

# HOUSE BILL NO. 6106

May 18, 2022, Introduced by Reps. Steenland and Hauck and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 105 and 603 (MCL 436.1105 and 436.1603), as amended by 2021 PA 19.

**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.

1 (2) "Alcohol vapor device" means any device that provides for  
2 the use of air or oxygen bubbled through alcoholic liquor to  
3 produce a vapor or mist that allows the user to inhale this  
4 alcoholic vapor through the mouth or nose.

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

12 (4) "Alternating proprietorship" means 1 of the following:

13 (a) An arrangement in which 2 or more wine makers or small  
14 wine makers take turns using the same space and equipment to  
15 manufacture wine under section 603(9)(a) and in accordance with 27  
16 CFR 24.136.

17 (b) An arrangement in which 2 or more brewers or micro brewers  
18 take turns using the same space and equipment to manufacture beer  
19 ~~pursuant to~~ **under** section 603(9)(b) and in accordance with 27 CFR  
20 25.52.

21 (5) "Approved tasting room" means a tasting room that is  
22 approved by the commission. A licensee with an approved tasting  
23 room is not a retail licensee as that term is used in this act and  
24 the rules promulgated under this act except for sections 701, 801,  
25 803, 815, 905, and 906.

26 (6) "Authorized distribution agent" means a person approved by  
27 the commission to do 1 or more of the following:

28 (a) To store spirits owned by a supplier of spirits or the  
29 commission.

1 (b) To deliver spirits sold by the commission to retail  
2 licensees.

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

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

8 (8) "Beer" means a beverage obtained by alcoholic fermentation  
9 of an infusion or decoction of barley, malt, hops, sugar, or other  
10 cereal in potable water.

11 (9) "Bottle" or "bottling" means a process, separate from  
12 manufacturing, using owned or leased equipment to fill and seal a  
13 container, including a keg, with alcoholic liquor for sale at  
14 wholesale or retail in accordance with this act. Bottle or bottling  
15 does not include filling a growler for sale at retail.

16 (10) "Brand" means any word, name, group of letters, symbol,  
17 trademark, or combination thereof adopted and used by a supplier to  
18 identify a specific beer, malt beverage, wine, mixed wine drink, or  
19 mixed spirit drink product and to distinguish that product from  
20 another beer, malt beverage, wine, mixed wine drink, or mixed  
21 spirit drink product that is produced or marketed by that or  
22 another supplier. As used in this subsection, "supplier" means a  
23 brewer, micro brewer, an outstate seller of beer, a wine maker, a  
24 small wine maker, an outstate seller of wine, a manufacturer of  
25 mixed wine drink, an outstate seller of a mixed wine drink, a mixed  
26 spirit drink manufacturer, or an outstate seller of mixed spirit  
27 drink.

28 (11) "Brand extension" means any brand that incorporates all  
29 or a substantial part of the unique features of a preexisting

1 brand, ~~of the same supplier. As used in this subsection, "supplier"~~  
 2 ~~means a brewer, micro brewer, an outstate seller of beer, a wine~~  
 3 ~~maker, a small wine maker, an outstate seller of wine, a~~  
 4 ~~manufacturer of mixed wine drink, or an outstate seller of a mixed~~  
 5 ~~wine drink, a mixed spirit drink manufacturer, or an outstate~~  
 6 ~~seller of mixed spirit drink.~~ **regardless of whether the extension is**  
 7 **beer, wine, mixed wine drink, or mixed spirit drink.**

8 (12) "Brandy" means an alcoholic liquor as defined in 27 CFR  
 9 5.22(d).

10 (13) "Brandy manufacturer" means a wine maker or a small wine  
 11 maker licensed under this act to manufacture brandy. A wine maker  
 12 or small wine maker authorized to manufacture brandy shall not  
 13 manufacture any other spirits. The commission may approve a brandy  
 14 manufacturer to sell brandy that it manufactures at retail in  
 15 accordance with section 537.

16 (14) "Brewer" means a person located in this state that is  
 17 licensed to manufacture beer and sell at retail in accordance with  
 18 section 537 and to licensed wholesalers beer manufactured by the  
 19 person.

20 (15) "Brewpub" means a license issued in conjunction with a  
 21 class C, tavern, class A hotel, or class B hotel license that  
 22 authorizes the person licensed with the class C, tavern, class A  
 23 hotel, or class B hotel to manufacture and brew not more than  
 24 18,000 barrels of beer per calendar year in this state and sell at  
 25 its licensed premises the beer produced for consumption on or off  
 26 the licensed brewery premises in the manner provided for in  
 27 sections 405, 407, and 537.

28 Sec. 603. (1) Except as provided in subsections ~~(6) to (14)~~  
 29 ~~and (5) to (9), subsections (14) to (16), and section 605, a~~

1 supplier, warehouse, or wholesaler shall not have any direct or  
2 indirect financial interest in the establishment, maintenance,  
3 operation, or promotion of the business of any other vendor.

4 (2) Except as provided in subsections ~~(6) to (14)~~ and **(5) to**  
5 **(9), subsections (14) to (16), and** section 605, a supplier,  
6 warehouse, or wholesaler or a stockholder of a supplier,  
7 warehouse, or wholesaler shall not have any direct or indirect  
8 interest by ownership in fee, leasehold, mortgage, or otherwise in  
9 the establishment, maintenance, operation, or promotion of the  
10 business of any other vendor.

11 (3) Except as provided in subsections ~~(6) to (14)~~ and **(5) to**  
12 **(9), subsections (14) to (16), and** section 605, a supplier,  
13 warehouse, or wholesaler shall not have any direct or indirect  
14 interest by interlocking directors in a corporation or by  
15 interlocking stock ownership in a corporation in the establishment,  
16 maintenance, operation, or promotion of the business of any other  
17 vendor.

18 (4) Except as provided in subsections ~~(6) to (14)~~ and **(5) to**  
19 **(9), subsections (14) to (16), and** section 605, a person shall not  
20 buy the stocks of a supplier, warehouse, or wholesaler and place  
21 the stock in any portfolio under an arrangement, written trust  
22 agreement, or form of investment trust agreement, issue  
23 participating shares based ~~upon~~ **on** the portfolio, trust agreement,  
24 or investment trust agreement, and sell the participating shares  
25 within this state.

26 (5) The commission may approve a brandy manufacturer or small  
27 distiller to sell brandy and spirits made by that brandy  
28 manufacturer or small distiller in a restaurant for consumption on  
29 or off the premises if the restaurant is owned by the brandy

1 manufacturer or small distiller or operated by another person under  
2 an agreement approved by the commission and is located on premises  
3 where the brandy manufacturer or small distiller is licensed.  
4 Brandy and spirits sold for consumption off the premises under this  
5 subsection must be sold at the uniform price established by the  
6 commission.

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

10 (7) A brewpub may have an interest in up to 5 other brewpubs  
11 if the combined production of all the locations in which the  
12 brewpub has an interest does not exceed 18,000 barrels of beer per  
13 calendar year.

14 (8) This section does not prohibit a supplier from having any  
15 direct or indirect interest in any other supplier.

16 (9) The commission may approve the following under R  
17 436.1023(3) of the Michigan Administrative Code, subject to the  
18 written approval of the United States Department of Treasury  
19 Alcohol and Tobacco Tax and Trade Bureau:

20 (a) A wine maker participating with 1 or more wine makers in  
21 an alternating proprietor operation in accordance with 27 CFR  
22 24.136.

23 (b) A brewer participating with 1 or more brewers in an  
24 alternating proprietor operation in accordance with 27 CFR 25.52.

25 (10) A manufacturer shall not have any direct or indirect  
26 interest in a wholesaler.

27 (11) A wine maker shall not collectively deliver wine, with  
28 any other wine maker, to ~~retail licensees~~. **retailers**.

29 (12) Except for a ~~licensed~~ warehouse, all licensees in this

1 state must be separated into 3 distinct and independent tiers  
2 composed of the following:

3 (a) Supplier tier, comprising suppliers.

4 (b) Wholesaler tier, comprising wholesalers.

5 (c) Retailer tier, comprising retailers.

6 (13) Except as otherwise provided in subsection (14),  
7 ~~beginning April 30, 2011,~~ the commission shall not allow any of the  
8 following:

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

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

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

15 **(d) A retailer to hold, directly or indirectly, a third-party**  
16 **facilitator service license under section 203.**

17 (14) Subsection (13) does not prohibit a class C, tavern,  
18 class A hotel, or class B hotel licensee from receiving a brewpub  
19 license or a micro brewer or brewer from having an on-site  
20 restaurant.

21 **(15) A person licensed in the supplier tier may manufacture a**  
22 **private label of beer, wine, or mixed spirit drink for a retailer**  
23 **if the commission determines that all the following requirements**  
24 **are met:**

25 (a) The supplier registers the private label with the  
26 commission as required under R 436.1611, R 436.1719, and R 436.1829  
27 of the Michigan Administrative Code.

28 (b) The supplier, independent of the retailer's involvement,  
29 appoints 1 or more wholesalers to distribute the private label as

1 required under section 307 or 401, as applicable.

2 (c) The supplier complies with and does not violate section  
3 305 or 403, as applicable.

4 (d) The wholesaler engages in commercially reasonable efforts  
5 to make the private label available to a retailer that places an  
6 order for the private label beer, wine, or mixed spirit drink.

7 (e) An appointed wholesaler remains the wholesaler for the  
8 private label and any brand extensions of the private label  
9 regardless of whether the retailer switches the supplier that  
10 manufacturers the private label, unless the wholesaler is  
11 terminated under section 305 or 403, as applicable.

12 (16) The commission shall not issue a wholesaler license to a  
13 producer of nonalcoholic beverages or an entity that the producer  
14 of nonalcoholic beverages has a direct or indirect ownership or  
15 financial interest in, if the producer of nonalcoholic beverages or  
16 the entity the producer of nonalcoholic beverages has a direct or  
17 indirect ownership or financial interest in has a direct or  
18 indirect ownership or financial interest in a person licensed in  
19 the supplier tier.

20 (17) ~~(15)~~—As used in this section:

21 (a) "Manufacturer" means, notwithstanding section 109(2), a  
22 wine maker, small wine maker, brewer, micro brewer, manufacturer of  
23 spirits, distiller, small distiller, brandy manufacturer, mixed  
24 spirit drink manufacturer, direct shipper, a licensee with an  
25 approved tasting room, or a person licensed by the commission to  
26 perform substantially similar functions.

27 (b) "Private label" means a brand of beer, wine, or mixed  
28 spirit drink that is manufactured by a supplier on behalf of a  
29 retailer using the retailer's recipe or intellectual property.



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

6           Enacting section 1. R 436.1625 and R 436.1726 of the Michigan  
7 Administrative Code are rescinded.

8           Enacting section 2. This amendatory act does not take effect  
9 unless all of the following bills of the 101st Legislature are  
10 enacted into law:

11           (a) Senate Bill No. \_\_\_\_ or House Bill No. 6107 (request no.  
12 06255'22).

13           (b) Senate Bill No. \_\_\_\_ or House Bill No. 6105 (request no.  
14 06256'22).