HOUSE BILL NO. 5410

January 23, 2020, Introduced by Rep. Steven Johnson and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 229, 231, 533, 547, 1201, 1203, and 1207 (MCL 436.1229, 436.1231, 436.1533, 436.1547, 436.2201, 436.2203, and 436.2207), section 229 as amended by 2011 PA 166, section 533 as amended by 2018 PA 386, and section 547 as added by 2011 PA 20; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 229. (1) The commission may license a hotel or merchant, in places that the commission may designate, to sell spirits for
consumption off the premises. notwithstanding section 233(1).

Except as otherwise provided in this section, if alcoholic liquor is sold by a specially designated distributor under a license issued under this section, it shall not be sold at less than the minimum retail selling price fixed by the commission and under rules promulgated by the commission.

(2) The commission may, by rule or order, allow a specially designated distributor to sell alcoholic liquor at less than the minimum retail selling price in order to dispose of inventory at a price and under conditions and procedures established through that rule or order.

(3) As used in this section and in sections 1201, 1203, and 1207, "retail selling price" means the price the commission pays for spirits plus the gross profit established in section 233.

(4) As used in this section, "minimum retail selling price" means retail selling price plus the specific taxes imposed in sections 1201, 1203, and 1207.

Sec. 231. The commission may buy, possess, and sell in its own name all alcoholic liquor for distribution as provided in sections 227 and 229. The commission shall supply such the types of alcoholic liquor as are demanded by the public. However, if the public demands a brand so demanded that is not manufactured within the United States or is not readily obtainable within the United States, then an order for that the commission shall fill an order for the brand shall be filled by the commission at the entire expense of the person placing that the order. subject to any gross profit or discounts, or both, provided for in section 233. The commission may lease or occupy any building or land required for its operation, and may purchase any warehouse required for its
operation, subject to the approval of the state administrative board.

Sec. 533. (1) Subject to subsection (12), the commission shall not issue a new specially designated merchant license or transfer an existing specially designated merchant license unless the applicant is an approved type of business. An applicant is not an approved type of business unless the applicant meets 1 or more of the following conditions:

(a) The applicant holds and maintains a retail food establishment license issued under the food law, 2000 PA 92, MCL 289.1101 to 289.8111. As used in this subdivision, "retail food establishment" means that term as defined in section 1111 of the food law, 2000 PA 92, MCL 289.1111.

(b) The applicant holds and maintains an extended retail food establishment license issued under the food law, 2000 PA 92, MCL 289.1101 to 289.8111. As used in this subdivision, "extended retail food establishment" means that term as defined in section 1107 of the food law, 2000 PA 92, MCL 289.1107.

(c) The applicant holds or the commission approves the issuance of a specially designated distributor license to the applicant.

(d) The applicant holds or the commission approves the issuance of a class C license to the applicant.

(e) The applicant holds or the commission approves the issuance of a class A hotel license to the applicant.

(f) The applicant holds or the commission approves the issuance of a class B hotel license to the applicant.

(g) The applicant holds or the commission approves the issuance of a club license to the applicant.
(h) The applicant holds or the commission approves the issuance of a tavern license to the applicant.

(i) The applicant holds or the commission approves the issuance of a class G-1 license to the applicant.

(j) The applicant holds or the commission approves the issuance of a class G-2 license to the applicant.

(2) A specially designated distributor may apply for a license as a specially designated merchant.

(3) An applicant for a specially designated merchant license not in conjunction with an on-premises license, except as provided in section 229(1)-229, or a person licensed under this act as a specially designated merchant only or a class B hotel may apply for a license as a specially designated distributor.

(4) In cities, incorporated villages, or townships, the commission shall issue only 1 specially designated distributor license for each 3,000 of population, or fraction of 3,000. The commission may waive the quota requirement under this subsection if there is no existing specially designated distributor licensee within 2 miles of the applicant, measured along the nearest traffic route.

(5) Except as otherwise provided in this section, in cities, incorporated villages, or townships, the commission shall issue only 1 specially designated merchant license for each 1,000 of population, or fraction of 1,000. The quota under this subsection does not apply to any of the following:

(a) An applicant for a specially designated merchant license that is an applicant for or the holder of a license listed in subsection (1)(d) to (j).

(b) An applicant for or the holder of a specially designated
merchant license whose licensed establishment meets 1 or more of the following conditions:

(i) Meets both of the following conditions:
(A) The licensed establishment is at least 20,000 square feet.
(B) The licensed establishment's gross receipts derived from the sale of food are at least 20% of the total gross receipts.

(ii) The licensed establishment is also a pharmacy as that term is defined in section 17707 of the public health code, 1978 PA 368, MCL 333.17707.

(c) A secondary location permit issued to a specially designated merchant under section 541.
(d) A specially designated merchant license issued under subsection (7).
(e) A specially designated merchant license issued to a marina under section 539.

(6) The commission may waive the quota under subsection (5) if there is no existing specially designated merchant within 2 miles of the applicant, measured along the nearest traffic route.

(7) The commission shall waive the quota under subsection (5) if both of the following apply:
(a) The applicant applies for the specially designated merchant license within 60 days after January 4, 2017.
(b) The applicant is a retail dealer that holds a license issued under section 6(1) of the motor fuels quality act, 1984 PA 44, MCL 290.646. The applicant shall include a copy of the license described in this subdivision with the applicant's application under this subsection. As used in this subdivision, "retail dealer" means that term as defined in section 2 of the motor fuels quality act, 1984 PA 44, MCL 290.642.
(8) A specially designated merchant license issued under this section may be transferred to an applicant whose proposed operation is located within any local governmental unit in a county in which the specially designated merchant license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, a specially designated merchant license may be transferred to an applicant whose proposed operation is located within any local governmental unit in either county. If a specially designated merchant license is transferred to a local governmental unit other than that local governmental unit within which the specially designated merchant license was originally issued, the commission shall count that transferred specially designated merchant license against the local governmental unit originally issuing the specially designated merchant license.

(9) Except as otherwise provided in subsection (10), the quota under subsection (5) does not bar the right of an existing specially designated merchant to renew the specially designated merchant license or transfer the specially designated merchant license. This subsection applies to a specially designated merchant license issued or renewed before, on, or after January 4, 2017.

(10) A specially designated merchant license issued after January 4, 2017 to a person described in subsection (5)(a) or (b) or to a specially designated merchant license issued under subsection (6) may not be transferred to another location.

(11) An applicant for or the holder of a specially designated merchant license that owns or operates a motor vehicle fuel pump on or adjacent to the licensed premises is not required to meet the conditions under section 541 as that section existed before January 4, 2017.
(12) For a marina that maintains motor vehicle fuel pumps on or adjacent to the licensed premises, or maintains a financial interest in any motor vehicle fuel pumps, the commission may only issue a special designated merchant license to the marina under section 539.

(13) For purposes of this section, population is determined by the latest federal decennial census, by a special census under section 6 of the home rule city act, 1909 PA 279, MCL 117.6, or section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, or by the latest census and corrections published by the United States Department of Commerce, Bureau of the Census, whichever is later.

Sec. 547. (1) As used in this section:

(a) "Private event" means an event where no consideration, as defined in section 913, is paid by the guests.

(b) "Catering permit" means a permit issued by the commission to a specially designated distributor, specially designated merchant, or holder of a public on-premises license for the sale of beer, wine, or spirits, or any combination thereof, that is also licensed as a food service establishment or retail food establishment under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111, which permit authorizes the permit holder to sell and deliver beer, wine, and spirits in the original sealed container to a person for off-premises consumption but only if the sale is not by the glass or drink and the permit holder serves the beer, wine, or spirits. The permit does not allow the permit holder to deliver, but not serve, the beer, wine, or spirits.

(2) Spirits sold by a specially designated distributor, specially designated merchant, or on-premises licensee under a
catering permit shall not be sold at less than the minimum retail
selling price fixed by the commission, including under rules
promulgated by the commission for specially designated distributors
under section 229.

(1) (3)—The commission may issue a catering permit to a
specially designated distributor, specially designated merchant, or
public on-premises licensee, as a supplement to that license, to
allow the sale and delivery of beer, wine, or spirits in the
original sealed container at locations other than the licensed
premises and to require the catering permit holder to serve beer,
wine, or spirits at the private event where the alcoholic liquor is
not resold to guests. The commission shall not issue a catering
permit to an applicant who delivers beer, wine, or spirits but does
not serve the beer, wine, or spirits.

(2) (4)—This section does not limit the number of catering
permits the commission may issue within any local unit of
government.

(3) (5)—This section does not prevent a catering permit holder
from using the catering permit at multiple locations and events
during the same time period.

(4) (6)—This section does not prohibit a catering permit
holder from selling beer, wine, or spirits to a person who has
obtained a special license if that catering permit holder serves
the beer, wine, or spirits and complies with all catering permit
rules promulgated by the commission.

(5) (7)—An applicant for a catering permit shall apply on a
form approved and provided by the commission and pay an application
and processing fee of $70.00 and a catering permit fee of $100.00
on the issuance of the catering permit. The applicant shall also
pay the catering permit fee on renewal of the specially designated distributor, specially designated merchant, or on-premises licensee.

(6) The person delivering the beer, wine, or spirits under a catering permit shall verify that the individual accepting delivery is at least 21 years of age. The catering permit holder may utilize a third party that provides delivery service to municipalities in this state that are surrounded by water and inaccessible by motor vehicle to deliver beer, wine, or spirits to the designated location of the private event if the delivery service is approved by the commission and agrees to verify that the individual accepting delivery of the beer, wine, or spirits is at least 21 years of age.

(7) A catering permit holder providing the service, or an employee of the catering permit holder, shall successfully complete a server training program approved by the commission before providing the service.

(8) A catering permit holder delivering the beer, wine, or spirits, or an employee of the catering permit holder, shall have in his or her possession while delivering the beer, wine, or spirits documentation demonstrating that the beer, wine, or spirits being delivered are for a private event being conducted under this section.

(9) A catering permit holder who prepares food or drink for direct consumption through service on the premises or elsewhere shall comply with the requirements for food service establishments under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(10) A catering permit holder is subject to all sanctions, liabilities, and penalties provided under this act or
(11) As used in this section:

(a) "Private event" means an event at which no consideration, as defined in section 913, is paid by the guests.

(b) "Catering permit" means a permit issued by the commission to a specially designated distributor, specially designated merchant, or holder of a public on-premises license for the sale of beer, wine, or spirits, or any combination of beer, wine, or spirits, that is also licensed as a food service establishment or retail food establishment under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111, which permit authorizes the permit holder to sell and deliver beer, wine, and spirits in the original sealed container to a person for off-premises consumption but only if the sale is not by the glass or drink and the permit holder serves the beer, wine, or spirits. The permit does not allow the permit holder to deliver, but not serve, the beer, wine, or spirits.

Sec. 1201. (1) In addition to any and all taxes imposed by law, there a specific tax is imposed and levied upon and collected a specific tax equal to 4% of the retail selling price of spirits. The commission shall collect the tax shall be collected by the commission at the time of sale by the commission. In the case sales to licensees, the tax shall be computed on the retail selling price established by the commission without allowance of discount.

(2) Upon collection of the tax under this section, the commission shall deposit the entire proceeds in the state treasury, to the credit of the general fund.

(3) If this section 1201 is repealed, every a licensee, who has on hand any spirits on the effective date of the repeal, shall file a complete inventory of those spirits with the commission.
within 20 days after the repeal. The commission shall credit to such a licensee an amount equal to 4% of the retail selling price of those spirits on future purchases of spirits from the commission.

Sec. 1203. (1) In addition to any and all taxes imposed by law, there a specific tax is imposed and levied upon, and collected a specific tax on equal to 4% of the retail selling price of spirits. The commission shall collect the tax shall be collected by the commission at the time of sale by the commission. In the case of sales to licensees, the tax shall must be computed on the retail selling price. established by the commission without allowance of discount.

(2) Upon collection of the tax imposed under this section, the commission shall deposit the entire proceeds in the state treasury, to the credit of the state school aid fund established by sections 8, 10, and section 11 of article IX of the state constitution of 1963.

Sec. 1207. (1) The legislature finds and declares that there exists in this state a continuing need for programs to promote tourism and convention business in order to assist in the prevention of unemployment and the alleviation of the conditions of unemployment, to preserve existing jobs, and to create new jobs to meet the employment demands of population growth. In order to achieve these purposes, it is necessary to assist and encourage local units of government to acquire, construct, improve, enlarge, renew, replace, repair, furnish, and equip convention facilities and the real property on which they are located.

(2) In addition to any other taxes imposed by law, there a specific tax is imposed and levied upon, and collected a specific
tax equal to 4% of the retail selling price of spirits for consumption on the premises. The commission shall collect the tax shall be collected by the commission at the time of sale by the commission. In the case of For sales to licensees, the tax shall must be computed on the retail selling price. established by the commission without allowance of discount.

(3) In addition to any other taxes imposed by law, there a specific tax is imposed and levied upon, and collected a specific tax equal to 4% of the retail selling price of spirits for consumption off the premises. The commission shall collect the tax shall be collected by the commission at the time of the sale by the commission.

(4) Upon On collection, the commission shall deposit the proceeds of the taxes imposed pursuant to subsections (2) and (3) in the state treasury to the credit of the convention facility development fund created by the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, for distribution and use only in the manner and for the purposes stated in that act.

(5) The tax imposed by this act shall must not be levied during any a period in which the tax imposed pursuant to the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, is not levied.

(6) This section shall does not be construed as making appropriations. make an appropriation.