

HOUSE BILL No. 5485

March 17, 2016, Introduced by Reps. Greig, Liberati, Kelly, Plawecki, Wittenberg, Cochran, Hoadley, Chirkun, Dianda and Love and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 537 (MCL 436.1537), as amended by 2013 PA 101.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 537. (1) The following classes of vendors may sell
2 alcoholic liquor at retail as provided in this section:

3 (a) Taverns, where beer and wine may be sold for consumption
4 on the premises only.

5 (b) Class C licensee, where beer, wine, mixed spirit drink,
6 and spirits may be sold for consumption on the premises.

7 (c) Clubs, where beer, wine, mixed spirit drink, and spirits
8 may be sold for consumption on the premises only to bona fide
9 members where consumption is limited to these members and their

1 bona fide guests, who are 21 years of age or older.

2 (d) Direct shippers, where wine may be sold and shipped
3 directly to the consumer.

4 (e) Hotels of class A, where beer and wine may be sold for
5 consumption on the premises and in the rooms of bona fide
6 registered guests. Hotels of class B where beer, wine, mixed spirit
7 drink, and spirits may be sold for consumption on the premises and
8 in the rooms of bona fide registered guests.

9 (f) Specially designated merchants, where beer and wine may be
10 sold for consumption off the premises, ~~only~~ **AND AS PROVIDED FOR IN**
11 **SUBSECTION (11)**.

12 (g) Specially designated distributors, where spirits and mixed
13 spirit drink may be sold for consumption off the premises only.

14 (h) Special licensee, where beer and wine or beer, wine, mixed
15 spirit drink, and spirits may be sold for consumption on the
16 premises only.

17 (i) Dining cars or other railroad or Pullman cars, watercraft,
18 or aircraft, where alcoholic liquor may be sold for consumption on
19 the premises only, subject to rules promulgated by the commission.

20 (j) Brewpubs, where beer manufactured on the premises by the
21 licensee may be sold for consumption on or off the premises by any
22 of the following licensees:

23 (i) Class C.

24 (ii) Tavern.

25 (iii) Class A hotel.

26 (iv) Class B hotel.

27 (k) Micro brewers and brewers, where beer produced by the

1 micro brewer or brewer may be sold to a consumer for consumption on
2 or off the brewery premises.

3 (l) Class G-1 licensee, where beer, wine, mixed spirit drink,
4 and spirits may be sold for consumption on the premises only to
5 members required to pay an annual membership fee and consumption is
6 limited to these members and their bona fide guests.

7 (m) Class G-2 licensee, where beer and wine may be sold for
8 consumption on the premises only to members required to pay an
9 annual membership fee and consumption is limited to these members
10 and their bona fide guests.

11 (n) Motorsports event licensee, where beer and wine may be
12 sold for consumption on the premises during sanctioned motorsports
13 events only.

14 (o) Wine maker, where wine may be sold by direct shipment, at
15 retail on the licensed premises, and as provided for in subsections
16 (2) and (3).

17 (p) Small distiller selling not more than 60,000 gallons of
18 spirits manufactured by that licensee to the consumer at retail for
19 consumption on or off the licensed premises in the manner provided
20 for in section 534.

21 (q) Nonpublic continuing care retirement center license, where
22 beer, wine, mixed spirit drink, mixed wine drink, and spirits may
23 be sold at retail and served on the licensed premises to residents
24 and bona fide guests accompanying the resident for consumption only
25 on the licensed premises.

26 (r) A small wine maker or an out-of-state entity that is the
27 substantial equivalent of a small wine maker, that holds a farmer's

1 market permit, where wine may be sampled and sold at a farmer's
2 market for consumption off the licensed premises.

3 (2) A wine maker may sell wine made by that wine maker in a
4 restaurant for consumption on or off the premises if the restaurant
5 is owned by the wine maker or operated by another person under an
6 agreement approved by the commission and located on the premises
7 where the wine maker is licensed.

8 (3) A wine maker, with the prior written approval of the
9 commission, may conduct wine tastings of wines made by that wine
10 maker on the premises where the wine maker is licensed to
11 manufacture wine. The wine maker may charge for the samples.

12 (4) A wine maker, with the prior written approval of the
13 commission, may conduct wine tastings of wines made by that wine
14 maker and may sell the wine made by that wine maker for consumption
15 off the premises at a location other than the premises where the
16 wine maker is licensed to manufacture wine, under the following
17 conditions:

18 (a) The premises ~~upon~~**ON** which the wine tasting occurs
19 ~~conforms~~**CONFORM** to local and state sanitation requirements.

20 (b) Payment of a \$100.00 fee per location is made to the
21 commission.

22 (c) The wine tasting locations are considered licensed
23 premises, and the wine maker may include a charge for the samples.

24 (d) The wine tasting takes place during the legal hours for
25 the sale of alcoholic liquor by the licensee.

26 (e) The premises and the licensee comply with and are subject
27 to all applicable rules promulgated by the commission.

1 (5) Notwithstanding section 1025(1), an outstate seller of
2 beer, an outstate seller of wine, a wine maker, a brewer, a micro
3 brewer, or a specially designated merchant, or an agent of any of
4 those persons, ~~who~~**THAT** does not hold a license allowing the
5 consumption of alcoholic liquor on the premises at the same
6 licensed address, may conduct beer and wine tastings on the
7 licensed premises of a specially designated merchant under the
8 following conditions:

9 (a) A customer is not charged for the tasting of beer or wine.

10 (b) The tasting samples provided to a customer do not exceed 3
11 servings at up to 3 ounces per serving of beer or 3 servings at up
12 to 2 ounces of wine. A customer shall not be provided more than a
13 total of 3 samples of beer or wine within a 24-hour period per
14 licensed premises.

15 (c) The specially designated merchant, outstate seller of
16 beer, outstate seller of wine, wine maker, micro brewer, or brewer
17 has first obtained an annual beer and wine tasting permit approved
18 by the commission.

19 (d) The commission is notified, in writing, a minimum of 10
20 working days before the event, regarding the date, time, and
21 location of the event.

22 (6) During the time a beer or wine tasting is conducted under
23 subsection (5), a specially designated merchant, outstate seller of
24 beer, outstate seller of wine, wine maker, micro brewer, or brewer,
25 or its agent or employee who has successfully completed a server
26 training program as provided for in section 906, shall devote full
27 time to the beer and wine tasting activity and shall **NOT** perform ~~ne~~

1 other duties, including the sale of alcoholic liquor for
2 consumption off the licensed premises. Beer and wine used for the
3 tasting must come from the specially designated merchant's
4 inventory, and all open bottles must be removed from the premises
5 on the same business day or resealed and stored in a locked,
6 separate storage compartment on the licensed premises when not
7 being used for the activities allowed by the permit.

8 (7) A wholesaler shall not conduct or participate in beer and
9 wine tastings allowed under a permit issued under subsection (5).

10 (8) A beer and wine tasting under subsection (5) may only be
11 conducted during the legal hours for the sale of alcoholic liquor
12 by the licensee.

13 (9) A brandy manufacturer or small distiller, with the prior
14 written approval of the commission, may conduct tastings of brandy
15 and spirits made by that brandy manufacturer or small distiller and
16 may sell the brandy and spirits made by that brandy manufacturer or
17 small distiller for consumption off the licensed premises at a
18 location other than the licensed premises where the brandy
19 manufacturer or small distiller is licensed to manufacture brandy
20 or spirits under the following conditions:

21 (a) The premises ~~upon~~ **ON** which the brandy and spirits tastings
22 occur conform to local and state sanitation requirements.

23 (b) ~~Payment of~~ **THE BRANDY MANUFACTURER OR SMALL DISTILLER PAYS**
24 **THE COMMISSION** a \$100.00 fee per location. ~~is made to the~~
25 ~~commission.~~

26 (c) The brandy and spirits tasting locations are considered
27 licensed premises.

1 (d) The brandy and spirits tasting takes place during the
2 legal hours for the sale of alcoholic liquor by the licensee.

3 (e) The premises and the license comply with and are subject
4 to all applicable rules promulgated by the commission.

5 (10) An eligible merchant may fill and sell growlers with beer
6 for consumption off the premises under the following conditions:

7 (a) The premises where the filling of growlers takes place
8 comply with the requirements for food service establishments under
9 the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

10 (b) The growler is sealed and has a label affixed to it that
11 includes at least the brand name of the beer, the class of the
12 beer, the net contents of the container, and the name of the
13 retailer filling the growler.

14 (c) The eligible merchant or his or her agent or employee
15 shall not fill a growler in advance of the sale.

16 (d) The eligible merchant or his or her agent or employee
17 shall only ~~utilize~~**USE** containers that have a capacity of 5 gallons
18 or more to fill a growler.

19 (e) The beer to be dispensed has received a registration
20 number from the commission and has been approved for sale by the
21 commission.

22 (f) The eligible merchant complies with all applicable rules
23 promulgated by the commission.

24 **(11) THE COMMISSION MAY AUTHORIZE A SPECIALLY DESIGNATED**
25 **MERCHANT, THAT HAS COMMISSION APPROVAL FOR AN OUTDOOR SERVICE AREA,**
26 **TO ALLOW AN INDIVIDUAL WHO HAS COMPLETED THE PURCHASE OF BEER OR**
27 **WINE FROM THE SPECIALLY DESIGNATED MERCHANT TO CONSUME THE**

1 PURCHASED BEER OR WINE ON THE LICENSED PREMISES UNDER THE FOLLOWING
2 CONDITIONS:

3 (A) THE SPECIALLY DESIGNATED MERCHANT PROVIDES THE COMMISSION
4 ALL OF THE FOLLOWING:

5 (i) A RESOLUTION OF THE LOCAL UNIT OF GOVERNMENT WHERE THE
6 LICENSED PREMISES ARE LOCATED THAT APPROVES THE PROPOSED ACTIVITY.

7 (ii) DOCUMENTATION THAT THE LOCAL POLICE AGENCY WHERE THE
8 LICENSED PREMISES ARE LOCATED HAS APPROVED THE PROPOSED ACTIVITY.

9 (iii) A VERIFICATION FROM THE ASSESSOR OF THE LOCAL UNIT OF
10 GOVERNMENT THAT THE LICENSED PREMISES ARE NOT MORE THAN 15,000
11 SQUARE FEET.

12 (B) THE PREMISES ON WHICH THE CONSUMPTION OF BEER OR WINE
13 OCCURS MEET ALL OF THE FOLLOWING CONDITIONS:

14 (i) THE PREMISES ARE LOCATED IN A DEVELOPMENT DISTRICT OR AREA
15 THAT IS 1 OF THE FOLLOWING:

16 (A) A DOWNTOWN DISTRICT ESTABLISHED UNDER 1975 PA 197, MCL
17 125.1651 TO 125.1681.

18 (B) A PRINCIPAL SHOPPING DISTRICT ESTABLISHED UNDER 1961 PA
19 120, MCL 125.981 TO 125.990N.

20 (ii) THE PREMISES ARE NOT MORE THAN 15,000 SQUARE FEET.

21 (iii) THE PREMISES CONFORM TO LOCAL AND STATE SANITATION
22 REQUIREMENTS.

23 (C) THE SERVING AREA IS LIMITED TO AN OUTDOOR AREA THAT IS
24 UNDER THE CONTROL OF THE SPECIALLY DESIGNATED MERCHANT AND IS WELL
25 DEFINED AND CLEARLY MARKED IN A MANNER PRESCRIBED BY THE COMMISSION
26 FOR THE OUTDOOR SERVICE OF THE BEER AND WINE.

27 (D) THE SPECIALLY DESIGNATED MERCHANT OR ITS AGENT OR EMPLOYEE

1 SERVES THE BEER OR WINE.

2 (E) THE INDIVIDUAL WHO SERVES THE BEER OR WINE HAS
3 SUCCESSFULLY COMPLETED A SERVER TRAINING PROGRAM AS PROVIDED IN
4 SECTION 906.

5 (F) THE INDIVIDUAL WHO SERVES THE BEER OR WINE MAINTAINS
6 CONTROL OF THE OPEN BEER OR WINE AS IT IS SERVED IN THE DESIGNATED
7 AREA UNTIL THE INDIVIDUALS WHO WERE SERVED ARE DONE CONSUMING THEIR
8 BEER OR WINE. THE SERVER SHALL RETURN TO THE PURCHASING INDIVIDUAL
9 ALL PURCHASED BEER OR WINE THAT WAS NOT OPENED THAT WAS HELD BY THE
10 SERVER WHILE THE INDIVIDUAL WAS BEING SERVED. EXCEPT AS OTHERWISE
11 PROVIDED UNDER SUBSECTION (14), THE SERVER SHALL NOT RETURN TO THE
12 INDIVIDUAL ANY BEER OR WINE THAT HAS BEEN OPENED OR PARTIALLY
13 CONSUMED.

14 (G) UNLESS THE SPECIALLY DESIGNATED MERCHANT HOLDS A LOCAL
15 HEALTH DEPARTMENT LICENSE, THE INDIVIDUAL WHO SERVES THE BEER OR
16 WINE USES ONLY DISPOSABLE, NONREUSABLE SERVINGWARE TO SERVE THE
17 BEER OR WINE.

18 (H) THE SPECIALLY DESIGNATED MERCHANT POSTS ALL OF THE
19 FOLLOWING:

20 (i) A SIGN, IN A CONSPICUOUS PLACE IN THE DESIGNATED OUTDOOR
21 AREA, STATING THAT OPEN ALCOHOL MUST REMAIN ONLY IN THE DESIGNATED
22 SERVING AREA OF THE LICENSED ESTABLISHMENT.

23 (ii) A SIGN, IN A CONSPICUOUS PLACE IN THE DESIGNATED OUTDOOR
24 AREA, STATING THE TOTAL CAPACITY OF THE DESIGNATED SERVING AREA OF
25 THE LICENSED ESTABLISHMENT, BASED ON THE CAPACITY ESTABLISHED BY
26 THE STATE OR LOCAL AUTHORITY THAT HAS JURISDICTION.

27 (iii) A SIGN, IN A CONSPICUOUS PLACE NEXT TO THE CASH REGISTER

1 OR WHERE THE SPECIALLY DESIGNATED MERCHANT OR ITS AGENT OR EMPLOYEE
2 COMPLETES SALES TRANSACTIONS, STATING THAT INDIVIDUALS WHO WISH TO
3 CONSUME THEIR PURCHASED BEER OR WINE MUST TAKE THEIR PURCHASED BEER
4 OR WINE TO THE DESIGNATED SERVING AREA TO BE SERVED BY THE
5 SPECIALLY DESIGNATED MERCHANT OR ITS AGENT OR EMPLOYEE.

6 (I) THE SPECIALLY DESIGNATED MERCHANT PAYS THE COMMISSION A
7 FEE OF \$100.00 PER LOCATION.

8 (12) THE COMMISSION SHALL NOT AUTHORIZE A SPECIALLY DESIGNATED
9 MERCHANT TO SERVE BEER AND WINE UNDER SUBSECTION (11) IF THE
10 SPECIALLY DESIGNATED MERCHANT MAY SELL OR SERVE SPIRITS OR MIXED
11 SPIRIT DRINKS UNDER THIS ACT.

12 (13) THE COMMISSION SHALL NOT AUTHORIZE A SPECIALLY DESIGNATED
13 MERCHANT TO SERVE BEER AND WINE UNDER SUBSECTION (11) IF MOTOR
14 VEHICLE FUEL IS SOLD OR OFFERED FOR SALE AT THE LOCATION BY ANY
15 PERSON.

16 (14) A SPECIALLY DESIGNATED MERCHANT AUTHORIZED TO SERVE WINE
17 AND BEER UNDER SUBSECTION (11) MAY ALLOW AN INDIVIDUAL WHO
18 PURCHASED AND PARTIALLY CONSUMED A BOTTLE OF WINE TO REMOVE THE
19 PARTIALLY CONSUMED BOTTLE OF WINE FROM THE PREMISES ON DEPARTURE.
20 THE SPECIALLY DESIGNATED MERCHANT OR ITS AGENT OR EMPLOYEE SHALL
21 CAP A BOTTLE OF WINE OR REINSERT A CORK SO THAT THE TOP OF THE CORK
22 IS LEVEL WITH THE LIP OF THE BOTTLE. THE TRANSPORTATION OR
23 POSSESSION OF THE PARTIALLY CONSUMED BOTTLE OF WINE MUST BE IN
24 COMPLIANCE WITH SECTION 624A OF THE MICHIGAN VEHICLE CODE, 1949 PA
25 300, MCL 257.624A.

26 (15) ~~(11)~~—As used in this section:

27 (a) "Eligible merchant" means a person that holds a specially

1 designated merchant license and a class C, tavern, class A hotel,
2 class B hotel, club, class G-1, or class G-2 license.

3 (b) "Growler" means any clean, refillable, resealable
4 container that is exclusively intended, and used only, for the sale
5 of beer for consumption off the premises and that has a liquid
6 capacity that does not exceed 1 gallon.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.

9 Enacting section 2. This amendatory act does not take effect
10 unless Senate Bill No. ____ or House Bill No. 5486 (request no.
11 05482'16) of the 98th Legislature is enacted into law.