

Act No. 107
Public Acts of 2020
Approved by the Governor
July 1, 2020
Filed with the Secretary of State
July 1, 2020
EFFECTIVE DATE: July 1, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Reps. Wendzel, Hall, Garza and Cambensy

ENROLLED HOUSE BILL No. 5343

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,” (MCL 436.1101 to 436.2303) by adding section 203a.

The People of the State of Michigan enact:

Sec. 203a. (1) The legislature finds that the 3-tier system is necessary to protect public health and safety of Michigan residents and to promote competition and access to market for all alcoholic beverage suppliers.

(2) The legislature further finds that vertical integration of the alcoholic beverage industry is contrary to this state’s interest in protecting public health and safety of Michigan residents and leads to anti-competitive behavior by beverage alcohol suppliers.

(3) The legislature further finds that the 3-tier system and the prohibitions under section 603 achieve the following public policy goals:

(a) Promote consumer choice and product variety by providing a platform that provides all suppliers access to Michigan's beverage alcohol market.

(b) Encourage wholesalers to invest in their businesses and all the brands they distribute, free from undue interference from the suppliers of the brands they distribute.

(c) Create a transparent and accountable alcohol distribution system that allows the commission to prevent the manufacture, distribution, or sale of counterfeit, adulterated, unregistered, recalled, or prohibited alcoholic beverages.

(4) This state has an interest in creating market access for all sizes of suppliers and finds that micro brewers create competition and variety in Michigan's beer market.

(5) For the purposes of creating access to Michigan's beer market while also preserving the 3-tier system and limiting vertical integration, a micro brewer or an out-of-state entity that is the substantial equivalent of a micro brewer may sell and deliver beer to a retailer in this state only if all of the following conditions are met:

(a) The retailer is not located in a sales territory for which the micro brewer or out-of-state entity that is the substantial equivalent of a micro brewer has granted exclusive sales rights to a wholesaler under sections 401 and 403 for the sale of any brand or brands of beer produced by the micro brewer or out-of-state entity that is the substantial equivalent of a micro brewer.

(b) The beer is sold and delivered by an employee of the micro brewer or out-of-state entity that is the substantial equivalent of a micro brewer, not an agent, and is transported and delivered using a vehicle owned by the micro brewer or out-of-state entity that is the substantial equivalent of a micro brewer.

(c) The micro brewer or out-of-state entity that is the substantial equivalent of a micro brewer is in compliance with applicable state and federal law and applicable regulatory provisions of this act and rules promulgated by the commission under this act, including, but not limited to, those requirements related to each of the following:

(i) Employees that sell and deliver beer to retailers.

(ii) Vehicles used to deliver beer to retailers.

(iii) Price schedules and temporary price reductions.

(iv) 1976 IL 1, MCL 445.571 to 445.576.

(d) The micro brewer or out-of-state entity that is the substantial equivalent of a micro brewer sells not more than 2,000 barrels of beer total per year. In determining the 2,000-barrel threshold under this subdivision, all brands and labels of a micro brewer or out-of-state equivalent of a micro brewer, whether sold to a wholesaler or a retailer in this state or outside of this state, must be combined. Sales to consumers on the licensed premises of the micro brewer or out-of-state entity that is the substantial equivalent of a micro brewer are not included in determining the 2,000-barrel threshold under this subdivision.

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

(a) House Bill No. 5341.

(b) House Bill No. 5342.

(c) House Bill No. 5344.

(d) House Bill No. 5345.

(e) House Bill No. 5346.

(f) House Bill No. 5347.

(g) House Bill No. 5348.

(h) House Bill No. 5349.

(i) House Bill No. 5350.

(j) House Bill No. 5351.

(k) House Bill No. 5352.

(l) House Bill No. 5353.

(m) House Bill No. 5354.

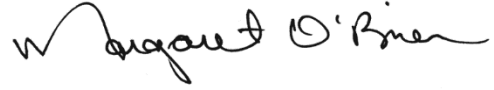
(n) House Bill No. 5355.

(o) House Bill No. 5400.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor