

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 6644

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending section 203 (MCL 436.1203), as amended by 2005 PA 268.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 203. (1) Except as provided in this section and section  
2 301, a sale, delivery, or importation of alcoholic liquor,  
3 including alcoholic liquor for personal use, shall not be made in  
4 this state unless the sale, delivery, or importation is made by the  
5 commission, the commission's authorized agent or distributor, an  
6 authorized distribution agent approved by order of the commission,  
7 a person licensed by the commission, or by prior written order of  
8 the commission.

9       ~~(2) For purposes of subsection (1), the sale, delivery, or~~  
10 ~~importation of alcoholic liquor, except as otherwise provided in~~

1 ~~subsection (3), includes, but is not limited to, the sale,~~  
2 ~~delivery, or importation of alcoholic liquor transacted or caused~~  
3 ~~to be transacted by means of any mail order, internet, telephone,~~  
4 ~~computer, device, or other electronic means. Subject to subsection~~  
5 ~~(4), if a retail sale, delivery, or importation of alcoholic liquor~~  
6 ~~occurs by any such means, the retailer must comply with all of the~~  
7 ~~following:~~

8 ~~—— (a) Be appropriately licensed under the laws of this state.~~

9 ~~—— (b) Pay any applicable taxes to the commission or the~~  
10 ~~department of treasury.~~

11 ~~—— (c) Comply with all prohibitions of the laws of this state~~  
12 ~~including, but not limited to, sales to minors.~~

13 ~~—— (d) Verify the age of the individual placing the order by~~  
14 ~~obtaining from him or her an affirmation that he or she is of legal~~  
15 ~~age to purchase alcoholic liquor. The person receiving and~~  
16 ~~accepting the order shall record the name, address, date of birth,~~  
17 ~~and telephone number of the person placing the order on the order~~  
18 ~~form or other verifiable record of a type and generated in a manner~~  
19 ~~approved by the commission.~~

20 ~~—— (e) Upon request of the commission, make available to the~~  
21 ~~commission any document used to verify the age of the individual~~  
22 ~~ordering the alcoholic liquor from the retail seller.~~

23 ~~—— (f) Stamp, print, or label on the outside of the shipping~~  
24 ~~container language that clearly establishes in a prominent fashion~~  
25 ~~that the package contains alcoholic liquor and that the recipient~~  
26 ~~at the time of the delivery is required to provide identification~~  
27 ~~verifying his or her age along with a signature.~~

1 ~~— (g) Place a label on the top panel of the shipping container~~  
2 ~~containing the name and address of the individual placing the order~~  
3 ~~and the name of the designated recipient, if any.~~

4 (2) NOTWITHSTANDING R 436.1011(7) (B) AND R 436.1527 OF THE  
5 MICHIGAN ADMINISTRATIVE CODE AND EXCEPT AS PROVIDED IN SUBSECTION  
6 (11), A RETAILER SHALL NOT DELIVER ALCOHOLIC LIQUOR TO A MICHIGAN  
7 CONSUMER AT THE HOME OR BUSINESS OF THE CONSUMER OR AT ANY LOCATION  
8 AWAY FROM THE LICENSED PREMISES OF THE RETAILER. THE PURPOSE OF  
9 THIS SUBSECTION IS TO EXERCISE THE STATE OF MICHIGAN'S AUTHORITY  
10 UNDER SECTION 2 OF AMENDMENT XXI OF THE CONSTITUTION OF THE UNITED  
11 STATES, TO MAINTAIN THE INHERENT POLICE POWERS TO REGULATE THE  
12 TRANSPORTATION AND DELIVERY OF ALCOHOLIC LIQUOR, AND TO PROMOTE A  
13 TRANSPARENT SYSTEM FOR THE TRANSPORTATION AND DELIVERY OF ALCOHOLIC  
14 LIQUOR. THE REGULATION DESCRIBED IN THIS SUBSECTION IS CONSIDERED  
15 NECESSARY FOR BOTH OF THE FOLLOWING REASONS:

16 (A) TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE.

17 (B) TO MAINTAIN STRONG, STABLE, AND EFFECTIVE REGULATION BY  
18 HAVING BEER AND WINE SOLD BY RETAILERS TO MICHIGAN CONSUMERS BY  
19 PASSING THROUGH THE 3-TIER DISTRIBUTION SYSTEM ESTABLISHED UNDER  
20 THIS ACT.

21 (3) For purposes of subsection (1), the sale, delivery, or  
22 importation of wine, to consumers in this state, by a person who  
23 both produces and bottles the wine or wine that is manufactured by  
24 a wine maker for another wine maker and that is transacted or  
25 caused to be transacted by means of any mail order, internet,  
26 telephone, computer, device, or other electronic means, or sold  
27 directly to a consumer on the winery premises, shall only be done

1 by a direct shipper. If a retail sale, delivery, or importation of  
2 wine occurs **TO A CONSUMER** by any means described in this  
3 subsection, the direct shipper must comply with all of the  
4 following:

5 (a) Hold a direct shipper license.

6 (b) Pay any applicable taxes to the commission and pay any  
7 applicable taxes to the department of treasury as directed by the  
8 department of treasury. Upon the request of the department of  
9 treasury, a direct shipper shall furnish an affidavit to verify  
10 payment.

11 (c) Comply with all prohibitions of the laws of this state,  
12 including, but not limited to, sales to minors.

13 (d) Verify the age of the individual placing the order by  
14 obtaining from him or her a copy of a photo identification issued  
15 by this state, another state, or the federal government or by  
16 utilizing an identification verification service. The person  
17 receiving and accepting the order on behalf of the direct shipper  
18 shall record the name, address, date of birth, and telephone number  
19 of the person placing the order on the order form or other  
20 verifiable record of a type and generated in a manner approved by  
21 the commission and provide a duplicate to the commission.

22 (e) Upon request of the commission, make available to the  
23 commission any document used to verify the age of the individual  
24 ordering or receiving the wine from the direct shipper.

25 (f) Stamp, print, or label on the outside of the shipping  
26 container that the package "Contains Alcohol. Must be delivered to  
27 a person 21 years of age or older." The recipient at the time of

1 the delivery is required to provide photo identification verifying  
2 his or her age along with a signature.

3 (g) Place a label on the top panel of the shipping container  
4 containing the direct shipper license number, the order number, the  
5 name and address of the individual placing the order, and the name  
6 of the designated recipient if different from the name of the  
7 individual placing the order.

8 (h) Direct ship not more than 1,500 9-liter cases, or 13,500  
9 liters in total, of wine in a calendar year to Michigan consumers.  
10 If a direct shipper, whether located in this state or outside this  
11 state, owns, in whole or in part, or commonly manages 1 or more  
12 direct shippers, it shall not in combination ship to consumers in  
13 this state more than 13,500 liters of wine in the aggregate.

14 (i) Pay wine taxes quarterly and report to the commission  
15 quarterly the total amount of wine, by type, brand, and price,  
16 shipped to consumers in this state during the preceding calendar  
17 quarter, and the order numbers.

18 (j) Authorize and allow the commission and the department of  
19 treasury to conduct an audit of the direct shipper's records.

20 (k) Consent and submit to the jurisdiction of the commission,  
21 the department of treasury, and the courts of this state concerning  
22 enforcement of this section and any related laws, rules, and  
23 regulations.

24 (4) Notwithstanding subsection ~~(2) or (3)~~, in the case of a  
25 ~~retail~~ sale, delivery, or importation of alcoholic liquor occurring  
26 by any means described in subsection ~~(2) or (3)~~, a person taking  
27 the order on behalf of the ~~retailer~~ **DIRECT SHIPPER** must comply with

1 ~~subsection (2) (e) through (g) and subsection (3) (c) through (g).~~

2 (5) The person who delivers the ~~alcoholic liquor~~ **WINE** shall  
3 verify that the individual accepting delivery is of legal age and  
4 is the individual who placed the order or the designated recipient,  
5 is an individual of legal age currently occupying or present at the  
6 address, or is an individual otherwise authorized through a rule  
7 promulgated under this act by the commission to receive alcoholic  
8 liquor under this section. If the delivery person, after a diligent  
9 inquiry, determines that the purchaser or designated recipient is  
10 not of legal age, the delivery person shall return the ~~alcoholic~~  
11 ~~liquor~~ **WINE** to the ~~retailer or~~ direct shipper. A delivery person  
12 who returns ~~alcoholic liquor~~ **WINE** to the ~~retailer or~~ direct shipper  
13 due to inability to obtain the purchaser's or designated  
14 recipient's legal age is not liable for any damages suffered by the  
15 purchaser, ~~retailer,~~ or direct shipper.

16 (6) All spirits for sale, use, storage, or distribution in  
17 this state, shall originally be purchased by and imported into the  
18 state by the commission, or by prior written authority of the  
19 commission.

20 (7) This section does not apply in the case of an alcoholic  
21 liquor brought into this state for personal or household use in an  
22 amount permitted by federal law by a person of legal age to  
23 purchase alcoholic liquor at the time of reentry into this state  
24 from without the territorial limits of the United States if the  
25 person has been outside the territorial limits of the United States  
26 for more than 48 hours and has not brought alcoholic liquor into  
27 the United States during the preceding 30 days.

1 (8) A person who is of legal age to purchase alcoholic liquor  
2 may do either of the following in relation to alcoholic liquor that  
3 contains less than 21% alcohol by volume:

4 (a) Personally transport from another state, once in a 24-hour  
5 period, not more than 312 ounces of alcoholic liquor for that  
6 person's personal use, notwithstanding subsection (1).

7 (b) Ship or import from another state alcoholic liquor for  
8 that person's personal use so long as that personal importation is  
9 done in compliance with subsection (1).

10 (9) A direct shipper shall not engage in the sale, delivery,  
11 or importation of wine to a consumer unless it applies for and is  
12 granted a direct shipper license from the commission. This  
13 subsection does not prohibit wine tasting or the selling at retail  
14 by a wine maker of wines he or she produced and bottled or wine  
15 manufactured for that wine maker by another wine maker, if done in  
16 compliance with this act. Only the following persons qualify for  
17 the issuance of a direct shipper license:

18 (a) A licensed wine maker.

19 (b) A wine producer and bottler located inside this country  
20 but outside of this state holding both a federal basic permit  
21 issued by the alcohol and tobacco tax and trade bureau and a  
22 license to manufacture wine in its state of domicile.

23 (10) An applicant for a direct shipper license shall submit an  
24 application to the commission in a written or electronic format  
25 provided by the commission and accompanied by an application and  
26 initial license fee of \$100.00. The application shall be  
27 accompanied by a copy or other evidence of the existing federal

1 basic permit or license, or both, held by the applicant. The direct  
2 shipper may renew its license annually by submission of a license  
3 renewal fee of \$100.00 and a completed renewal application. The  
4 commission shall use the fees collected under this section to  
5 conduct investigations and audits of direct shippers. The failure  
6 to renew, or the revocation or suspension of, the applicant's  
7 existing Michigan license, federal basic permit, or license to  
8 manufacture wine in its state of domicile is grounds for revocation  
9 or denial of the direct shipper license. If a direct shipper is  
10 found guilty of violating this act or a rule promulgated by the  
11 commission, the commission shall notify both the alcoholic liquor  
12 control agency in the direct shipper's state of domicile and the  
13 alcohol and tobacco tax and trade bureau of the United States  
14 department of treasury of the violation.

15 (11) A RETAILER THAT HOLDS A SPECIALLY DESIGNATED MERCHANT  
16 LICENSE IN THIS STATE; AN OUT-OF-STATE RETAILER THAT HOLDS ITS  
17 STATE'S SUBSTANTIAL EQUIVALENT LICENSE; OR A BREWPUB, MICROBREWERY,  
18 OR AN OUT-OF-STATE ENTITY THAT IS THE SUBSTANTIAL EQUIVALENT OF A  
19 BREWPUB OR MICROBREWERY MAY DELIVER BEER AND WINE TO THE HOME OR  
20 OTHER DESIGNATED LOCATION OF A CONSUMER IN THIS STATE IF ALL OF THE  
21 FOLLOWING CONDITIONS ARE MET AND EXCEPT AS OTHERWISE PROVIDED IN  
22 SUBSECTION (12):

23 (A) THE BEER OR WINE, OR BOTH, IS DELIVERED BY THE RETAILER'S,  
24 BREWPUB'S, OR MICROBREWERY'S EMPLOYEE AND NOT BY AN AGENT OR BY A  
25 THIRD PARTY DELIVERY SERVICE.

26 (B) THE RETAILER, BREWPUB, OR MICROBREWERY OR ITS EMPLOYEE WHO  
27 DELIVERS THE BEER OR WINE, OR BOTH, VERIFIES THAT THE PERSON



1 ACCEPTING DELIVERY IS AT LEAST 21 YEARS OF AGE.

2 (C) IF THE RETAILER, BREWPUB, OR MICROBREWER OR ITS EMPLOYEE  
3 INTENDS TO PROVIDE SERVICE TO CONSUMERS, THE RETAILER, BREWPUB, OR  
4 MICROBREWER OR ITS EMPLOYEE PROVIDING THE SERVICE MUST HAVE  
5 RECEIVED ALCOHOL SERVER TRAINING THROUGH A SERVER TRAINING PROGRAM  
6 APPROVED BY THE COMMISSION.

7 (12) A RETAILER THAT HOLDS A SPECIALLY DESIGNATED MERCHANT  
8 LICENSE IN THIS STATE OR AN OUT-OF-STATE RETAILER THAT HOLDS ITS  
9 STATE'S SUBSTANTIAL EQUIVALENT LICENSE MAY UTILIZE A THIRD PARTY  
10 THAT PROVIDES DELIVERY SERVICE TO MUNICIPALITIES IN THIS STATE THAT  
11 ARE SURROUNDED BY WATER AND INACCESSIBLE BY MOTOR VEHICLE TO  
12 DELIVER BEER AND WINE TO THE HOME OR OTHER DESIGNATED LOCATION OF  
13 THAT CONSUMER IS THE DELIVERY SERVICE IS APPROVED BY THE COMMISSION  
14 AND AGREES TO VERIFY THAT THE PERSON ACCEPTING DELIVERY OF THE BEER  
15 AND WINE IS AT LEAST 21 YEARS OF AGE.

16 (13) ~~(11)~~As used in this section:

17 (a) "Computer" means any connected, directly interoperable or  
18 interactive device, equipment, or facility that uses a computer  
19 program or other instructions to perform specific operations  
20 including logical, arithmetic, or memory functions with or on  
21 computer data or a computer program and that can store, retrieve,  
22 alter, or communicate the results of the operations to a person,  
23 computer program, computer, computer system, or computer network.

24 (b) "Computer network" means the interconnection of hardwire  
25 or wireless communication lines with a computer through remote  
26 terminals, or a complex consisting of 2 or more interconnected  
27 computers.

1 (c) "Computer program" means a series of internal or external  
2 instructions communicated in a form acceptable to a computer that  
3 directs the functioning of a computer, computer system, or computer  
4 network in a manner designed to provide or produce products or  
5 results from the computer, computer system, or computer network.

6 (d) "Computer system" means a set of related, connected or  
7 unconnected, computer equipment, devices, software, or hardware.

8 (e) "Consumer" means an individual who purchases wine for  
9 personal consumption and not for resale.

10 (f) "Device" includes, but is not limited to, an electronic,  
11 magnetic, electrochemical, biochemical, hydraulic, optical, or  
12 organic object that performs input, output, or storage functions by  
13 the manipulation of electronic, magnetic, or other impulses.

14 (g) "Diligent inquiry" means a diligent good faith effort to  
15 determine the age of a person, which includes at least an  
16 examination of an official Michigan operator's or chauffeur's  
17 license, an official Michigan personal identification card, or any  
18 other bona fide picture identification that establishes the  
19 identity and age of the person.

20 (h) "Direct shipper" means a person who engages in the sale,  
21 delivery, or importation of wine, to consumers in this state, that  
22 he or she produces and bottles or wine that is manufactured by a  
23 wine maker for another wine maker and that is transacted or caused  
24 to be transacted through the use of any mail order, internet,  
25 telephone, computer, device, or other electronic means, or sells  
26 directly to consumers on the winery premises.

27 (i) "Identification verification service" means any internet-

- 1 based service approved by the commission specializing in age and
- 2 identity verification.