

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1088

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 203 (MCL 436.1203), as amended by 2014 PA 50.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

9 (2) Notwithstanding R 436.1011(7)(b) and R 436.1527 of the

1 Michigan ~~administrative code~~ **ADMINISTRATIVE CODE** and except as
2 provided in ~~subsection (11)~~, **SUBSECTIONS (3), (12), (13), (14),**
3 **(15), AND (16)**, a retailer shall not deliver alcoholic liquor to a
4 consumer in this state at the home or business of the consumer or
5 at any location away from the licensed premises of the retailer.
6 The purpose of this subsection is to exercise ~~the state of~~
7 ~~Michigan's~~ **THIS STATE'S** authority under section 2 of amendment XXI
8 of the constitution of the United States, to maintain the inherent
9 police powers to regulate the transportation and delivery of
10 alcoholic liquor, and to promote a transparent system for the
11 transportation and delivery of alcoholic liquor. The regulation
12 described in this subsection is considered necessary for both of
13 the following reasons:

14 (a) To promote the public health, safety, and welfare.

15 (b) To maintain strong, stable, and effective regulation by
16 having beer and wine sold by retailers to consumers in this state
17 by passing through the 3-tier distribution system established under
18 this act.

19 **(3) FOR PURPOSES OF SUBSECTION (1), A RETAILER THAT HOLDS A**
20 **SPECIALLY DESIGNATED MERCHANT LICENSE LOCATED IN THIS STATE MAY USE**
21 **A COMMON CARRIER TO DELIVER WINE TO A CONSUMER IN THIS STATE. A**
22 **RETAILER THAT USES A COMMON CARRIER TO DELIVER WINE TO A CONSUMER**
23 **UNDER THIS SUBSECTION SHALL COMPLY WITH ALL OF THE FOLLOWING:**

24 **(A) PAY ANY APPLICABLE TAXES TO THE COMMISSION AND PAY ANY**
25 **APPLICABLE TAXES TO THE DEPARTMENT OF TREASURY AS DIRECTED BY THE**
26 **DEPARTMENT OF TREASURY. ON THE REQUEST OF THE DEPARTMENT OF**
27 **TREASURY, A RETAILER SHALL FURNISH AN AFFIDAVIT TO VERIFY PAYMENT.**

1 (B) COMPLY WITH ALL LAWS OF THIS STATE, INCLUDING, BUT NOT
2 LIMITED TO, THE PROHIBITION ON SALES TO MINORS.

3 (C) VERIFY THE AGE OF THE INDIVIDUAL PLACING THE ORDER BY
4 OBTAINING FROM HIM OR HER A COPY OF A PHOTO IDENTIFICATION ISSUED
5 BY THIS STATE, ANOTHER STATE, OR THE FEDERAL GOVERNMENT OR BY USING
6 AN IDENTIFICATION VERIFICATION SERVICE. THE PERSON RECEIVING AND
7 ACCEPTING THE ORDER ON BEHALF OF THE RETAILER SHALL RECORD THE
8 NAME, ADDRESS, DATE OF BIRTH, AND TELEPHONE NUMBER OF THE
9 INDIVIDUAL PLACING THE ORDER ON THE ORDER FORM OR OTHER VERIFIABLE
10 RECORD OF A TYPE AND GENERATED IN A MANNER APPROVED BY THE
11 COMMISSION AND PROVIDE A DUPLICATE TO THE COMMISSION.

12 (D) ON REQUEST OF THE COMMISSION, MAKE AVAILABLE TO THE
13 COMMISSION ANY DOCUMENT USED TO VERIFY THE AGE OF THE INDIVIDUAL
14 ORDERING OR RECEIVING THE WINE FROM THE RETAILER.

15 (E) STAMP, PRINT, OR LABEL ON THE OUTSIDE OF THE SHIPPING
16 CONTAINER THAT THE PACKAGE "CONTAINS ALCOHOL. MUST BE DELIVERED TO
17 A PERSON 21 YEARS OF AGE OR OLDER". THE RECIPIENT AT THE TIME OF
18 THE DELIVERY SHALL PROVIDE IDENTIFICATION VERIFYING HIS OR HER AGE
19 AND SIGN FOR THE DELIVERY.

20 (F) PLACE A LABEL ON THE TOP PANEL OF THE SHIPPING CONTAINER
21 CONTAINING THE NAME AND ADDRESS OF THE INDIVIDUAL PLACING THE ORDER
22 AND THE NAME OF THE DESIGNATED RECIPIENT IF DIFFERENT FROM THE NAME
23 OF THE INDIVIDUAL PLACING THE ORDER.

24 (4) ~~(3)~~—For purposes of subsection (1), a direct shipper may
25 sell, deliver, or import wine ~~—~~to consumers in this state by means
26 of any mail order, internet, telephone, computer, device, or other
27 electronic means, or sell directly to a consumer on the winery

1 premises. A direct shipper that sells, delivers, or imports wine to
2 a consumer under this subsection shall comply with all of the
3 following:

4 (a) Hold a direct shipper license.

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

10 (c) Comply with all ~~prohibitions of the laws of this state,~~
11 including, but not limited to, **THE PROHIBITION ON** sales to minors.

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

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

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

1 her age ~~along with a signature.~~ **AND SIGN FOR THE DELIVERY.**

2 (g) Place a label on the top panel of the shipping container
3 containing ~~the direct shipper license number, the order number,~~ the
4 name and address of the individual placing the order, and the name
5 of the designated recipient if different from the name of the
6 individual placing the order. **THE DIRECT SHIPPER MUST HAVE RECEIVED**
7 **A REGISTRATION NUMBER OF APPROVAL FROM THE COMMISSION FOR ANY WINE**
8 **IMPORTED INTO THIS STATE. HOWEVER, THE REGISTRATION NUMBER OF**
9 **APPROVAL FROM THE COMMISSION IS NOT REQUIRED TO BE ON THE INVOICE**
10 **OR ON THE LABEL OF THE WINE THAT THE DIRECT SHIPPER SELLS,**
11 **DELIVERS, OR IMPORTS TO A CONSUMER IN THIS STATE.**

12 (h) Direct ship not more than 1,500 9-liter cases, or 13,500
13 liters in total, of wine in a calendar year to consumers in this
14 state. If a direct shipper, whether located in this state or
15 outside this state, owns, in whole or in part, or commonly manages
16 1 or more direct shippers, it shall not in combination ship to
17 consumers in this state more than 13,500 liters of wine in the
18 aggregate.

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

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

25 (k) Consent and submit to the jurisdiction of the commission,
26 the department of treasury, and the courts of this state concerning
27 enforcement of this section and any related laws, rules, and

1 regulations.

2 (5) ~~(4) Notwithstanding subsection (3), in the case of~~ **FOR A**
 3 **DELIVERY OF WINE THROUGH THE USE OF A COMMON CARRIER UNDER**
 4 **SUBSECTION (3), A PERSON TAKING THE ORDER ON BEHALF OF THE RETAILER**
 5 **SHALL COMPLY WITH SUBSECTION (3) (B) TO (F).** FOR a sale, delivery,
 6 or importation of alcoholic liquor ~~WINE~~ occurring by any means
 7 described in subsection ~~(3),~~ **(4)**, a person taking the order on
 8 behalf of the direct shipper shall comply with subsection ~~(3)(e)~~
 9 ~~through~~ **(4) (C) TO (g)**.

10 (6) ~~(5)~~ A person that delivers the wine for a direct shipper
 11 under this section shall verify that the individual accepting
 12 delivery is 21 years of age or older and is the individual who
 13 placed the order or the designated recipient, is an individual 21
 14 years of age or older currently occupying or present at the
 15 address, or is an individual otherwise authorized through a rule
 16 promulgated under this act by the commission to receive alcoholic
 17 liquor under this section. If the delivery person, after a diligent
 18 inquiry, determines that the purchaser or designated recipient is
 19 not 21 years **OF** age or older, the delivery person shall return the
 20 wine to the direct shipper. A delivery person who returns wine to
 21 the direct shipper because the purchaser or designated recipient is
 22 not 21 years of age or older is not liable for any damages suffered
 23 by the purchaser or direct shipper.

24 (7) ~~(6)~~ All spirits for sale, use, storage, or distribution in
 25 this state ~~,~~ shall originally be purchased by and imported into the
 26 state by the commission, or by prior written authority of the
 27 commission.

1 (8) ~~(7)~~—This section does not apply to alcoholic liquor
2 brought into this state for personal or household use in an amount
3 permitted by federal law by an individual 21 years of age or older
4 at the time of reentry into this state from without the territorial
5 limits of the United States if the individual has been outside the
6 territorial limits of the United States for more than 48 hours and
7 has not brought alcoholic liquor into the United States during the
8 preceding 30 days.

9 (9) ~~(8)~~—An individual 21 years of age or older may do either
10 of the following in relation to alcoholic liquor that contains less
11 than 21% alcohol by volume:

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

15 (b) Ship or import from another state alcoholic liquor for
16 that individual's personal use if that personal importation is done
17 in compliance with subsection (1).

18 (10) ~~(9)~~—A direct shipper shall not sell, deliver, or import
19 wine to a consumer unless it applies for and is granted a direct
20 shipper license from the commission. This subsection does not
21 prohibit wine tasting or the selling at retail by a wine maker of
22 wines he or she produced and bottled or wine manufactured for that
23 wine maker by another wine maker, if done in compliance with this
24 act. Only the following persons qualify for the issuance of a
25 direct shipper license:

26 (a) A wine maker.

27 (b) A wine producer and bottler located inside this country

1 but outside of this state holding both a federal basic permit
 2 issued by the ~~alcohol and tobacco tax and trade bureau~~ **ALCOHOL AND**
 3 **TOBACCO TAX AND TRADE BUREAU OF THE UNITED STATES DEPARTMENT OF**
 4 **TREASURY** and a license to manufacture wine in its state of
 5 domicile.

6 (11) ~~(10)~~ An applicant for a direct shipper license shall
 7 submit an application to the commission in a written or electronic
 8 format provided by the commission and accompanied by an application
 9 and initial license fee of \$100.00. The application shall ~~shall~~ **MUST** be
 10 accompanied by a copy or other evidence of the existing federal
 11 basic permit or license, or both, held by the applicant. The direct
 12 shipper may renew its license annually by submission of a license
 13 renewal fee of \$100.00 and a completed renewal application. The
 14 commission shall use the fees collected under this section to
 15 conduct investigations and audits of direct shippers. The failure
 16 to renew, or the revocation or suspension of, the applicant's
 17 existing Michigan license, federal basic permit, or license to
 18 manufacture wine in its state of domicile is grounds for revocation
 19 or denial of the direct shipper license. If a direct shipper is
 20 found guilty of violating this act or a rule promulgated by the
 21 commission, the commission shall notify both the alcoholic liquor
 22 control agency in the direct shipper's state of domicile and the
 23 ~~alcohol and tobacco tax and trade bureau~~ **ALCOHOL AND TOBACCO TAX**
 24 **AND TRADE BUREAU** of the United States ~~department of treasury~~
 25 **DEPARTMENT OF TREASURY** of the violation.

26 (12) ~~(11) Except as otherwise provided under subsection (12),~~
 27 ~~a~~ **A** retailer that holds a specially designated merchant license, ~~in~~

1 ~~this state, an out of state retailer that holds its state's~~
2 ~~substantial equivalent license, or a brewpub, A~~ micro brewer, or an
3 out-of-state entity that is the substantial equivalent of a brewpub
4 or micro brewer may deliver beer and wine to the home or other
5 designated location of a consumer in this state if all of the
6 following conditions are met:

7 (a) The beer or wine, or both, is delivered by the retailer's,
8 brewpub's, or micro brewer's employee. ~~and not by an agent or by a~~
9 ~~third party delivery service.~~

10 (b) The retailer, brewpub, or micro brewer or its employee who
11 delivers the beer or wine, or both, verifies that the individual
12 accepting delivery is at least 21 years of age.

13 (c) If the retailer, brewpub, or micro brewer or its employee
14 intends to provide service to consumers, the retailer, brewpub, or
15 micro brewer or its employee providing the service has received
16 alcohol server training through a server training program approved
17 by the commission.

18 (13) ~~(12)~~ A retailer that holds a specially designated
19 merchant license ~~in this state or an out of state retailer that~~
20 ~~holds its state's substantial equivalent license may utilize~~ **USE** a
21 third party that provides delivery service to municipalities in
22 this state that are surrounded by water and inaccessible by motor
23 vehicle to deliver beer and wine to the home or other designated
24 location of that consumer if the delivery service is approved by
25 the commission and agrees to verify that the individual accepting
26 delivery of the beer and wine is at least 21 years of age.

27 (14) **A RETAILER THAT HOLDS A SPECIALLY DESIGNATED DISTRIBUTOR**

1 LICENSE MAY DELIVER SPIRITS TO THE HOME OR OTHER DESIGNATED
2 LOCATION OF A CONSUMER IN THIS STATE IF ALL OF THE FOLLOWING
3 CONDITIONS ARE MET:

4 (A) THE SPIRITS ARE DELIVERED BY THE RETAILER'S EMPLOYEE.

5 (B) THE RETAILER OR ITS EMPLOYEE WHO DELIVERS THE SPIRITS
6 VERIFIES THAT THE INDIVIDUAL ACCEPTING DELIVERY IS AT LEAST 21
7 YEARS OF AGE.

8 (C) IF THE RETAILER OR ITS EMPLOYEE INTENDS TO PROVIDE SERVICE
9 TO CONSUMERS, THE RETAILER OR ITS EMPLOYEE PROVIDING THE SERVICE
10 HAS RECEIVED ALCOHOL SERVER TRAINING THROUGH A SERVER TRAINING
11 PROGRAM APPROVED BY THE COMMISSION.

12 (15) A RETAILER THAT HOLDS A SPECIALLY DESIGNATED MERCHANT
13 LICENSE LOCATED IN THIS STATE MAY USE A THIRD PARTY FACILITATOR
14 SERVICE BY MEANS OF THE INTERNET OR MOBILE APPLICATION TO
15 FACILITATE THE SALE OF BEER OR WINE TO BE DELIVERED TO THE HOME OR
16 DESIGNATED LOCATION OF A CONSUMER AS PROVIDED IN SUBSECTION (12) OR
17 THIS SUBSECTION, AND A THIRD PARTY FACILITATOR SERVICE MAY DELIVER
18 BEER OR WINE TO A CONSUMER ON BEHALF OF A RETAILER THAT HOLDS A
19 SPECIALLY DESIGNATED MERCHANT LICENSE LOCATED IN THIS STATE, IF ALL
20 OF THE FOLLOWING CONDITIONS ARE MET:

21 (A) IF THE THIRD PARTY FACILITATOR SERVICE DELIVERS BEER OR
22 WINE UNDER THIS SUBSECTION, THE THIRD PARTY FACILITATOR SERVICE
23 VERIFIES THAT THE INDIVIDUAL ACCEPTING THE DELIVERY OF THE BEER OR
24 WINE IS AT LEAST 21 YEARS OF AGE.

25 (B) A MANUFACTURER, WAREHOUSER, WHOLESALER, OUTSTATE SELLER OF
26 BEER, OUTSTATE SELLER OF WINE, SUPPLIER OF SPIRITS, OR OUTSTATE
27 SELLER OF MIXED SPIRIT DRINKS DOES NOT HAVE A DIRECT OR INDIRECT

1 INTEREST IN THE THIRD PARTY FACILITATOR SERVICE.

2 (C) A MANUFACTURER, WAREHOUSER, WHOLESALER, OUTSTATE SELLER OF
3 BEER, OUTSTATE SELLER OF WINE, SUPPLIER OF SPIRITS, OR OUTSTATE
4 SELLER OF MIXED SPIRIT DRINKS DOES NOT AID OR ASSIST A THIRD PARTY
5 FACILITATOR SERVICE BY GIFT, LOAN OF MONEY OR PROPERTY OF ANY
6 DESCRIPTION, OR OTHER VALUABLE THING AS DEFINED IN SECTION 609, AND
7 A THIRD PARTY FACILITATOR SERVICE DOES NOT ACCEPT THE SAME.

8 (D) THE RETAILER OR CONSUMER PAYS THE FEES ASSOCIATED WITH
9 DELIVERIES PROVIDED FOR UNDER THIS SUBSECTION.

10 (E) THE THIRD PARTY FACILITATOR SERVICE OFFERS SERVICES FOR
11 ALL BRANDS AVAILABLE AT THE RETAIL LOCATION.

12 (16) A RETAILER THAT HOLDS A SPECIALLY DESIGNATED DISTRIBUTOR
13 LICENSE LOCATED IN THIS STATE MAY USE A THIRD PARTY FACILITATOR
14 SERVICE BY MEANS OF THE INTERNET OR MOBILE APPLICATION TO
15 FACILITATE THE SALE OF SPIRITS TO BE DELIVERED TO THE HOME OR
16 DESIGNATED LOCATION OF A CONSUMER AS PROVIDED IN SUBSECTION (14) OR
17 THIS SUBSECTION, AND A THIRD PARTY FACILITATOR SERVICE MAY DELIVER
18 SPIRITS TO A CONSUMER ON BEHALF OF A RETAILER THAT HOLDS A
19 SPECIALLY DESIGNATED DISTRIBUTOR LICENSE LOCATED IN THIS STATE, IF
20 ALL OF THE FOLLOWING CONDITIONS ARE MET:

21 (A) IF THE THIRD PARTY FACILITATOR SERVICE DELIVERS SPIRITS
22 UNDER THIS SUBSECTION, THE THIRD PARTY FACILITATOR SERVICE VERIFIES
23 THAT THE INDIVIDUAL ACCEPTING THE DELIVERY OF THE SPIRITS IS AT
24 LEAST 21 YEARS OF AGE.

25 (B) A MANUFACTURER, WAREHOUSER, WHOLESALER, OUTSTATE SELLER OF
26 BEER, OUTSTATE SELLER OF WINE, SUPPLIER OF SPIRITS, OR OUTSTATE
27 SELLER OF MIXED SPIRIT DRINKS DOES NOT HAVE A DIRECT OR INDIRECT

1 INTEREST IN THE THIRD PARTY FACILITATOR SERVICE.

2 (C) A MANUFACTURER, WAREHOUSER, WHOLESALER, OUTSTATE SELLER OF
3 BEER, OUTSTATE SELLER OF WINE, SUPPLIER OF SPIRITS, OR OUTSTATE
4 SELLER OF MIXED SPIRIT DRINKS DOES NOT AID OR ASSIST A THIRD PARTY
5 FACILITATOR SERVICE BY GIFT, LOAN OF MONEY OR PROPERTY OF ANY
6 DESCRIPTION, OR OTHER VALUABLE THING AS DEFINED IN SECTION 609, AND
7 A THIRD PARTY FACILITATOR SERVICE DOES NOT ACCEPT THE SAME.

8 (D) THE RETAILER OR CONSUMER PAYS THE FEES ASSOCIATED WITH
9 DELIVERIES PROVIDED FOR UNDER THIS SUBSECTION.

10 (E) THE THIRD PARTY FACILITATOR SERVICE OFFERS SERVICES FOR
11 ALL BRANDS AVAILABLE AT THE RETAIL LOCATION.

12 (17) A THIRD PARTY FACILITATOR SERVICE SHALL NOT DELIVER BEER,
13 WINE, OR SPIRITS TO A CONSUMER UNDER SUBSECTION (15) OR (16), AS
14 APPLICABLE, AND SHALL NOT FACILITATE THE SALE OF BEER, WINE, OR
15 SPIRITS UNDER SUBSECTION (15) OR (16), AS APPLICABLE, UNLESS IT
16 APPLIES FOR AND IS GRANTED A THIRD PARTY FACILITATOR SERVICE
17 LICENSE BY THE COMMISSION. THE COMMISSION MAY CHARGE A REASONABLE
18 APPLICATION FEE, INITIAL LICENSE FEE, AND ANNUAL LICENSE RENEWAL
19 FEE. THE COMMISSION SHALL ESTABLISH A FEE UNDER THIS SUBSECTION BY
20 WRITTEN ORDER.

21 (18) IF A THIRD PARTY FACILITATOR SERVICE USED BY A RETAILER
22 THAT HOLDS A SPECIALLY DESIGNATED MERCHANT OR SPECIALLY DESIGNATED
23 DISTRIBUTOR LICENSE UNDER SUBSECTION (15) OR (16), AS APPLICABLE,
24 VIOLATES THIS SECTION, THE COMMISSION SHALL NOT TREAT THE THIRD
25 PARTY FACILITATOR SERVICE'S VIOLATION AS A VIOLATION BY THE
26 RETAILER.

27 (19) ~~(13)~~ For purposes of subsection (1), a qualified micro

1 brewer or an out-of-state entity that is the substantial equivalent
2 of a qualified micro brewer may sell and deliver beer to a retailer
3 in this state if all of the following conditions are met:

4 (a) The retailer is not located in a sales territory for which
5 the qualified micro brewer has granted exclusive sales rights to a
6 wholesaler ~~pursuant to~~ **UNDER** sections 401 and 403 for the sale of
7 any brand or brands of beer produced by that micro brewer.

8 (b) The beer is sold and delivered by an employee of the
9 qualified micro brewer, not an agent, and is transported and
10 delivered ~~utilizing~~ **USING** a vehicle owned by the qualified micro
11 brewer, ~~not by a third party delivery service.~~

12 (c) The qualified micro brewer is in compliance with
13 applicable state and federal law and applicable regulatory
14 provisions of this act and rules adopted by the commission under
15 this act including, but not limited to, those requirements related
16 to each of the following:

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

18 (ii) Vehicles used to deliver beer to retailers.

19 (iii) Price schedules and temporary price reductions.

20 **(20) A COMMON CARRIER THAT CARRIES OR TRANSPORTS ALCOHOLIC**
21 **LIQUOR INTO THIS STATE TO A PERSON IN THIS STATE SHALL SUBMIT**
22 **QUARTERLY REPORTS TO THE COMMISSION. A REPORT REQUIRED UNDER THIS**
23 **SUBSECTION MUST INCLUDE ALL OF THE FOLLOWING ABOUT EACH DELIVERY TO**
24 **A CONSUMER IN THIS STATE DURING THE PRECEDING CALENDAR QUARTER:**

25 **(A) THE NAME AND BUSINESS ADDRESS OF THE PERSON THAT SHIPS**
26 **ALCOHOLIC LIQUOR.**

27 **(B) THE NAME AND ADDRESS OF THE RECIPIENT OF ALCOHOLIC LIQUOR.**

1 (C) THE WEIGHT OF ALCOHOLIC LIQUOR DELIVERED TO A CONSIGNEE.

2 (D) THE DATE OF THE DELIVERY.

3 (21) A COMMON CARRIER DESCRIBED IN SUBSECTION (20) SHALL
4 MAINTAIN THE BOOKS, RECORDS, AND DOCUMENTS SUPPORTING A REPORT
5 SUBMITTED UNDER SUBSECTION (20) FOR 3 YEARS UNLESS THE COMMISSION
6 NOTIFIES THE COMMON CARRIER IN WRITING THAT THE BOOKS, RECORDS, AND
7 SUPPORTING DOCUMENTS MAY BE DESTROYED. WITHIN 30 DAYS AFTER THE
8 COMMISSION'S REQUEST, THE COMMON CARRIER SHALL MAKE THE BOOKS,
9 RECORDS, AND DOCUMENTS AVAILABLE FOR INSPECTION DURING NORMAL
10 BUSINESS HOURS. WITHIN 30 DAYS AFTER A LOCAL LAW ENFORCEMENT
11 AGENCY'S OR LOCAL GOVERNMENTAL UNIT'S REQUEST, THE COMMON CARRIER
12 SHALL ALSO MAKE THE BOOKS, RECORDS, AND DOCUMENTS AVAILABLE FOR
13 INSPECTION TO A LOCAL LAW ENFORCEMENT AGENCY OR LOCAL GOVERNMENTAL
14 UNIT WHERE THE CARRIER RESIDES OR DOES BUSINESS.

15 (22) A THIRD PARTY FACILITATOR SERVICE THAT DELIVERS BEER,
16 WINE, OR SPIRITS TO A CONSUMER UNDER SUBSECTION (15) OR (16), AS
17 APPLICABLE, SHALL SUBMIT QUARTERLY REPORTS TO THE COMMISSION. A
18 REPORT REQUIRED UNDER THIS SUBSECTION MUST INCLUDE ALL OF THE
19 FOLLOWING ABOUT EACH DELIVERY TO A CONSUMER IN THIS STATE DURING
20 THE PRECEDING CALENDAR QUARTER:

21 (A) THE NAME AND BUSINESS ADDRESS OF THE PERSON THAT SHIPS
22 BEER, WINE, OR SPIRITS.

23 (B) THE NAME AND ADDRESS OF THE RECIPIENT OF BEER, WINE, OR
24 SPIRITS.

25 (C) THE WEIGHT OF BEER, WINE, OR SPIRITS DELIVERED TO A
26 CONSIGNEE.

27 (D) THE DATE OF THE DELIVERY.

1 (23) A THIRD PARTY FACILITATOR SERVICE SHALL MAINTAIN THE
2 BOOKS, RECORDS, AND DOCUMENTS SUPPORTING A REPORT SUBMITTED UNDER
3 SUBSECTION (22) FOR 3 YEARS UNLESS THE COMMISSION NOTIFIES THE
4 THIRD PARTY FACILITATOR SERVICE IN WRITING THAT THE BOOKS, RECORDS,
5 AND SUPPORTING DOCUMENTS MAY BE DESTROYED. WITHIN 30 DAYS AFTER THE
6 COMMISSION'S REQUEST, THE THIRD PARTY FACILITATOR SERVICE SHALL
7 MAKE THE BOOKS, RECORDS, AND DOCUMENTS AVAILABLE FOR INSPECTION
8 DURING NORMAL BUSINESS HOURS. WITHIN 30 DAYS AFTER A LOCAL LAW
9 ENFORCEMENT AGENCY'S OR LOCAL GOVERNMENTAL UNIT'S REQUEST, THE
10 THIRD PARTY FACILITATOR SERVICE SHALL ALSO MAKE THE BOOKS, RECORDS,
11 AND DOCUMENTS AVAILABLE FOR INSPECTION TO A LOCAL LAW ENFORCEMENT
12 AGENCY OR LOCAL GOVERNMENTAL UNIT WHERE THE THIRD PARTY FACILITATOR
13 SERVICE RESIDES OR DOES BUSINESS.

14 (24) A REPORT SUBMITTED UNDER SUBSECTION (20) OR (22) IS
15 SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA
16 442, MCL 15.231 TO 15.246.

17 (25) ~~(14)~~As used in this section:

18 (A) "COMMON CARRIER" MEANS A COMPANY THAT TRANSPORTS GOODS, ON
19 REASONABLE REQUEST, ON REGULAR ROUTES AND AT SET RATES.

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

27 (C) ~~(b)~~"Computer network" means the interconnection of

1 hardwire or wireless communication lines with a computer through
2 remote terminals, or a complex consisting of 2 or more
3 interconnected computers.

4 (D) ~~(e)~~—"Computer program" means a series of internal or
5 external instructions communicated in a form acceptable to a
6 computer that directs the functioning of a computer, computer
7 system, or computer network in a manner designed to provide or
8 produce products or results from the computer, computer system, or
9 computer network.

10 (E) ~~(d)~~—"Computer system" means a set of related, connected or
11 unconnected, computer equipment, devices, software, or hardware.

12 (F) ~~(e)~~—"Consumer" means an individual who purchases **BEER**,
13 wine, **OR SPIRITS** for personal consumption and not for resale.

14 (G) ~~(f)~~—"Device" includes, but is not limited to, an
15 electronic, magnetic, electrochemical, biochemical, hydraulic,
16 optical, or organic object that performs input, output, or storage
17 functions by the manipulation of electronic, magnetic, or other
18 impulses.

19 (H) ~~(g)~~—"Diligent inquiry" means a diligent good faith effort
20 to determine the age of an individual, that includes at least an
21 examination of an official Michigan operator's or chauffeur's
22 license, an official Michigan personal identification card, or any
23 other bona fide picture identification that establishes the
24 identity and age of the individual.

25 (I) ~~(h)~~—"Direct shipper" means a person who sells, delivers,
26 or imports wine, to consumers in this state, that he or she
27 produces and bottles or wine that is manufactured by a wine maker

1 for another wine maker and that is transacted or caused to be
2 transacted through the use of any mail order, internet, telephone,
3 computer, device, or other electronic means, or sells directly to
4 consumers on the winery premises.

5 (J) ~~(i)~~-"Identification verification service" means ~~any~~**AN**
6 internet-based service approved by the commission specializing in
7 age and identity verification.

8 (K) **"MOBILE APPLICATION" MEANS A SPECIALIZED SOFTWARE PROGRAM**
9 **DOWNLOADED ONTO A WIRELESS COMMUNICATION DEVICE.**

10 (I) ~~(j)~~-"Qualified micro brewer" means a micro brewer that
11 produces in total less than 1,000 barrels of beer per year. In
12 determining the 1,000-barrel threshold, all brands and labels of a
13 micro brewer, whether brewed in this state or outside this state,
14 ~~shall~~**MUST** be combined.

15 (M) **"THIRD PARTY FACILITATOR SERVICE" MEANS A PERSON LICENSED**
16 **BY THE COMMISSION TO DO ANY OF THE FOLLOWING:**

17 (i) **FACILITATE THE SALE OF BEER OR WINE TO A CONSUMER AS**
18 **PROVIDED IN SUBSECTION (15) ON BEHALF OF A RETAILER THAT HOLDS A**
19 **SPECIALLY DESIGNATED MERCHANT LICENSE LOCATED IN THIS STATE.**

20 (ii) **FACILITATE THE SALE OF SPIRITS TO A CONSUMER AS PROVIDED**
21 **IN SUBSECTION (16) ON BEHALF OF A RETAILER THAT HOLDS A SPECIALLY**
22 **DESIGNATED DISTRIBUTOR LICENSE LOCATED IN THIS STATE.**

23 (iii) **DELIVER BEER OR WINE TO A CONSUMER AS PROVIDED IN**
24 **SUBSECTION (15) ON BEHALF OF A RETAILER THAT HOLDS A SPECIALLY**
25 **DESIGNATED MERCHANT LICENSE LOCATED IN THIS STATE.**

26 (iv) **DELIVER SPIRITS TO A CONSUMER AS PROVIDED IN SUBSECTION**
27 **(16) ON BEHALF OF A RETAILER THAT HOLDS A SPECIALLY DESIGNATED**

Senate Bill No. 1088 as amended December 14, 2016

1 [DISTRIBUTOR] LICENSE LOCATED IN THIS STATE.