

**SUBSTITUTE FOR
HOUSE BILL NO. 6426**

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 205, 525, 543, 609, 901, 903, 909, and 1027 (MCL 436.1205, 436.1525, 436.1543, 436.1609, 436.1901, 436.1903, 436.1909, and 436.2027), section 205 as amended by 2001 PA 274, sections 525 and 1027 as amended by 2008 PA 218, section 543 as amended by 2005 PA 269, section 901 as amended by 2008 PA 11, and section 903 as amended by 2000 PA 431, and by adding sections 1029 and 1031.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 205. (1) ~~If the commission privatizes any portion of the~~
2 ~~system existing on December 19, 1996 under which spirits are~~
3 ~~warehoused or distributed, the~~ **THE** commission shall, as provided in
4 section 203(1), by order appoint authorized distribution agents to

1 engage in the warehousing and delivery of spirits in this state so
2 as to ensure that all retail licensees continue to be properly
3 serviced with spirits. An authorized distribution agent is subject
4 to uniform requirements, including business operating procedures,
5 that the commission may prescribe by rule, subject to this section.

6 (2) A person is eligible for appointment by the commission as
7 an authorized distribution agent if the following circumstances
8 exist:

9 (a) The person satisfies all applicable commission rules
10 prescribing qualifications for licensure promulgated under section
11 215.

12 (b) The person has entered into a written agreement or
13 contract with a supplier of spirits for the purposes of warehousing
14 and delivering a brand or brands of spirits of that supplier of
15 spirits.

16 (c) The person has an adequate warehousing facility located in
17 this state for the storing of spirits from which all delivery of
18 spirits to retail licensees shall be made.

19 (3) An authorized distribution agent shall not have a direct
20 or indirect interest in a supplier of spirits or in a retailer. A
21 supplier of spirits or a retailer shall not have a direct or
22 indirect interest in an authorized distribution agent. An
23 authorized distribution agent shall not hold title to spirits.
24 After September 24, 1996, an authorized distribution agent or an
25 applicant to become an authorized distribution agent who directly
26 or indirectly becomes licensed subsequently as a wholesaler shall
27 not be appointed to sell a brand of wine in a county or part of a

1 county for which a wholesaler has been appointed to sell that brand
2 under an agreement required by this act. A wholesaler who directly
3 or indirectly becomes an authorized distribution agent shall not
4 sell or be appointed to sell a brand of wine to a retailer in a
5 county or part of a county for which another wholesaler has been
6 appointed to sell that brand under an agreement required by this
7 act, unless that wholesaler was appointed to sell and was actively
8 selling that brand to retailers in that county or part of that
9 county prior to September 24, 1996, or unless the sale and
10 appointment is the result of an acquisition, purchase, or merger
11 with the existing wholesaler who was selling that brand to a
12 retailer in that county or part of that county prior to September
13 24, 1996.

14 (4) An authorized distribution agent shall deliver to each
15 retailer located in its assigned distribution area on at least a
16 weekly basis if the order meets the minimum requirements. Except
17 that in those weeks that accompany a state holiday, the commission
18 may order a modified delivery schedule provided that a retailer
19 waits not longer than 9 days between deliveries due to a modified
20 delivery schedule. ~~Until the system established by the commission~~
21 ~~under section 206 is activated, the authorized distribution agent~~
22 ~~shall provide retailers access to a computer application that~~
23 ~~includes the capability to determine whether certain spirits are~~
24 ~~currently available for delivery. Beginning on the date the system~~
25 ~~is established by the commission under section 206, the **THE**~~
26 commission shall provide for an integrated on-line ordering system
27 for spirits and shall require the continuance of any ordering

1 system in existence on the ~~effective~~ **ACTIVATION** date of **THE SYSTEM**
2 **ESTABLISHED UNDER** section 206. The minimum requirements shall be
3 set by the commission and shall be a sufficient number of bottles
4 to comprise not more than 2 cases. A retailer may pick up the
5 product at the authorized distribution agent's warehouse. To avoid
6 occasional emergency outages of spirits, a retail licensee may make
7 up to 12 special emergency orders to an authorized distribution
8 agent per calendar year which order shall be made available to the
9 retail licensee within 18 hours of the placing of the order. A
10 special emergency order placed on Saturday or Sunday shall be made
11 available to the retail licensee before noon on the following
12 Monday. An authorized distribution agent may impose a fee of up to
13 \$20.00 to deliver a special emergency order to a retail licensee.

14 (5) In locations inaccessible to a motor vehicle as that term
15 is defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
16 257.923, the authorized distribution agent shall arrange that a
17 delivery of spirits to a retailer be in compliance with the
18 following procedures:

19 (a) After processing an order from a retailer, an authorized
20 distribution agent shall contact a retailer to confirm the quantity
21 of cases or bottles, or both, and the exact dollar total of the
22 order.

23 (b) The authorized distribution agent shall have the
24 responsibility to coordinate with the retailer the date and time a
25 driver is scheduled to deliver the order to a ferry transport dock,
26 shall arrange any ferry, drayage, or other appropriate service, and
27 shall pick up the retailer's payment at that time.

1 (c) The ferry transport company or company representing any
2 other form of conveyance shall take the retailer's payment to the
3 mainland dock and give that payment to the authorized distribution
4 agent's driver.

5 (d) The ferry transport company or company representing any
6 other form of conveyance shall transport the order to the drayage
7 or other appropriate company at the island dock for immediate
8 delivery to the retailer.

9 (e) The drayage or other appropriate company shall deliver the
10 order to the retailer.

11 (6) The authorized distribution agent is responsible for the
12 payment of all transportation and delivery charges imposed by the
13 ferry, drayage, or other conveyance company and is responsible for
14 all breakage and any shortages, whether attributable to the ferry,
15 drayage, or other conveyance company or any combination of those
16 companies, until the order is delivered to the retailer's
17 establishment. This subsection does not in any way prevent the
18 authorized distribution agent from seeking reimbursement or damages
19 from any company conveying the authorized distribution agent's
20 product.

21 (7) Except as otherwise provided in subsection (4), an
22 authorized distribution agent shall not charge a delivery fee or a
23 split-case fee for delivery of spirits sold by the commission to a
24 retailer.

25 (8) An authorized distribution agent or prospective authorized
26 distribution agent shall maintain and make available to the
27 commission or its representatives, upon notice, any contract or

1 written agreement it may have with a supplier of spirits or other
2 authorized distribution agent for the warehousing and delivery of
3 spirits in this state.

4 (9) For any violation of this act, rules promulgated under
5 this act, or the terms of an order appointing an authorized
6 distribution agent, an authorized distribution agent shall be
7 subject to the suspension, revocation, forfeiture, and penalty
8 provisions of sections 903(1) and 907 in the same manner in which a
9 licensee would be subject to those provisions. An authorized
10 distribution agent aggrieved by a penalty imposed by the commission
11 may invoke the hearing and appeal procedures of section 903(2) and
12 rules promulgated under that section.

13 (10) A specially designated distributor may sell to an on-
14 premises licensee up to 9 liters of spirits during any 1-month
15 period and an on-premises licensee may purchase, collectively from
16 specially designated distributors, up to that amount during any 1-
17 month period. Notwithstanding any other provision of this act or
18 rule promulgated under this act, a specially designated distributor
19 is only liable for knowingly violating this section. Records
20 verifying these purchases shall be maintained by the on-premises
21 licensee and be available to the commission upon request.

22 (11) An authorized distribution agent shall demonstrate that
23 it has made a good faith effort to provide employment to those
24 former state employees who were terminated due to the privatization
25 of the liquor distribution system. A good faith effort is
26 demonstrated by the authorized distribution agent performing at
27 least the following actions:

1 (a) Seeking from the commission a list of names and resumes of
2 all such former state employees who have indicated a desire for
3 continued employment in the distribution of liquor in Michigan.

4 (b) Providing a list of employment opportunities created by
5 the authorized distribution agent in the distribution of liquor in
6 Michigan to each individual whose name and resume is transmitted
7 from the commission.

8 (c) Providing an opportunity for application and interview to
9 any terminated state worker who indicates an interest in pursuing a
10 job opportunity with the authorized distribution agent.

11 (d) Providing a priority in hiring for those individuals who
12 apply and interview under this process.

13 (12) Any former state employees terminated due to
14 privatization who have reason to believe that an authorized
15 distribution agent has not made a good faith effort to provide him
16 or her with employment opportunities as described in subsection
17 (11) may file a complaint with the commission who shall hear the
18 complaint and make a determination on its validity. If the
19 commission determines that the complaint is valid, the violation
20 may be treated as a violation of this act and the authorized
21 distribution agent may be subject to the suspension, revocation,
22 forfeiture, and penalty provisions of sections 903(1) and 907.

23 (13) In addition to paying a vendor of spirits the acquisition
24 price for purchasing spirits, the commission may pay a vendor of
25 spirits an additional amount of not less than \$4.50 and not more
26 than \$7.50 for each case of spirits purchased as an offset to the
27 costs being incurred by that vendor of spirits in contracting with

1 an authorized distribution agent for the warehousing and delivery
2 of spirits to retailers. The payment described in this subsection
3 shall not be included in the cost of purchasing spirits by the
4 commission and shall not be subject to the commission's markup,
5 special taxes, or state sales tax. The per-case offset established
6 by this subsection may be increased by the state administrative
7 board each January to reflect reasonable increases in the
8 authorized distribution agent's cost of warehousing and delivery.
9 As used in this subsection, "case" means a container holding twelve
10 750 ml bottles of spirits or other containers containing spirits
11 which are standard to the industry.

12 Sec. 525. (1) Except as otherwise provided for in this
13 section, the following license fees shall be paid at the time of
14 filing applications or as otherwise provided in this act:

15 (a) Manufacturers of spirits, but not including makers,
16 blenders, and rectifiers of wines containing 21% or less alcohol by
17 volume, \$1,000.00.

18 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
19 fraction of a barrel, production annually with a maximum fee of
20 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
21 delivery to retail licensees. A fee increase does not apply to a
22 manufacturer of less than 15,000 barrels production per year.

23 (c) Outstate seller of beer, delivering or selling beer in
24 this state, \$1,000.00.

25 (d) Wine makers, blenders, and rectifiers of wine, including
26 makers, blenders, and rectifiers of wines containing 21% or less
27 alcohol by volume, \$100.00. The small wine maker license fee is

1 \$25.00.

2 (e) Outstate seller of wine, delivering or selling wine in
3 this state, \$300.00.

4 (f) Outstate seller of mixed spirit drink, delivering or
5 selling mixed spirit drink in this state, \$300.00.

6 (g) Dining cars or other railroad or Pullman cars selling
7 alcoholic liquor, \$100.00 per train.

8 (h) Wholesale vendors other than manufacturers of beer,
9 \$300.00 for the first motor vehicle used in delivery to retail
10 licensees and \$50.00 for each additional motor vehicle used in
11 delivery to retail licensees.

12 (i) Watercraft, licensed to carry passengers, selling
13 alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of
14 \$500.00 per year computed on the basis of \$1.00 per person per
15 passenger capacity.

16 (j) Specially designated merchants, for selling beer or wine
17 for consumption off the premises only but not at wholesale, \$100.00
18 for each location regardless of the fact that the location may be a
19 part of a system or chain of merchandising.

20 (k) Specially designated distributors licensed by the
21 commission to distribute spirits and mixed spirit drink in the
22 original package for the commission for consumption off the
23 premises, \$150.00 per year, and an additional fee of \$3.00 for each
24 \$1,000.00 or major fraction of that amount in excess of \$25,000.00
25 of the total retail value of merchandise purchased under each
26 license from the commission during the previous calendar year.

27 (l) Hotels of class A selling beer and wine, a minimum fee of

1 \$250.00 and, for all bedrooms in excess of 20, \$1.00 for each
2 additional bedroom, but not more than \$500.00.

3 (m) Hotels of class B selling beer, wine, mixed spirit drink,
4 and spirits, a minimum fee of \$600.00 and, for all bedrooms in
5 excess of 20, \$3.00 for each additional bedroom. If a hotel of
6 class B sells beer, wine, mixed spirit drink, and spirits in more
7 than 1 public bar, the fee entitles the hotel to sell in only 1
8 public bar, other than a bedroom, and a license shall be secured
9 for each additional public bar, other than a bedroom, the fee for
10 which is \$350.00.

11 (n) Taverns, selling beer and wine, \$250.00.

12 (o) Class C license selling beer, wine, mixed spirit drink,
13 and spirits, \$600.00. If a class C licensee sells beer, wine, mixed
14 spirit drink, and spirits in more than 1 bar, a fee of \$350.00
15 shall be paid for each additional bar. In municipally owned or
16 supported facilities in which nonprofit organizations operate
17 concession stands, a fee of \$100.00 shall be paid for each
18 additional bar.

19 (p) Clubs selling beer, wine, mixed spirit drink, and spirits,
20 \$300.00 for clubs having 150 or fewer duly accredited members and
21 \$1.00 for each additional member. The membership list for the
22 purpose only of determining the license fees to be paid under this
23 subdivision shall be the accredited list of members as determined
24 by a sworn affidavit 30 days before the closing of the license
25 year. This subdivision does not prevent the commission from
26 checking a membership list and making its own determination from
27 the list or otherwise. The list of members and additional members

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1 is not required of a club paying the maximum fee. The maximum fee
2 shall not exceed \$750.00 for any 1 club.

3 (q) Warehouse, to be fixed by the commission with a minimum
4 fee for each warehouse of \$50.00.

5 (r) Special licenses, a fee of \$50.00 per day, except that the
6 fee for that license or permit issued to any bona fide nonprofit
7 association, duly organized and in continuous existence for 1 year
8 before the filing of its application, is \$25.00. Not more than 12
9 special licenses may be granted to any organization, including an
10 auxiliary of the organization, in a calendar year.

11 (s) Airlines licensed to carry passengers in this state that
12 sell, offer for sale, provide, or transport alcoholic liquor,
13 \$600.00.

14 (t) Brandy manufacturer, \$100.00.

15 (u) Mixed spirit drink manufacturer, \$100.00.

16 (v) Brewpub, \$100.00.

17 (w) Class G-1, \$1,000.00.

18 (x) Class G-2, \$500.00.

19 (y) Motorsports event license, \$250.00.

20 (z) Small distiller, \$100.00.

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24 **(AA) >> WINE AUCTION LICENSE, \$50,000.00.**

25 (2) The fees provided in this act for the various types of
26 licenses shall not be prorated for a portion of the effective
27 period of the license. Notwithstanding subsection (1), the initial

1 license fee for any licenses issued under section 531(3) and (4) is
2 \$20,000.00. The renewal license fee shall be the amount described
3 in subsection (1). However, the commission shall not impose the
4 \$20,000.00 initial license fee for applicants whose license
5 eligibility was already approved on July 20, 2005.

6 (3) Beginning July 23, 2004, and except in the case of any
7 resort or resort economic development license issued under section
8 531(2), (3), (4), and (5) and a license issued under section 521,
9 the commission shall issue an initial or renewal license not later
10 than 90 days after the applicant files a completed application.
11 Receipt of the application is considered the date the application
12 is received by any agency or department of the state of Michigan.
13 If the application is considered incomplete by the commission, the
14 commission shall notify the applicant in writing, or make the
15 information electronically available, within 30 days after receipt
16 of the incomplete application, describing the deficiency and
17 requesting the additional information. The determination of the
18 completeness of an application does not operate as an approval of
19 the application for the license and does not confer eligibility
20 upon an applicant determined otherwise ineligible for issuance of a
21 license. The 90-day period is tolled under any of the following
22 circumstances:

23 (a) Notice sent by the commission of a deficiency in the
24 application until the date all of the requested information is
25 received by the commission.

26 (b) The time period during which actions required by a party
27 other than the applicant or the commission are completed that

1 include, but are not limited to, completion of construction or
2 renovation of the licensed premises; mandated inspections by the
3 commission or by any state, local, or federal agency; approval by
4 the legislative body of a local unit of government; criminal
5 history or criminal record checks; financial or court record
6 checks; or other actions mandated by this act or rule or as
7 otherwise mandated by law or local ordinance.

8 (4) If the commission fails to issue or deny a license within
9 the time required by this section, the commission shall return the
10 license fee and shall reduce the license fee for the applicant's
11 next renewal application, if any, by 15%. The failure to issue a
12 license within the time required under this section does not allow
13 the commission to otherwise delay the processing of the
14 application, and that application, upon completion, shall be placed
15 in sequence with other completed applications received at that same
16 time. The commission shall not discriminate against an applicant in
17 the processing of the application based upon the fact that the
18 license fee was refunded or discounted under this subsection.

19 (5) Beginning October 1, 2005, the chair of the commission
20 shall submit a report by December 1 of each year to the standing
21 committees and appropriations subcommittees of the senate and house
22 of representatives concerned with liquor license issues. The chair
23 of the commission shall include all of the following information in
24 the report concerning the preceding fiscal year:

25 (a) The number of initial and renewal applications the
26 commission received and completed within the 90-day time period
27 described in subsection (3).

1 (b) The number of applications denied.

2 (c) The number of applicants not issued a license within the
3 90-day time period and the amount of money returned to licensees
4 under subsection (4).

5 (6) As used in this section, "completed application" means an
6 application complete on its face and submitted with any applicable
7 licensing fees as well as any other information, records, approval,
8 security, or similar item required by law or rule from a local unit
9 of government, a federal agency, or a private entity but not from
10 another department or agency of the state of Michigan.

11 Sec. 543. (1) Quarterly, upon recommendation of the
12 commission, the state shall pay pursuant to appropriation in the
13 manner prescribed by law to the city, village, or township in which
14 a full-time police department or full-time ordinance enforcement
15 department is maintained or, if a police department or full-time
16 ordinance enforcement department is not maintained, to the county,
17 to be credited to the sheriff's department of the county in which
18 the licensed premises are located, 55% of the amount of the
19 proceeds of the retailers' license fees and license renewal fees
20 collected in that jurisdiction, for the specific purpose of
21 enforcing this act and the rules promulgated under this act. Forty-
22 one and one-half percent of the amount of the proceeds of
23 retailers' license and license renewal fees collected shall be
24 deposited in a special fund to be annually appropriated to the
25 commission for carrying out the licensing and enforcement
26 provisions of this act. Any unencumbered or uncommitted money in
27 the special fund shall revert to the general fund of the state 12

1 months after the end of each fiscal year in which the funds were
2 collected. The legislature shall appropriate 3-1/2% of the amount
3 of the proceeds of retailers' license and license renewal fees
4 collected to be credited to a special fund in the state treasury
5 for the purposes of promoting and sustaining programs for the
6 prevention, rehabilitation, care, and treatment of alcoholics. This
7 subsection does not apply to retail license fees collected for
8 railroad or Pullman cars, watercraft, ~~or~~ aircraft, **OR WINE AUCTIONS**
9 or to the transfer fees provided in section 529.

10 (2) All license and license renewal fees, other than retail
11 license and license renewal fees, shall be credited to the grape
12 and wine industry council created in section 303, to be used as
13 provided in section 303. Money credited to the grape and wine
14 industry council shall not revert to the state general fund at the
15 close of the fiscal year, but shall remain in the account to which
16 it was credited to be used as provided in section 303.

17 (3) All retail license fees collected for railroad or Pullman
18 cars, watercraft, or aircraft ~~—~~and the transfer fees provided in
19 section 529 shall be deposited in the special fund created in
20 subsection (1) for carrying out the licensing and enforcement
21 provisions of this act.

22 (4) The license fee enhancement imposed for licenses issued
23 under section 531(3) and (4) shall be deposited into a special fund
24 to be annually appropriated to the commission for enforcement and
25 other related projects determined appropriate by the commission.
26 The money representing that amount of the license fees for
27 identical licenses not issued under section 531(3) and (4) shall be

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1 allocated and appropriated under subsection (1).

2 (5) The license fee imposed on direct shipper licenses and any
 3 violation fines imposed by the commission shall be deposited into
 4 the direct shipper enforcement revolving fund. The direct shipper
 5 enforcement revolving fund is created within the state treasury.
 6 The state treasurer shall direct the investment of the fund. The
 7 state treasurer shall credit to the fund interest and earnings from
 8 fund investments. Money in the fund at the close of the fiscal year
 9 shall remain in the fund and shall not lapse to the general fund.
 10 The commission shall expend money from the fund, upon
 11 appropriation, only for enforcement of the provisions of section
 12 203 and related projects.

13 (6) **ONE HUNDRED PERCENT OF THE WINE AUCTION LICENSE FEE**
 14 **IMPOSED IN SECTION <<525(1)(AA)>> SHALL BE DEPOSITED INTO THE GENERAL**
 15 **FUND.**

16 (7) ~~(6)~~—As used in this section, "license fee enhancement"
 17 means the money representing the difference between the license fee
 18 imposed for a license under section 525(1) and the additional
 19 amount imposed for resort and resort economic development licenses
 20 under section 525(2).

21 Sec. 609. Except as provided in ~~section~~ **SECTIONS 605 AND 1029,**
 22 a manufacturer, mixed spirit drink manufacturer, warehouse, ,
 23 wholesaler, outstate seller of beer, outstate seller of wine,
 24 outstate seller of mixed spirit drink, or vendor of spirits shall
 25 not aid or assist any other vendor by gift, loan of money or
 26 property of any description, or other valuable thing, or by the
 27 giving of premiums or rebates, and a vendor shall not accept the

1 same. However, if manufacturers of spirits reduce the price of
2 their products, the manufacturer of spirits may refund the amount
3 of the price reductions to specially designated distributor
4 licensees in a manner prescribed by the commission.

5 Sec. 901. (1) A person, directly or indirectly, himself or
6 herself or by his or her clerk, agent, or employee, shall not
7 manufacture, manufacture for sale, sell, offer or keep for sale,
8 barter, furnish, import, import for sale, transport for hire,
9 transport, or possess any alcoholic liquor unless the person
10 complies with this act.

11 (2) A licensee shall not allow unlawful gambling on the
12 licensed premises and shall not allow on the licensed premises any
13 gaming devices prohibited by law.

14 (3) A licensee shall not sell, offer or keep for sale,
15 furnish, possess, or allow a customer to consume alcoholic liquor
16 that is not authorized by the license issued to the licensee by the
17 commission.

18 **(4) A PERSON, WHETHER OR NOT A LICENSEE, SHALL NOT SELL,**
19 **DELIVER, OR IMPORT SPIRITS UNLESS THE SALE, DELIVERY, OR**
20 **IMPORTATION IS MADE BY THE COMMISSION, THE COMMISSION'S AUTHORIZED**
21 **AGENT OR DISTRIBUTOR, AN AUTHORIZED DISTRIBUTION AGENT CERTIFIED BY**
22 **ORDER OF THE COMMISSION, A PERSON LICENSED BY THE COMMISSION, OR BY**
23 **PRIOR WRITTEN ORDER OF THE COMMISSION. A PERSON WHO VIOLATES THIS**
24 **SUBSECTION IS SUBJECT TO THE SANCTIONS AND PENALTIES CONTAINED IN**
25 **SECTION 909(4) AND, IN THE CASE OF A VIOLATION OF SECTION**
26 **909(4)(A), IS SUBJECT TO FORFEITURE OF PROCEEDS OR AN**
27 **INSTRUMENTALITY AS PROVIDED FOR IN CHAPTER XXVA OF THE MICHIGAN**

1 PENAL CODE, 1931 PA 328, MCL 750.159F TO 750.159X.

2 (5) ~~(4)~~—A licensee shall not sell or furnish alcoholic liquor
3 to a person who maintains, operates, or leases premises that are
4 not licensed by the commission and upon which other persons
5 unlawfully engage in the sale or consumption of alcoholic liquor
6 for consideration as prohibited by section 913.

7 (6) ~~(5)~~—A retail licensee shall not, on his or her licensed
8 premises, sell, offer for sale, accept, furnish, possess, or allow
9 the consumption of alcoholic liquor that has not been purchased by
10 the retail licensee from the commission, **THE COMMISSION'S**
11 **AUTHORIZED AGENT OR DISTRIBUTOR, AN AUTHORIZED DISTRIBUTION AGENT**
12 **CERTIFIED BY ORDER OF THE COMMISSION,** or ~~from~~ a licensee of the
13 commission authorized to sell that alcoholic liquor to a retail
14 licensee. This subsection does not apply to the consumption of
15 alcoholic liquor in the bedrooms or suites of registered guests of
16 licensed hotels or in the bedrooms or suites of bona fide members
17 of licensed clubs.

18 Sec. 903. (1) The commission or any commissioner or duly
19 authorized agent of the commission designated by the chairperson of
20 the commission, upon due notice and proper hearing, may suspend or
21 revoke any license upon a violation of this act or any of the rules
22 promulgated by the commission under this act. The commission or any
23 commissioner or duly authorized agent of the commission designated
24 by the chairperson of the commission, may assess a penalty of not
25 more than \$300.00 for each violation of this act or rules
26 promulgated under this act, or not more than \$1,000.00 for each
27 violation of section 801(2), in addition to or in lieu of

1 revocation or suspension of the license, which penalty shall be
2 paid to the commission and deposited with the state treasurer and
3 shall be credited to the general fund of the state. The commission
4 shall hold a hearing and order the suspension or revocation of a
5 license if the licensee has been found liable for 3 or more
6 separate violations of section 801(2) which violations occurred on
7 different occasions within a 24-month period unless such violations
8 for the sale, furnishing, or giving alcoholic liquor to a minor
9 were discovered by the licensee and disclosed to an appropriate law
10 enforcement agency immediately upon discovery. **A RETAIL LICENSEE
11 WHO SELLS, OFFERS TO SELL, ACCEPTS, FURNISHES, POSSESSES, OR ALLOWS
12 THE CONSUMPTION OF SPIRITS IN VIOLATION OF SECTION 901(6) IS
13 SUBJECT TO AN ADMINISTRATIVE FINE OF NOT MORE THAN \$2,500.00 PER
14 OCCURRENCE AND THE FOLLOWING LICENSE SANCTIONS AFTER NOTICE AND
15 OPPORTUNITY FOR AN ADMINISTRATIVE HEARING UNDER THE ADMINISTRATIVE
16 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328:**

17 (A) FOR A FIRST VIOLATION, A LICENSE REVOCATION OR SUSPENSION
18 FOR BETWEEN 1 AND 30 DAYS.

19 (B) FOR A SECOND VIOLATION, A LICENSE REVOCATION OR SUSPENSION
20 FOR BETWEEN 31 AND 90 DAYS.

21 (C) FOR A THIRD OR SUBSEQUENT VIOLATION, REVOCATION OF THE
22 LICENSE.

23 (2) The commission shall provide a procedure by which a
24 licensee who is aggrieved by any penalty imposed under subsection
25 (1) and any suspension or revocation of a license ordered by the
26 commission, a commissioner, or a duly authorized agent of the
27 commission may request a hearing for the purpose of presenting any

1 facts or reasons to the commission as to why the penalty,
2 suspension, or revocation should be modified or rescinded. Any such
3 request shall be in writing and accompanied by a fee of \$25.00. The
4 commission, after reviewing the record made before a commissioner
5 or a duly authorized agent of the commission, may allow or refuse
6 to allow the hearing in accordance with the commission's rules. The
7 right to a hearing provided in this subsection, however, shall not
8 be interpreted by any court as curtailing, removing, or annulling
9 the right of the commission to suspend or revoke licenses as
10 provided for in this act. A licensee does not have a right of
11 appeal from the final determination of the commission, except by
12 leave of the circuit court. Notice of the order of suspension or
13 revocation of a license or of the assessment of a penalty, or both,
14 shall be given in the manner prescribed by the commission. The
15 suspension or revocation of a license or the assessment of a
16 penalty, or both, by the commission or a duly authorized agent of
17 the commission does not prohibit the institution of a criminal
18 prosecution for a violation of this act. The institution of a
19 criminal prosecution for a violation of this act or the acquittal
20 or conviction of a person for a violation of this act does not
21 prevent the suspension or revocation of a license or the assessment
22 of a penalty, or both, by the commission. In a hearing for the
23 suspension or revocation of a license issued under this act, proof
24 that the defendant licensee or an agent or employee of the licensee
25 demanded and was shown, before furnishing any alcoholic liquor to a
26 minor, a motor vehicle operator or chauffeur license or a
27 registration certificate issued by the federal selective service,

1 or other bona fide documentary evidence of majority and identity of
2 the person, may be offered as evidence in a defense to a proceeding
3 for the suspension or revocation of a license issued under this
4 act. A licensee who has reason to believe that a minor has used
5 fraudulent identification to purchase alcoholic liquor in violation
6 of section 703 shall file a police report concerning the violation
7 with a local law enforcement agency and shall also present the
8 alleged fraudulent identification to the local law enforcement
9 agency at the time of filing the report if the identification is in
10 the possession of the licensee. The commission may promulgate rules
11 pursuant to the administrative procedures act of 1969, 1969 PA 306,
12 MCL 24.201 to 24.328, regarding the utilization by licensees of
13 equipment designed to detect altered or forged driver licenses,
14 state identification cards, and other forms of identification.

15 (3) In addition to the hearing commissioners provided for in
16 section 209, the chairperson of the commission may designate not
17 more than 2 duly authorized agents to hear violation cases. A
18 person appointed under this subsection shall be a member in good
19 standing of the state bar of Michigan.

20 (4) A duly authorized agent who has been designated by the
21 chairperson pursuant to subsection (3) shall have, in the hearing
22 of violation cases, the same authority and responsibility as does a
23 hearing commissioner under this act and the rules promulgated under
24 this act.

25 (5) A duly authorized agent who has been designated by the
26 chairperson pursuant to subsection (3) shall be ineligible for
27 appointment to the commission for a period of 1 year after the

1 person ceases to serve as a duly authorized agent.

2 Sec. 909. (1) Except as otherwise provided in this act, a
3 person, other than a person required to be licensed under this act,
4 who violates this act is guilty of a misdemeanor.

5 (2) Except as otherwise provided in this act, a licensee who
6 violates this act, or a rule or regulation promulgated under this
7 act, is guilty of a misdemeanor punishable by imprisonment for not
8 more than 6 months or a fine of not more than \$500.00, or both.

9 (3) A person who performs any act for which a license is
10 required under this act without first obtaining that license or who
11 sells alcoholic liquor in a county that has prohibited the sale of
12 alcoholic liquor under section 1107 is guilty of a felony
13 punishable by imprisonment for not more than 1 year or by a fine of
14 not more than \$1,000.00, or both.

15 **(4) A PERSON, WHETHER OR NOT A LICENSEE, WHO VIOLATES SECTION**
16 **901(4) IS SUBJECT TO THE FOLLOWING PENALTIES OR SANCTIONS:**

17 **(A) A PERSON WHO SELLS, DELIVERS, OR IMPORTS SPIRITS IN**
18 **VIOLATION OF SECTION 901(4) IN THE AMOUNT OF AT LEAST 80,000**
19 **MILLILITERS IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR**
20 **NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR**
21 **BOTH.**

22 **(B) A PERSON WHO SELLS, DELIVERS, OR IMPORTS SPIRITS IN**
23 **VIOLATION OF SECTION 901(4) IN THE AMOUNT OF AT LEAST 8,000**
24 **MILLILITERS BUT LESS THAN 80,000 MILLILITERS IS GUILTY OF A**
25 **MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR**
26 **A FINE OF NOT MORE THAN \$2,500.00, OR BOTH.**

27 **(C) A PERSON WHO SELLS, DELIVERS, OR IMPORTS SPIRITS IN**

1 VIOLATION OF SECTION 901(4) IN THE AMOUNT OF LESS THAN 8,000
2 MILLILITERS IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE
3 ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$1,000.00.

4 (5) THE REMEDIES UNDER THIS ACT ARE CUMULATIVE AND
5 INDEPENDENT. THE USE OF 1 REMEDY BY A PERSON DOES NOT BAR THE USE
6 OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL
7 REMEDY BY ANOTHER PERSON.

8 (6) ~~(4)~~—It is the intent of the legislature that the court, in
9 imposing punishment under this section, should discriminate between
10 casual or slight violations and habitual sales of alcoholic liquor
11 or attempts to commercialize violations of this act or the rules or
12 regulations promulgated under this act.

13 Sec. 1027. (1) Unless otherwise provided by rule of the
14 commission, a person shall not conduct samplings or tastings of any
15 alcoholic liquor for a commercial purpose except at premises that
16 are licensed by the commission for the sale and consumption of
17 alcoholic liquor on the premises.

18 (2) This section does not prevent either of the following:

19 (a) A vendor of spirits, brewer, wine maker, mixed spirit
20 drink manufacturer, small wine maker, outstate seller of beer,
21 outstate seller of wine, or outstate seller of mixed spirit drink,
22 or a bona fide market research organization retained by 1 of the
23 persons named in this subsection, from conducting samplings or
24 tastings of an alcoholic liquor product before it is approved for
25 sale in this state if the sampling or tasting is conducted pursuant
26 to prior written approval of the commission.

27 (b) An on-premises licensee from giving a sampling or tasting

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1 of alcoholic liquor to an employee of the licensee during the legal
2 hours for consumption for the purpose of educating the employee
3 regarding 1 or more types of alcoholic liquor so long as the
4 employee is at least 21 years of age.

5 (c) A small distiller licensee from giving a sampling or
6 tasting of brands it manufactures on the licensed premises.

7 (3) A VENDOR OF SPIRITS OR A MANUFACTURER MAY CONDUCT A
8 CONSUMER SAMPLING EVENT ON THE PREMISES OF A HOLDER OF A SPECIALLY
9 DESIGNATED DISTRIBUTOR LICENSE UPON SUBMISSION OF A COMPLETED
10 APPLICATION TO THE COMMISSION <<

11 .>>

12 (4) THE HOLDER OF THE CONSUMER SAMPLING EVENT LICENSE SHALL
13 COMPLY WITH THE FOLLOWING:

14 (A) THE COMMISSION MUST BE NOTIFIED IN WRITING A MINIMUM OF 10
15 WORKING DAYS PRIOR TO THE EVENT WITH THE DATE, TIME, AND LOCATION
16 OF THE EVENT.

17 [(B) THE CONSUMER SAMPLING EVENT IS LIMITED TO 3 EVENTS PER VENDOR
18 OF SPIRITS OR MANUFACTURER PER SPECIALLY DESIGNATED DISTRIBUTOR LICENSE
19 PER MONTH.]

20 (C) THE VENDOR OF SPIRITS OR MANUFACTURER CONDUCTING THE
21 CONSUMER SAMPLING EVENT MUST HAVE A LICENSED REPRESENTATIVE PRESENT
22 AT THE SPECIALLY DESIGNATED DISTRIBUTOR'S ESTABLISHMENT.

23 (D) LICENSED REPRESENTATIVES OR AN AUTHORIZED REPRESENTATIVE
24 MAY DISTRIBUTE MERCHANDISE, NOT TO EXCEED \$100.00 IN VALUE, TO
25 CONSUMERS 21 YEARS OF AGE OR OLDER DURING THE EVENT.

26 (E) PARTICIPATING SPECIALLY DESIGNATED DISTRIBUTOR LICENSEES
27 DO NOT RECEIVE ANY FEE OR OTHER VALUABLE CONSIDERATION FOR
PARTICIPATING IN THE EVENT.

1 (F) EACH CONSUMER IS LIMITED TO 3 SAMPLES, WHICH TOTAL NO MORE
2 THAN 1/3 OUNCE OF DISTILLED SPIRITS PER SERVING.

3 (G) THE CONSUMER IS NOT CHARGED FOR AND DOES NOT PURCHASE ANY
4 SAMPLE.

5 (H) THE ALCOHOLIC LIQUOR USED IN THE CONSUMER SAMPLING EVENT
6 IS PROVIDED BY THE VENDOR OF SPIRITS OR MANUFACTURER, AND PURCHASED
7 AT THE MINIMUM RETAIL SELLING PRICE FIXED BY THE COMMISSION FROM
8 THE SPECIALLY DESIGNATED DISTRIBUTOR ON WHOSE PREMISES THE EVENT IS
9 LOCATED. THE VENDOR OF SPIRITS OR MANUFACTURER SHALL REMOVE ANY
10 UNFINISHED PRODUCT FROM THE PREMISES AT WHICH THE EVENT IS HELD
11 UPON COMPLETION OF THE EVENT.

12 (I) A CONSUMER SAMPLING EVENT SHALL NOT BE ALLOWED WHEN THE
13 SALE OF ALCOHOLIC LIQUOR IS OTHERWISE PROHIBITED ON THE PREMISES AT
14 WHICH THE EVENT IS CONDUCTED.

15 (J) SAMPLES ARE NOT TO BE OFFERED TO, OR ALLOWED TO BE
16 CONSUMED BY, ANY PERSON UNDER THE LEGAL AGE FOR CONSUMING ALCOHOLIC
17 LIQUOR.

18 (K) A CONSUMER SAMPLING EVENT MAY BE ADVERTISED IN ANY TYPE OF
19 MEDIA AND THE ADVERTISEMENTS MAY INCLUDE THE DATE, TIME, LOCATION,
20 AND OTHER INFORMATION REGARDING THE EVENT.

21 (L) THE PARTICIPATING VENDOR OF SPIRITS OR MANUFACTURER AND
22 SPECIALLY DESIGNATED DISTRIBUTOR LICENSEES MUST COMPLY WITH THIS
23 ACT AND COMMISSION RULES.

24 (M) THE VENDOR OF SPIRITS OR MANUFACTURER MUST DEMONSTRATE
25 THAT THE INDIVIDUAL ACTUALLY CONDUCTING THE SAMPLING HAS
26 SUCCESSFULLY COMPLETED THE SERVER TRAINING PROGRAM IN THE MANNER
27 PROVIDED FOR IN SECTION 906 AND RULES PROMULGATED BY THE

1 COMMISSION.

2 (5) VIOLATION OF THIS SUBSECTION SUBJECTS THE VENDOR OF
3 SPIRITS OR MANUFACTURER TO THE SANCTIONS AND PENALTIES AS PROVIDED
4 FOR UNDER THIS ACT.

5 (6) THE COMMISSION, BY RULE OR ISSUANCE OF AN ORDER, MAY
6 FURTHER DEFINE ELIGIBILITY FOR LICENSURE AND PROCESSES FOR
7 CONDUCTING CONSUMER SAMPLING EVENTS.

8 (7) ~~(3)~~—A sampling or tasting of any alcoholic liquor in a
9 home or domicile for other than a commercial purpose is not subject
10 to this section.

11 (8) ~~(4)~~—For purposes of this section, "commercial purpose"
12 means a purpose for which monetary gain or other remuneration could
13 reasonably be expected.

14 SEC. 1029. (1) THE COMMISSION, BY PROMULGATION OF A RULE,
15 ISSUANCE OF AN ORDER, OR EXECUTION OF A MEMORANDUM OF UNDERSTANDING
16 WITH THE DEPARTMENT OF TREASURY, OR ANY COMBINATION THEREOF, MAY
17 ALLOW THE CONDUCT BY A MANUFACTURER OR OUT-STATE SELLER OF SPIRITS
18 OF A PREAPPROVED PROGRAM FOR MARKETING SPIRITS BY INCLUSION OF
19 NONALCOHOLIC CARBONATED BEVERAGES TO BE PACKAGED WITH SPIRITS. THE
20 COMMISSION MAY, IN CONJUNCTION WITH THE DEPARTMENT OF TREASURY,
21 ADOPT A PROGRAM THAT DISALLOWS THE REDEMPTION OF RETURNABLE
22 CONTAINERS FROM THE COMMISSION BUT OTHERWISE ALLOWS REDEMPTION OF
23 MICHIGAN-SOLD RETURNABLE CONTAINERS AT OTHER VENUES, AND SHALL
24 ALLOW FOR A SYSTEM OF APPROPRIATE ALLOCATION OF FUNDS UNDER 1976 IL
25 1, MCL 445.571 TO 445.576, BY MEANS OF THE ISSUANCE OF AN ORDER OR
26 BY ADOPTION OF A RULE.

27 (2) THE COMMISSION SHALL PROVIDE FOR A SYSTEM OF NON-MAIL-IN

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1 OR INSTANT COUPON TRANSACTIONS THAT DOES NOT DIMINISH THE SPIRIT
2 PRODUCT MARGINS ALLOCATED TO THE STATE UNDER THIS ACT BY MEANS OF
3 THE ISSUANCE OF AN ORDER OR BY ADOPTION OF A RULE.

4 SEC. 1031. (1) AS USED IN THIS SECTION, "WINE AUCTION LICENSE"
5 MEANS A LICENSE ISSUED BY THE COMMISSION TO SELL WINE BY AUCTION,
6 SUBJECT TO THE FOLLOWING:

7 (A) THE WINE IS SOLD THROUGH AN AUCTION BY A PERSON LICENSED
8 AS A SPECIALLY DESIGNATED MERCHANT OR THROUGH A SELLER PARTNERING
9 WITH A SPECIALLY DESIGNATED MERCHANT, AS EVIDENCED BY A WRITTEN
10 AGREEMENT OF THE PARTIES.

11 (B) THE OWNER OF THE WINE IS NOT LICENSED UNDER THIS ACT.

12 (C) THE WINE IS PART OF A PRIVATE COLLECTION OWNED BY A PERSON
13 NOT LICENSED UNDER THIS ACT.

14 (D) THE SPECIALLY DESIGNATED MERCHANT ENSURES THAT EACH BOTTLE
15 SOLD FROM THE PRIVATE COLLECTION HAS A PERMANENTLY AFFIXED TAG OR
16 LABEL STATING THAT THE WINE WAS ACQUIRED FROM A PRIVATE COLLECTION.

17 (2) UPON SUBMISSION OF A COMPLETED APPLICATION AND THE LICENSE
18 FEE DESCRIBED IN SECTION <<525(1)(AA)>>, THE COMMISSION SHALL ISSUE A
19 WINE AUCTION LICENSE TO A PERSON LICENSED AS A SPECIALLY DESIGNATED
20 MERCHANT, OR A SELLER PARTNERING WITH A SPECIALLY DESIGNATED
21 MERCHANT, WHO IS ARRANGING FOR THE SALE OF WINE BY AN OWNER THAT IS
22 NOT LICENSED UNDER THIS ACT. THE COMMISSION SHALL ISSUE THE LICENSE
23 FOR A TERM OF 1 YEAR. THE LICENSE ALLOWS THE LICENSEE TO HOLD NOT
24 MORE THAN 12 AUCTIONS PER LICENSE YEAR.

25 (3) THE LICENSE RESTRICTIONS AS PRESCRIBED UNDER THIS SECTION
26 AND UNDER THIS ACT ARE IN ADDITION TO THOSE REQUIREMENTS AND
27 PRESCRIPTIONS IMPOSED BY ANY LOCAL LAW OR ORDINANCE, OR RESOLUTION

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1 OF THE LOCAL UNIT OF GOVERNMENT.

2 (4) THE HOLDER OF THE WINE AUCTION LICENSE IS RESPONSIBLE FOR
3 THE PAYMENT OF ANY APPLICABLE SALES OR EXCISE TAXES REGARDING THE
4 SALE OF THE WINE BY AUCTION.

5 (5) THE HOLDER OF THE WINE AUCTION LICENSE IS RESPONSIBLE FOR
6 THE DELIVERY, STORING, AND WAREHOUSING OF THE WINE OFFERED FOR SALE
7 AND FOR THE DELIVERY OF THE WINE TO THE PURCHASERS.

8 (6) A PERSON LICENSED TO SELL WINE AT WHOLESALE OR RETAIL MAY
9 PURCHASE ANY WINE OFFERED AT AN AUCTION UNDER THIS SECTION AND MAY
10 RESELL THAT WINE IN ACCORDANCE WITH THE TERMS OF HIS OR HER
11 LICENSE, SO LONG AS THE TAG OR LABEL REMAINS PERMANENTLY AFFIXED TO
12 THE BOTTLE UPON SALE.

13 (7) THE SALE AND RESALE OF WINE PURCHASED AT AUCTION IS
14 SUBJECT TO THIS ACT AND ANY RULES OF THE COMMISSION PROMULGATED
15 UNDER THIS ACT.

16 (8) A PERSON HOLDING A WINE AUCTION LICENSE IS NOT REQUIRED TO
17 DEMONSTRATE COMPLIANCE WITH THE <<REGISTRATION>> REQUIREMENTS OF
18 29 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2901 TO 339.2919.

19 Enacting section 1. This amendatory act does not take effect
20 unless House Bill No. 6427 of the 95th Legislature is enacted into
21 law.