House Bill No. 5400.

