

**SUBSTITUTE FOR
SENATE BILL NO. 942**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 205, 233, 609d, and 1014 (MCL 436.1205,
436.1233, 436.1609d, and 436.2014), section 205 as amended by 2015
PA 246, section 609d as added by 2020 PA 26, and section 1014 as
added by 2015 PA 47, and by adding sections 537a, 538, and 551.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 205. (1) The commission shall, as provided in section
2 203(1), by order appoint authorized distribution agents to
3 warehouse and deliver spirits in this state to ensure that all
4 retail licensees are properly serviced with spirits. An authorized
5 distribution agent is subject to uniform requirements, including
6 business operating procedures, that the commission may prescribe by



1 rule, subject to this section.

2 (2) A person is eligible for appointment by the commission as
3 an authorized distribution agent if all of the following
4 circumstances exist:

5 (a) The person satisfies all applicable commission rules
6 prescribing qualifications for licensure promulgated under section
7 215.

8 (b) The person has entered into a written agreement or
9 contract with a supplier of spirits to warehouse and deliver a
10 brand or brands of spirits of that supplier of spirits.

11 (c) The person has an adequate warehousing facility located in
12 this state to store spirits from which all delivery of spirits to
13 retail licensees must be made.

14 (3) An authorized distribution agent shall not have a direct
15 or indirect interest in a supplier of spirits or in a retailer. A
16 supplier of spirits or a retailer shall not have a direct or
17 indirect interest in an authorized distribution agent. An
18 authorized distribution agent shall not hold title to spirits.

19 (4) An authorized distribution agent shall deliver to each
20 retailer located in its assigned distribution area on at least a
21 weekly basis if the order meets the minimum requirements. Except
22 that in a week that accompanies a state holiday, the commission may
23 order a modified delivery schedule if a retailer will not wait
24 longer than 9 days between deliveries because of the modified
25 delivery schedule. The commission shall provide for an integrated
26 ~~en-line~~**online** ordering system for spirits and shall require the
27 continuance of any ordering system in existence on the activation
28 date of the system established under section 206. The commission
29 shall set minimum requirements that must be a sufficient number of



1 bottles to comprise not more than 2 cases. A retailer may pick up
2 the product at the authorized distribution agent's warehouse. To
3 avoid occasional emergency outages of spirits, a retail licensee
4 may make up to 12 special emergency orders to an authorized
5 distribution agent in each calendar year. An authorized
6 distribution agent shall make a special emergency order available
7 to the retail licensee within 18 hours of the placing of the order.
8 An authorized distribution agent shall make a special emergency
9 order placed on Saturday or Sunday available to the retail licensee
10 before noon on the following Monday. An authorized distribution
11 agent may impose a fee of up to \$20.00 to deliver a special
12 emergency order to a retail licensee.

13 (5) In locations inaccessible to a motor vehicle as that term
14 is defined by **section 33 of** the Michigan vehicle code, 1949 PA 300,
15 ~~MCL 257.1 to 257.923,~~ **257.33**, an authorized distribution agent
16 shall arrange that a delivery of spirits to a retailer be in
17 compliance with the following procedures:

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

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

27 (c) The ferry transport company or company representing any
28 other form of conveyance shall take the retailer's payment to the
29 mainland dock and give that payment to the authorized distribution



1 agent's driver.

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

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

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

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

21 (8) An authorized distribution agent or prospective authorized
22 distribution agent shall maintain and make available to the
23 commission or its representatives, on notice, any contract or
24 written agreement it has with a supplier of spirits or other
25 authorized distribution agent for the warehousing and delivering of
26 spirits in this state.

27 (9) For a violation of this act, a rule promulgated under this
28 act, or the terms of an order appointing an authorized distribution
29 agent, an authorized distribution agent is subject to the



1 suspension, revocation, forfeiture, and penalty provisions of
 2 sections 903(1) and 907 in the same manner in which a licensee
 3 would be subject to those provisions. An authorized distribution
 4 agent aggrieved by a penalty imposed by the commission may invoke
 5 the hearing and appeal procedures of section 903(2) and rules
 6 promulgated under ~~that~~ section **903**.

7 (10) ~~A specially designated distributor~~ **An off-premises retail**
 8 **licensee** may sell to an on-premises **retail** licensee up to ~~9-120~~
 9 liters of spirits during any ~~1-month~~ **12-month period** and an on-
 10 premises **retail** licensee may purchase, collectively from ~~specially~~
 11 ~~designated distributors,~~ **off-premises retail licensees**, up to ~~9-120~~
 12 liters of spirits during any ~~1-month.~~ **12-month period**.

13 Notwithstanding any other provision of this act or rule promulgated
 14 under this act, ~~a specially designated distributor~~ **an off-premises**
 15 **retail licensee** is only liable for knowingly violating this
 16 section. An on-premises **retail** licensee shall maintain and make
 17 available to the commission ~~upon~~ **on** request records verifying the
 18 purchases described in this subsection. **For each month in which an**
 19 **on-premises retail licensee purchases spirits under this**
 20 **subsection, the on-premises retail licensee shall submit a report**
 21 **to the commission indicating the purchases the on-premises retail**
 22 **licensee made under this subsection during that month. Within 30**
 23 **days after the effective date of the amendatory act that added**
 24 **section 537a, the commission shall establish the method and form**
 25 **for the electronic reporting of purchases made under this**
 26 **subsection by on-premises retail licensees. The commission shall**
 27 **not require an on-premise retail license to submit a report under**
 28 **this subsection in less than monthly intervals and shall not**
 29 **require a report from an on-premises licensee in a month in which**



1 the on-premises licensee did not purchase spirits under this
2 subsection.

3 (11) In addition to paying a vendor of spirits the acquisition
4 price for purchasing spirits, the commission may pay a vendor of
5 spirits an additional amount of not less than \$4.50 and not more
6 than \$8.25 for each case of spirits purchased as an offset to the
7 costs being incurred by that vendor of spirits in contracting with
8 an authorized distribution agent for warehousing and delivering
9 spirits to retailers. The payment described in this subsection may
10 not be included in the cost of purchasing spirits by the commission
11 and is not subject to the commission's markup, special taxes, or
12 state sales tax. The per-case offset established by this subsection
13 may be increased by the state administrative board each January to
14 reflect reasonable increases in the authorized distribution agent's
15 cost of warehousing and delivering. As used in this subsection,
16 "case" means a container holding twelve 750 ml bottles of spirits
17 or other containers containing spirits that are standard to the
18 industry.

19 Sec. 233. (1) The commission shall establish uniform prices
20 for the sale of alcoholic liquor ~~in state liquor stores and by~~
21 specially designated distributors. The prices ~~shall~~ **must** return a
22 gross profit to the commission of not less than 51% and not greater
23 than 65%. If alcoholic liquor purchased by the commission has not
24 met sales standards established by the commission for ~~a period of 6~~
25 months, the commission may sell the alcoholic liquor at a price to
26 be approved by the state administrative board.

27 (2) Notwithstanding subsection (1), the commission may
28 establish by rule prices for the sale of alcoholic liquor to
29 hospitals, charitable institutions, and military establishments



1 located in this state.

2 (3) ~~There shall be allowed a discount of 17% deducted from the~~
3 ~~sale price established by the commission on the sale of~~ **Except as**
4 **otherwise provided in this subsection, specially designated**
5 **distributors and on-premises licensees are entitled to a 17%**
6 **discount from the uniform prices described in subsection (1) on**
7 ~~alcoholic liquor made by the~~ **purchased from this state. liquor**
8 ~~stores to specially designated distributors and establishments~~
9 ~~licensed to sell for consumption on the premises.~~ **Beginning with the**
10 **effective date of the amendatory act that added this sentence**
11 **through December 31, 2021, on-premises licensees are entitled to a**
12 **30% discount from the uniform prices described in subsection (1) on**
13 **alcoholic liquor purchased from this state.**

14 Sec. 537a. (1) Notwithstanding anything in this act to the
15 contrary, an on-premises licensee may fill and sell qualified
16 containers with beer, wine, mixed spirit drink, a mixed drink, or
17 spirits for consumption off the premises under the following
18 conditions:

19 (a) The on-premises licensee or his or her agent or employee
20 does not fill a qualified container in advance of the sale.

21 (b) The on-premises licensee complies with all applicable
22 rules promulgated by the commission.

23 (c) The on-premises licensee or his or her agent seals the
24 qualified container.

25 (2) Notwithstanding anything in this act to the contrary, an
26 on-premises licensee may deliver beer, wine, mixed spirit drink, a
27 mixed drink, or spirits to a consumer in this state if all of the
28 following conditions are met:

29 (a) The on-premises licensee complies with all laws of this



1 state, including, but not limited to, the prohibition on sales to
2 minors.

3 (b) The on-premises licensee stamps, prints, or labels on the
4 outside of the qualified container "Contains Alcohol. Must be
5 delivered to a person 21 years of age or older.". The recipient at
6 the time of the delivery shall provide identification verifying his
7 or her age.

8 (c) The on-premises licensee or his or her agent seals the
9 qualified container.

10 (d) The on-premises licensee does not allow a straw hole on
11 the qualified container.

12 (3) An on-premises licensee shall not sell spirits in its
13 original package under this section.

14 (4) As used in this section:

15 (a) "Consumer" means that term as defined in section 203.

16 (b) "Qualified container" means any clean, sealable container
17 that is for the sale of alcoholic liquor for consumption off the
18 premises and that has a liquid capacity that does not exceed 1
19 gallon.

20 Sec. 538. (1) Until December 31, 2021, an on-premises licensee
21 that has written approval from the commission to have outdoor
22 service in an outdoor service area under R 436.1419 of the Michigan
23 Administrative Code may add seating to the outdoor service area
24 without the approval of the commission or the governing body of the
25 local unit of government in which the licensed premises is located.

26 (2) Until December 31, 2021, an on-premises licensee that has
27 written approval from the commission to have outdoor service in an
28 outdoor service area under R 436.1419 of the Michigan
29 Administrative Code may add a bar to the outdoor service area



1 without the approval of the commission or the governing body of the
2 local unit of government in which the licensed premises is located.

3 Sec. 551. (1) The governing body of a local governmental unit
4 may designate a social district that contains a commons area that
5 may be used by on-premises licensees that obtain a social district
6 permit. If the governing body of a local governmental unit
7 designates a social district that contains a commons area under
8 this section, the governing body must define and clearly mark the
9 commons area with signs. The governing body shall establish local
10 management and maintenance plans, including, but not limited to,
11 hours of operation, for a commons area and submit those plans to
12 the commission. The governing body shall maintain the commons area
13 in a manner that protects the health and safety of the community.
14 The governing body may, at any time, revoke the designation if it
15 determines that the commons area threatens the health, safety, or
16 welfare of the public or has become a public nuisance. The
17 governing body shall file the designation or the revocation of the
18 designation with the commission.

19 (2) The holder of a social district permit may sell alcoholic
20 liquor for consumption within the confines of a commons area if all
21 of the following requirements are met:

22 (a) The holder of the social district permit only sells and
23 serves alcoholic liquor on the holder's licensed premises.

24 (b) The holder of the social district permit only serves
25 alcoholic liquor to be consumed in the commons area in a container
26 to which all of the following apply:

27 (i) The container prominently displays the social district
28 permittee's trade name or logo or some other mark that is unique to
29 the social district permittee under the social district permittee's



1 on-premises license.

2 (ii) The container prominently displays a logo or some other
3 mark that is unique to the commons area.

4 (iii) The container is not glass.

5 (3) A purchaser may remove a container of alcoholic liquor
6 sold by a holder of a social district permit under subsection (2)
7 from the social district permittee's licensed premises if both of
8 the following conditions are met:

9 (a) Except as otherwise provided in subdivision (b), the
10 purchaser does not remove the container from the commons area.

11 (b) While possessing the container, the purchaser does not
12 enter the licensed premises of a social district permittee other
13 than the social district permittee from which the purchaser
14 purchased the container.

15 (4) The consumption of alcoholic liquor in the commons area
16 may only occur during the legal hours for the sale of alcoholic
17 liquor by the social district permittee.

18 (5) An on-premises licensee whose licensed premises is shared
19 by and contiguous to a commons area in a social district designated
20 by the governing body of a local governmental unit under this
21 section may obtain from the commission an annual social district
22 permit as provided in this section. The social district permit must
23 be issued for the same period and may be renewed in the same manner
24 as the on-premises license held by the applicant. The commission
25 shall develop an application for a social district permit and shall
26 charge a fee of \$250.00 for a social district permit. On receipt of
27 a completed application and the fee, the commission shall notify
28 the governing body of the local governmental unit and verify the
29 designation of a social district and that the location listed on



1 the application is adjacent to and qualifies for a social district
2 permit under this section. An application for a social district
3 permit must be approved by the governing body of the local
4 governmental unit in which the applicant's place of business is
5 located before the permit is granted by the commission. The
6 commission shall provide the governing body of the local
7 governmental unit and the local chief of police with the
8 applicant's name, business address, and business telephone number
9 to accomplish the review as required by this subsection. The
10 \$250.00 permit fee under this subsection must be deposited into the
11 liquor control enforcement and license investigation revolving fund
12 under section 543(9).

13 (6) As used in this section:

14 (a) "Commons area" means an area within a social district
15 clearly designated and clearly marked by the governing body of the
16 local governmental unit that is shared by and contiguous to the
17 premises of at least 2 other on-premises licensees.

18 (b) "Local governmental unit" means that term as defined in
19 section 915.

20 Sec. 609d. (1) A specially designated distributor that sells
21 spirits to a special licensee that is authorized by the commission
22 to sell spirits may refund the special licensee for the return of
23 an unopened bottle in the same amount that the special licensee
24 paid for the spirits, less any of the specially designated
25 distributor's credit card transaction fees incurred from the sale,
26 if the bottle is without damage to the exterior that would prevent
27 the salability of the bottle.

28 (2) The commission shall do either of the following:

29 (a) Refund to an on-premises licensee the amount the on-



1 premises licensee paid for spirits if the spirits are unopened and
2 past the expiration date contained on the bottle.

3 (b) Replace spirits for an on-premises licensee if the spirits
4 are outdated. The commission or its authorized distribution agent
5 shall replace spirits under this subdivision before the outdated
6 spirits are picked up by the commission or its authorized
7 distribution agent.

8 Sec. 1014. (1) An on-premises licensee shall not sell, offer
9 to sell, or advertise the sale of an unlimited quantity of
10 alcoholic liquor at a specific price unless all of the following
11 conditions are met:

12 (a) The sale, offer, or advertisement is in connection with a
13 private function.

14 (b) The on-premises licensee has entered into a written
15 agreement with the organizer of the private function stating all of
16 the following:

17 (i) The date and time the event will be held.

18 (ii) The location of the event.

19 (iii) The terms under which alcohol will be sold and served
20 during the event.

21 (c) The on-premises licensee makes available to the commission
22 and local law enforcement, on notice, the written agreement
23 described in subdivision (b).

24 (2) An on-premises licensee shall not sell, offer to sell, or
25 advertise the sale of ~~2-3~~ or more identical drinks containing
26 alcoholic liquor to an individual for the individual's consumption
27 for 1 price. If ~~2-3~~ or more identical drinks containing alcoholic
28 liquor are served to an individual at 1 time, the price charged for
29 the ~~second-third~~ and each additional drink must be the same as the



1 price charged for the first drink. **Except on prior written order by**
2 **the commission, an on-premises licensee shall not sell alcoholic**
3 **liquor to an individual under this subsection for a price that is**
4 **less than the on-premises licensee's cost for the alcoholic liquor.**

5 (3) As used in this section, "private function" means an event
6 that meets all of the following conditions:

7 (a) It is a prearranged private party, private function, or
8 private event for a specific social or business occasion.

9 (b) Attendance is only by invitation or reservation.

10 (c) It is not open to the general public.

11 (d) The guests are served in an outdoor service area or room
12 that is well-defined and clearly marked and designated and used
13 exclusively for the event.

