

SENATE BILL NO. 320

May 15, 2019, Introduced by Senators MACGREGOR, BIZON, LUCIDO, HORN, LASATA, BARRETT, ANANICH, HERTEL and VANDERWALL 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 207, 501, 536, 701, 703, 801, 803, 903, 1025, and 1027 (MCL 436.1207, 436.1501, 436.1536, 436.1701, 436.1703, 436.1801, 436.1803, 436.1903, 436.2025, and 436.2027), section 501 as amended by 2012 PA 82, section 536 as added by 2018 PA 408, section 701 as amended by 2010 PA 266, section 703 as amended by 2017 PA 89, section 801 as amended by 2008 PA 11, section 803 as amended by 2016 PA 105, section 903 as amended by 2010 PA 175, section 1025 as amended by 2017 PA 88, and section 1027 as amended

by 2011 PA 219.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 207. This act does not apply to **any of** the following:

2 (a) The manufacture of cider from fruit for the purpose of
3 making vinegar and non-intoxicating cider and fruit juice for use
4 and sale, and cider and fruit juice ~~when~~**if** used or sold, or both,
5 within 30 days after manufacture.

6 (b) Beer, wine, mead, honey-based beer, or cider of any
7 alcoholic content made on the premises by the owner or lessee of
8 those premises ~~provided~~**if** those premises are used and occupied by
9 ~~that~~**the** owner or lessee as a dwelling and the beer, wine, mead,
10 honey-based beer, or cider is made for family use and home
11 consumption.

12 (c) The gift to an individual for noncommercial use or
13 consumption of up to 20 gallons of beer, wine, mead, honey-based
14 beer, or cider produced under the circumstances described in
15 subdivision (b). This subdivision does not allow a person less than
16 21 years of age to possess, receive as a gift, or give beer, wine,
17 mead, honey-based beer, or cider produced under the circumstances
18 described in subdivision (b).

19 (d) The sale, gift, or keeping and storing for sale by
20 druggists and general merchants and others of medicinal
21 preparations manufactured in accordance with the formulas
22 prescribed by the United States pharmacopoeia and national
23 formulary, patent or proprietary preparations, and other bona fide
24 medicinal and technical preparations, that contain no more alcohol
25 than is necessary to extract the medicinal properties of the drugs
26 contained in those preparations and no more alcohol than is
27 necessary to hold the medicinal agents in solution and to preserve

1 them, that are manufactured and sold as medicine and not as
2 beverages, that are unfit for use for beverage purposes, and the
3 sale of which does not require the payment of a United States
4 liquor dealer's tax.

5 (e) The manufacture and sale of tinctures or of toilet,
6 medicinal, and antiseptic preparations and solutions that are not
7 intended for internal human use or that are not intended to be sold
8 as beverages, that are unfit for beverage purposes, and ~~upon~~**on** the
9 outside of each bottle, box, or package of which is conspicuously
10 and legibly printed in English the quantity by volume of alcohol in
11 those preparations.

12 (f) The manufacture and keeping for sale of the food product
13 known as flavoring extracts that are manufactured and sold for
14 cooking, culinary, or flavoring purposes and are unfit for use as a
15 beverage or for beverage purposes, except that a person shall not
16 manufacture or sell any toilet, medicinal, or antiseptic
17 preparations or solutions, or any flavoring extracts or patent or
18 proprietary medicines or preparations, if the manufacture and sale
19 of those items require the payment of a United States liquor
20 dealer's tax except as provided in this act.

21 (g) The manufacture or sale, or both, of ethyl, mechanical, or
22 industrial alcohol, not used for or made unfit for beverage
23 purposes.

24 (h) The purchase of alcoholic liquor for use in the
25 manufacture of toilet, medicinal, or antiseptic preparations or
26 solutions, or any flavoring extract or patent or proprietary
27 medicines or preparations, by a manufacturer using alcoholic liquor
28 exclusively for the manufacturing purposes and licensed by the
29 commission for that use. A license issued for that use is

1 predicated ~~upon~~**on** the payment of an annual fee of \$10.00. ~~and the~~
2 ~~furnishing of a bond or bonds as the commission requires running to~~
3 ~~the people of the state of Michigan, for the faithful performance~~
4 ~~of the conditions of the license and compliance with this act.~~ The
5 license expires on May 1 following the date of its issuance.

6 Sec. 501. (1) The commission may issue licenses as provided in
7 this act ~~upon~~**on** the payment of the fees provided in section 525
8 and the filing of ~~the bonds required in section 801 or liability~~
9 insurance as provided in section 803. The commission shall provide
10 a notification of the ability of the purchaser or transferee to
11 obtain a tax clearance certificate, as provided in subsection (6).
12 Subject to section 906(2) and (3), the commission shall not issue a
13 new on premises license or transfer more than 50% interest in an
14 existing on premises license unless the applicant or transferee
15 offers proof acceptable to the commission that he or she has
16 employed or has present on the licensed premises, at a minimum,
17 supervisory personnel on each shift and during all hours in which
18 alcoholic liquor is served who have successfully completed a server
19 training program described in section 906. The commission may
20 consider an individual enrolled and actively participating in a
21 server training program as having successfully completed the
22 program for the time the individual is participating. The
23 commission may allow an applicant or a conditionally approved
24 licensee at least 180 days, or more ~~upon~~**on** a showing of good
25 cause, to meet the minimum personnel training requirements of this
26 subsection. The commission may suspend the license of a
27 conditionally approved licensee if that licensee does not comply
28 with this subsection. The commission may waive the server training
29 requirements of this subsection on the basis of either of the

1 following circumstances:

2 (a) The licensee's responsible operating experience or
3 training.

4 (b) The person's demonstration of an acceptable level of
5 responsible operation either as a licensee during the preceding 3
6 years or as a manager with substantial experience in serving
7 alcoholic liquor.

8 (2) A full-year license issued by the commission ~~shall expire~~
9 **expires** on April 30 following the date of issuance or the date
10 fixed by the commission. A license issued under this act is a
11 contract between the commission and the licensee and shall be
12 signed by both parties. If a licensee dies, the commission may
13 approve ~~the operation of the establishment by a personal~~
14 representative or independent personal representative ~~duly~~
15 appointed by a court of competent jurisdiction **to operate the**
16 **establishment**, pending the settlement of the estate of the deceased
17 licensee. The commission may approve a receiver or trustee
18 appointed by a court of competent jurisdiction to operate the
19 licensed establishment of a licensee. The commission may grant a
20 part-year license for a proportionate part of the license fee
21 specified in section 525. In a resort area the commission shall
22 grant a license for a period of time as short as 3 months. A
23 license may be transferred with the consent of the commission. A
24 class C or specially designated distributor license obtained in a
25 manner other than by transfer ~~shall~~ **must** not be transferred within
26 3 years after ~~its issuance~~ **it is issued** except under circumstances
27 where the licensee clearly and convincingly demonstrates that
28 unusual hardship will result if the transfer does not receive the
29 consent of the commission. An application for a license to sell

1 alcoholic liquor for consumption on the premises, except in a city
2 having a population of 600,000 or more, ~~shall~~**must** be approved by
3 the local legislative body in which the applicant's place of
4 business is located before the license is granted by the
5 commission, except that ~~in the case of~~**for** an application for
6 renewal of an existing license, if an objection to a renewal has
7 not been filed with the commission by the local legislative body
8 not less than 30 days before the date of expiration of the license,
9 the approval of the local legislative body is not required. The
10 commission shall provide the local legislative body and the local
11 chief of police with the name, home and business addresses, and
12 home and business phone numbers to accomplish the local legislative
13 reviews of new and transferred license applications required by
14 this subsection. ~~Upon~~**On** request of the local legislative body
15 after due notice and proper hearing by the local legislative body
16 and the commission, the commission shall revoke the license of a
17 licensee granted a license to sell alcoholic liquor for consumption
18 on the premises or any permit held in conjunction with that
19 license.

20 (3) A local legislative body, by resolution, may request that
21 the commission revoke the license of a licensee granted a license
22 to sell alcoholic liquor for consumption off the premises whose
23 place of business is located within the local legislative body's
24 jurisdiction and that has been determined in commission violation
25 hearings to have sold or furnished alcoholic liquor, on at least 3
26 separate occasions in a consecutive 12-month period, to a minor if
27 those violations did not involve the use of falsified or fraudulent
28 identification by the minor. If the commission verifies that the
29 licensee who is the subject of the resolution has been found to

1 have committed the violations as prescribed in this subsection, the
2 commission may suspend or revoke the licensee's license and any
3 permit held in conjunction with that license.

4 (4) This act does not prohibit a hotel that is or was the
5 holder of a license authorizing the retail sale of alcoholic liquor
6 for consumption on the premises from applying for and receiving
7 under this act any other and different type of license authorizing
8 the retail sale of alcoholic liquor for consumption on the
9 premises. ~~and the~~ **The** application for the license ~~shall is~~ not be
10 considered a new application for a license if the total number of
11 public licenses for consumption on the premises does not exceed the
12 authorized total established in this act and the sale of alcoholic
13 liquor is approved by the electors. The commission may divide the
14 state into 3 zones and establish for each zone an anniversary date
15 for renewal of full-year retail licenses in the licensing year. The
16 commission shall promulgate rules ~~pursuant to~~ **under** the
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
18 24.328, for the effective administration of the renewal of
19 licenses.

20 (5) The commission, with the written approval of the
21 department of agriculture and rural development for the Michigan
22 state fairgrounds and the Upper Peninsula state fairgrounds, may
23 issue without regard to the quota provision of section 531 a tavern
24 license to a person as concessionaire leasing or renting a portion
25 of either the Upper Peninsula state fairgrounds or the state
26 fairgrounds, or both, to service the licensed area in use for
27 recreational or exhibition purposes other than at the time of the
28 annual Upper Peninsula state fair under section 2 of 1927 PA 89,
29 MCL 285.142. A license issued under this subsection is not

1 transferable.

2 (6) The application for initial licensure or for a transfer of
3 a license shall contain a notice in substantial compliance with the
4 following:

5 When purchasing a license, a buyer can be held liable
6 for tax debts incurred by the previous owner. Prior to
7 committing to the purchase of any license or establishment,
8 the buyer should request a tax clearance certificate
9 from the seller that indicates that all taxes have been
10 paid up to the date of issuance. Obtaining sound
11 professional assistance from an attorney or accountant
12 can be helpful to identify and avoid any pitfalls
13 and hidden liabilities when buying even a portion
14 of a business.

15 Sellers can make a request for the tax clearance
16 certificate through the Michigan department of treasury.

17 Sec. 536. (1) Except as provided in section 105(13), the
18 commission shall allow a person to be licensed as more than 1 type
19 of manufacturer in this state.

20 (2) A person that holds more than 1 type of manufacturing
21 license in this state shall meet all applicable provisions of this
22 act for each type of manufacturing license the person holds.

23 (3) Subject to the requirements of this section and section
24 537, the commission may approve a licensed manufacturer to operate
25 1 or more tasting rooms.

26 (4) Brewers and micro brewers shall not have more approved
27 tasting rooms than allowed in section 411.

28 (5) A tasting room may be jointly operated by 2 or more
29 manufacturers if either of the following conditions is met:

1 (a) The manufacturers are owned by the same person and their
2 manufacturing premises share the same address.

3 (b) The manufacturers are not owned by the same person and
4 their manufacturing premises do not share the same address.

5 (6) A tasting room is treated as licensed premises for
6 purposes of this act.

7 (7) An approved tasting room located on the manufacturing
8 premises of 1 or more manufacturers that are owned by the same
9 person and whose manufacturing premises share the same address must
10 comply with all of the following:

11 (a) The commission must approve and issue an on-premises
12 tasting room permit to the manufacturer or manufacturers.

13 (b) The manufacturer or manufacturers must pay the \$100.00
14 initial permit fee, which is renewable annually.

15 (c) The manufacturer or manufacturers must be approved for the
16 on-premises tasting room permit by the local legislative body in
17 which the proposed licensed premises will be located, except in a
18 city having a population of 600,000 or more or as provided in
19 subsection (17).

20 (d) The manufacturer or manufacturers must comply with the
21 server training requirements of section 906.

22 (e) The manufacturer or manufacturers must file with the
23 commission proof of financial responsibility providing security for
24 liability under section ~~801(3)~~**801(2)** of not less than \$50,000.00
25 as provided in section 803.

26 (f) A separate on-premises tasting room permit is not required
27 for each license type for a person licensed by the commission under
28 any combination of brewer, micro brewer, wine maker, small wine
29 maker, distiller, small distiller, brandy manufacturer, or mixed

1 spirit drink manufacturer licenses issued to that person at the
2 same manufacturing premises.

3 (g) The commission shall not issue to a manufacturer or
4 manufacturers a Sunday sales permit, catering permit, dance permit,
5 entertainment permit, specific purpose permit, extended hours
6 permit, or authorization for outdoor service unless the commission
7 has issued an on-premises tasting room permit to the manufacturer
8 or manufacturers. A Sunday sales permit, catering permit, dance
9 permit, entertainment permit, specific purpose permit, extended
10 hours permit, or authorization for outdoor service may be issued
11 concurrently with the issuance of an on-premises tasting room
12 permit.

13 (h) A brewer, micro brewer, wine maker, small wine maker,
14 distiller, small distiller, brandy manufacturer, or mixed spirit
15 drink manufacturer may own and operate a restaurant or allow
16 another person to operate a restaurant as part of the on-premises
17 tasting room on the manufacturing premises. If the brewer, micro
18 brewer, wine maker, small wine maker, distiller, small distiller,
19 brandy manufacturer, or mixed spirit drink manufacturer allows
20 another person to operate a restaurant on the manufacturing
21 premises, the brewer, micro brewer, wine maker, small wine maker,
22 distiller, small distiller, brandy manufacturer, or mixed spirit
23 drink manufacturer must hold a participation permit naming as a
24 participant the other person. The other person must meet the
25 requirements for a participant in R 436.1041(3) of the Michigan
26 Administrative Code.

27 (8) Subject to subsection (10), an approved tasting room
28 located off the manufacturing premises of 1 or more manufacturers,
29 other than a brewer, micro brewer, or mixed spirit drink

1 manufacturer, that are owned by the same person and whose
2 manufacturing premises share the same address must comply with all
3 of the following:

4 (a) The commission must approve and issue an off-premises
5 tasting room license to the manufacturer or manufacturers.

6 (b) The manufacturer or manufacturers must pay the \$100.00
7 initial license fee, which is renewable annually.

8 (c) The manufacturer or manufacturers must be approved for the
9 off-premises tasting room license by the local legislative body in
10 which the proposed licensed premises will be located, except in a
11 city having a population of 600,000 or more or as provided in
12 subsection (17).

13 (d) The manufacturer or manufacturers must comply with the
14 server training requirements of section 906 at the off-premises
15 tasting room.

16 (e) The manufacturer or manufacturers must file with the
17 commission proof of financial responsibility providing security for
18 liability under section ~~801(3)~~**801(2)** of not less than \$50,000.00
19 as provided in section 803 for the off-premises tasting room.

20 (f) A separate off-premises tasting room license is not
21 required for each license type for a person licensed by the
22 commission under any combination of wine maker, small wine maker,
23 distiller, small distiller, or brandy manufacturer licenses issued
24 to that person at the same manufacturing premises.

25 (g) The commission shall not issue to a manufacturer or
26 manufacturers a Sunday sales permit, catering permit, dance permit,
27 entertainment permit, specific purpose permit, extended hours
28 permit, authorization for outdoor service, or permission to
29 maintain a direct connection to unlicensed premises unless the

1 commission has issued an off-premises tasting room license to the
2 manufacturer or manufacturers. A Sunday sales permit, catering
3 permit, dance permit, entertainment permit, specific purpose
4 permit, extended hours permit, authorization for outdoor service,
5 or permission to maintain a direct connection to unlicensed
6 premises may be issued concurrently with the issuance of an off-
7 premises tasting room license.

8 (9) Subject to subsection (10), an approved jointly operated
9 tasting room located off the manufacturing premises of 2 or more
10 manufacturers, other than a brewer, micro brewer, or mixed spirit
11 drink manufacturer, that are not owned by the same person and whose
12 manufacturing premises do not share the same address must comply
13 with all of the following:

14 (a) The commission must approve and issue a joint off-premises
15 tasting room license to each of the manufacturers.

16 (b) Each manufacturer must pay the \$100.00 initial license
17 fee, which is renewable annually.

18 (c) Each manufacturer must be approved for a joint off-
19 premises tasting room license by the local legislative body in
20 which the proposed licensed premises will be located, except in a
21 city having a population of 600,000 or more or as provided in
22 subsection (17).

23 (d) Each manufacturer must comply with the server training
24 requirements of section 906 at the jointly operated off-premises
25 tasting room.

26 (e) Each manufacturer must file with the commission proof of
27 financial responsibility providing security for liability under
28 section ~~801(3)~~**801(2)** of not less than \$50,000.00 as provided in
29 section 803 for the jointly operated off-premises tasting room.

1 (f) Any management agreements with an unlicensed manager of
2 the jointly operated off-premises tasting room must comply with the
3 requirements of R 436.1041 of the Michigan Administrative Code and
4 all the manufacturers must hold a participation permit naming as a
5 participant the unlicensed manager. The unlicensed manager must
6 meet the requirements for a participant in R 436.1041(3) of the
7 Michigan Administrative Code.

8 (g) A Sunday sales permit, dance permit, entertainment permit,
9 specific purpose permit, extended hours permit, authorization for
10 outdoor service, or permission to maintain a direct connection to
11 unlicensed premises may be issued in conjunction with a jointly
12 operated off-premises tasting room. All manufacturers licensed at
13 the jointly operated off-premises tasting room location must hold
14 the same permits, permissions, and authorizations at the location.

15 (h) A violation of this act or the administrative rules by any
16 manufacturer on the premises of the jointly operated off-premises
17 tasting room is a violation by all the manufacturers licensed at
18 the jointly operated off-premises tasting room.

19 (10) Approved off-premises tasting rooms or jointly operated
20 off-premises tasting rooms described in subsections (8) and (9)
21 must comply with all of the following:

22 (a) A wine maker, small wine maker, distiller, small
23 distiller, or brandy manufacturer may have 1 of the following:

24 (i) No more than 5 off-premises tasting room licenses issued
25 under subsection (8) ~~where~~ **under which** alcoholic liquor
26 manufactured by the wine maker, small wine maker, distiller, small
27 distiller, or brandy manufacturer may be sold by the glass for
28 consumption on the premises or samples may be sold or given away
29 for consumption on the premises as provided in subsection (14)(b)

1 and (c).

2 (ii) No more than 5 joint off-premises tasting room licenses
3 issued under subsection (9) ~~where~~**under which** alcoholic liquor
4 manufactured by the wine maker, small wine maker, distiller, small
5 distiller, or brandy manufacturer may be sold by the glass for
6 consumption on the premises or samples may be sold or given away
7 for consumption on the premises as provided in subsection (14) (b)
8 and (c).

9 (iii) A combination of no more than 5 off-premises tasting room
10 licenses issued under subsection (8) and joint off-premises tasting
11 room licenses issued under subsection (9) ~~where~~**under which**
12 alcoholic liquor manufactured by the wine maker, small wine maker,
13 distiller, small distiller, or brandy manufacturer may be sold by
14 the glass for consumption on the premises or samples may be sold or
15 given away for consumption on the premises as provided in
16 subsection (14) (b) and (c).

17 (iv) No more than the equivalent number of off-premises tasting
18 room licenses issued under subsection (8), joint off-premises
19 tasting room licenses issued under subsection (9), or a combination
20 of off-premises tasting room licenses issued under subsection (8)
21 and joint off-premises tasting room licenses issued under
22 subsection (9) that were issued before October 1, 2018 ~~where~~**under**
23 **which** alcoholic liquor manufactured by the wine maker, small wine
24 maker, distiller, small distiller, or brandy manufacturer may be
25 sold by the glass for consumption on the premises or samples may be
26 sold or given away for consumption on the premises as provided in
27 subsection (14) (b) and (c).

28 (b) Notwithstanding the limitation in subdivision (a), a wine
29 maker, small wine maker, distiller, small distiller, or brandy

1 manufacturer may have any number of off-premises tasting room
2 licenses or joint off-premises tasting room licenses ~~where~~**under**
3 **which** alcoholic liquor manufactured by the wine maker, small wine
4 maker, distiller, small distiller, or brandy manufacturer may only
5 be sold or given away as samples for consumption on the premises as
6 provided in subsection (14) (d).

7 (c) A wine maker, small wine maker, distiller, small
8 distiller, or brandy manufacturer must designate at the time of
9 application whether the tasting room location for which the off-
10 premises tasting room license or the joint off-premises tasting
11 room license application is being made will sell by the glass as
12 provided in subdivision (a) or provide only samples as provided in
13 subdivision (b). The designation made for the off-premises tasting
14 room license or the joint off-premises tasting room license must
15 not be changed after the license has been issued.

16 (d) All wine makers, small wine makers, distillers, small
17 distillers, or brandy manufacturers licensed at the same approved
18 jointly operated off-premises tasting room must have an identical
19 designation under subdivision (c).

20 (e) A wine maker, small wine maker, distiller, small
21 distiller, or brandy manufacturer that has an off-premises tasting
22 room or jointly operated off-premises tasting room location that
23 was approved by the commission before ~~the effective date of the~~
24 ~~amendatory act that added this section~~ **December 19, 2018** must
25 submit to the commission in writing a designation as required under
26 subdivision (c) by April 1, 2019.

27 (11) A wine maker, small wine maker, brewer, micro brewer,
28 distiller, small distiller, brandy manufacturer, or mixed spirit
29 drink manufacturer may add a nonalcoholic mixing ingredient or an

1 alcoholic mixing ingredient manufactured by the wine maker, small
2 wine maker, brewer, micro brewer, distiller, small distiller,
3 brandy manufacturer, or mixed spirit drink manufacturer to sampled
4 or purchased alcoholic liquor if the sampled or purchased alcoholic
5 liquor is consumed on the premises of the approved tasting room.

6 (12) A manufacturer is not a retailer under this act merely
7 because the manufacturer has a tasting room.

8 (13) A manufacturer with an approved tasting room may sample
9 and sell alcoholic liquor only as specifically allowed in this act.

10 (14) A manufacturer may do all of the following:

11 (a) Sell alcoholic liquor it manufactured for consumption off
12 the premises in an approved tasting room under subsections (7) to
13 (9).

14 (b) Subject to subsection (10)(a), sell alcoholic liquor it
15 manufactured by the glass for consumption on the premises of an
16 approved tasting room under subsections (7) to (9).

17 (c) Subject to subsection (10)(a), sell or give away samples
18 of any size of alcoholic liquor it manufactured for consumption on
19 the premises of an approved tasting room under subsections (7) to
20 (9).

21 (d) Subject to subsection (10)(b), sell or give away samples
22 of alcoholic liquor it manufactured for consumption on the premises
23 of an approved tasting room under subsections (8) and (9) under all
24 of the following conditions:

25 (i) A wine maker or small wine maker may offer samples of wine
26 that do not exceed 3 ounces per sample.

27 (ii) A brandy manufacturer may offer samples of brandy that do
28 not exceed 1/2 ounce per sample.

29 (iii) A distiller or small distiller may offer samples of

1 spirits or mixed drinks that do not exceed 1/2 ounce per sample.

2 (15) A manufacturer issued a license before ~~the effective date~~
 3 ~~of the amendatory act that added this section~~ **December 19, 2018**
 4 that intends to sell for consumption off its licensed premises or
 5 sell, serve, and allow consumption on its licensed premises of
 6 alcoholic liquor as allowed under this section and section 537 must
 7 comply with this section by April 1, 2019.

8 (16) The revenue received from subsection (7) must be
 9 deposited into the liquor control enforcement and license
 10 investigation revolving fund under section 543(9).

11 (17) Local approval under subsection (7)(c), (8)(c), or (9)(c)
 12 is not required for a tasting room that was in existence before ~~the~~
 13 ~~effective date of the amendatory act that added this~~
 14 ~~section.~~ **December 19, 2018.**

15 Sec. 701. (1) ~~Alcoholic~~ **A person shall not sell or furnish**
 16 **alcoholic** liquor ~~shall not be sold or furnished~~ to a minor. Except
 17 as otherwise provided in subsection (2) and subject to subsections
 18 (4), (5), and (6), a person who knowingly sells or furnishes
 19 alcoholic liquor to a minor, or who fails to make diligent inquiry
 20 as to whether the ~~person~~ **individual** is a minor, is guilty of a
 21 misdemeanor. A retail licensee or a retail licensee's clerk, agent,
 22 or employee who violates this subsection shall be punished in the
 23 manner provided for licensees in section 909 except that if the
 24 violation is the result of an undercover operation in which the
 25 minor received alcoholic liquor under the direction of the state
 26 police, the commission, or a local police agency as part of an
 27 enforcement action, the retail licensee's clerk, agent, or employee
 28 is responsible for a state civil infraction and may be ordered to
 29 pay a civil fine of not more than \$100.00. Except as otherwise

1 provided in subsection (2), a person who is not a retail licensee
 2 or a retail licensee's clerk, agent, or employee and who violates
 3 this subsection is guilty of a misdemeanor punishable by a fine of
 4 not more than \$1,000.00 and imprisonment for not more than 60 days
 5 for a first offense, a fine of not more than \$2,500.00 and
 6 imprisonment for not more than 90 days for a second or subsequent
 7 offense, and may be ordered to perform community service. For a
 8 second or subsequent offense, the secretary of state shall suspend
 9 the operator's or chauffeur's license of an individual who is not a
 10 retail licensee or retail licensee's clerk, agent, or employee and
 11 who is convicted of violating this subsection as provided in
 12 section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.
 13 A suitable sign describing the content of this section and the
 14 penalties for its violation ~~shall must~~ be posted in a conspicuous
 15 place in each room where alcoholic liquor is sold. The ~~signs shall~~
 16 ~~be approved and furnished by the commission~~ **shall approve and**
 17 **furnish a sign under this section.**

18 (2) A person who is not a retail licensee or the retail
 19 licensee's clerk, agent, or employee and who violates subsection
 20 (1) is guilty of a felony, punishable by imprisonment for not more
 21 than 10 years or a fine of not more than \$5,000.00, or both, if the
 22 subsequent consumption of the alcoholic liquor by the minor is a
 23 direct and substantial cause of ~~that person's~~ **the minor's** death or
 24 an accidental injury that causes ~~that person's~~ **the minor's** death.

25 (3) If a violation occurs in an establishment that is licensed
 26 by the commission for consumption of alcoholic liquor on the
 27 licensed premises, a person who is a licensee or the clerk, agent,
 28 or employee of a licensee ~~shall must~~ not be charged with a
 29 violation of subsection (1) or section ~~801(2)~~ **801(1)** unless the

1 licensee or the clerk, agent, or employee of the licensee knew or
 2 should have reasonably known with the exercise of due diligence
 3 that a person less than 21 years of age possessed or consumed
 4 alcoholic liquor on the licensed premises and the licensee or
 5 clerk, agent, or employee of the licensee failed to take immediate
 6 corrective action.

7 (4) If the enforcing agency involved in the violation is the
 8 state police or a local police agency, a licensee ~~shall~~**must** not be
 9 charged with a violation of subsection (1) or section ~~801(2)~~**801(1)**
 10 unless all of the following occur, if applicable:

11 (a) Enforcement action is taken against the minor who
 12 purchased or attempted to purchase, consumed or attempted to
 13 consume, or possessed or attempted to possess alcoholic liquor.

14 (b) Enforcement action is taken under this section against the
 15 ~~person~~**individual** 21 years of age or older who is not the retail
 16 licensee or the retail licensee's clerk, agent, or employee who
 17 sold or furnished the alcoholic liquor to the minor.

18 (c) Enforcement action under this section is taken against the
 19 clerk, agent, or employee who directly sold or furnished alcoholic
 20 liquor to the minor.

21 (5) If the enforcing agency is the commission and an
 22 appearance ticket or civil infraction citation has not been issued,
 23 then the commission shall recommend to a local law enforcement
 24 agency that enforcement action be taken against a violator of this
 25 section or section 703 who is not a licensee. However, subsection
 26 (4) does not apply if the minor against whom enforcement action is
 27 taken under section 703, the clerk, agent, or employee of the
 28 licensee who directly sold or furnished alcoholic liquor to the
 29 minor, or the ~~person~~**individual** 21 years of age or older who sold

1 or furnished alcoholic liquor to the minor is not alive or is not
2 present in this state at the time the licensee is charged.

3 Subsection (4) (a) does not apply under either of the following
4 circumstances:

5 (a) The violation of subsection (1) is the result of an
6 undercover operation in which the minor purchased or received
7 alcoholic liquor under the direction of the person's employer and
8 with the prior approval of the local prosecutor's office as part of
9 an employer-sponsored internal enforcement action.

10 (b) The violation of subsection (1) is the result of an
11 undercover operation in which the minor purchased or received
12 alcoholic liquor under the direction of the state police, the
13 commission, or a local police agency as part of an enforcement
14 action.

15 (6) Any initial or contemporaneous purchase or receipt of
16 alcoholic liquor by the minor under subsection (5) (a) or (b) must
17 have been under the direction of the state police, the commission,
18 or the local police agency and must have been part of the
19 undercover operation.

20 (7) If a minor participates in an undercover operation in
21 which the minor is to purchase or receive alcoholic liquor under
22 the supervision of a law enforcement agency, his or her parents or
23 legal guardian shall consent to the participation if ~~that person~~
24 **the minor** is less than 18 years of age.

25 (8) In an action for the violation of this section, proof that
26 the defendant or the defendant's agent or employee demanded and was
27 shown, before furnishing alcoholic liquor to a minor, a motor
28 vehicle operator's or chauffeur's license, a military
29 identification card, or other bona fide documentary evidence of the

1 age and identity of that person, ~~shall be~~ **is** a defense to an action
2 brought under this section.

3 (9) The commission shall provide, on an annual basis, a
4 written report to the department of state police as to the number
5 of actions heard by the commission involving violations of this
6 section and section ~~801(2)~~. **801(1)**. The **commission shall include in**
7 **the** report ~~shall include~~ the disposition of each action and contain
8 figures representing **all of** the following categories:

9 (a) Decoy operations.

10 (b) Off-premises violations.

11 (c) On-premises violations.

12 (d) Repeat offenses within the 3 years preceding the date of
13 that report.

14 (10) As used in this section:

15 (a) "Corrective action" means action taken by a licensee or a
16 clerk, agent, or employee of a licensee designed to prevent a minor
17 from further possessing or consuming alcoholic liquor on the
18 licensed premises. Corrective action includes, but is not limited
19 to, contacting a law enforcement agency and ejecting the minor and
20 any other person suspected of aiding and abetting the minor.

21 (b) "Diligent inquiry" means a diligent good faith effort to
22 determine the age of ~~a person,~~ **an individual**, which includes at
23 least an examination of an official Michigan operator's or
24 chauffeur's license, an official Michigan personal identification
25 card, a military identification card, or any other bona fide
26 picture identification ~~which~~ **that** establishes the identity and age
27 of the ~~person.~~ **individual**.

28 Sec. 703. (1) A minor shall not purchase or attempt to
29 purchase alcoholic liquor, consume or attempt to consume alcoholic

1 liquor, possess or attempt to possess alcoholic liquor, or have any
2 bodily alcohol content, except as provided in this section. A minor
3 who violates this subsection is responsible for a state civil
4 infraction or guilty of a misdemeanor as follows and is not subject
5 to the penalties prescribed in section 909:

6 (a) For the first violation, the minor is responsible for a
7 state civil infraction and ~~shall~~**must** be fined not more than
8 \$100.00. A court may order a minor under this subdivision to
9 participate in substance use disorder services as defined in
10 section 6230 of the public health code, 1978 PA 368, MCL 333.6230,
11 and designated by the administrator of the office of substance
12 abuse services, and may order the minor to perform community
13 service and to undergo substance abuse screening and assessment at
14 his or her own expense as described in subsection (5). A minor may
15 be found responsible or admit responsibility only once under this
16 subdivision.

17 (b) If a violation of this subsection occurs after 1 prior
18 judgment, the minor is guilty of a misdemeanor. A misdemeanor under
19 this subdivision is punishable by imprisonment for not more than 30
20 days if the court finds that the minor violated an order of
21 probation, failed to successfully complete any treatment,
22 screening, or community service ordered by the court, or failed to
23 pay any fine for that conviction or juvenile adjudication, or by a
24 fine of not more than \$200.00, or both. A court may order a minor
25 under this subdivision to participate in substance use disorder
26 services as defined in section 6230 of the public health code, 1978
27 PA 368, MCL 333.6230, and designated by the administrator of the
28 office of substance abuse services, to perform community service,
29 and to undergo substance abuse screening and assessment at his or

1 her own expense as described in subsection (5).

2 (c) If a violation of this subsection occurs after 2 or more
3 prior judgments, the minor is guilty of a misdemeanor. A
4 misdemeanor under this subdivision is punishable by imprisonment
5 for not more than 60 days, if the court finds that the minor
6 violated an order of probation, failed to successfully complete any
7 treatment, screening, or community service ordered by the court, or
8 failed to pay any fine for that conviction or juvenile
9 adjudication, or by a fine of not more than \$500.00, or both, as
10 applicable. A court may order a minor under this subdivision to
11 participate in substance use disorder services as defined in
12 section 6230 of the public health code, 1978 PA 368, MCL 333.6230,
13 and designated by the administrator of the office of substance
14 abuse services, to perform community service, and to undergo
15 substance abuse screening and assessment at his or her own expense
16 as described in subsection (5).

17 (2) An individual who furnishes fraudulent identification to a
18 minor or, notwithstanding subsection (1), a minor who uses
19 fraudulent identification to purchase alcoholic liquor, is guilty
20 of a misdemeanor punishable by imprisonment for not more than 93
21 days or a fine of not more than \$100.00, or both.

22 (3) If an individual who pleads guilty to a misdemeanor
23 violation of subsection (1)(b) or offers a plea of admission in a
24 juvenile delinquency proceeding for a misdemeanor violation of
25 subsection (1)(b), the court, without entering a judgment of guilt
26 in a criminal proceeding or a determination in a juvenile
27 delinquency proceeding that the juvenile has committed the offense
28 and with the consent of the accused, may defer further proceedings
29 and place the individual on probation. The terms and conditions of

1 that probation include, but are not limited to, the sanctions set
2 forth in subsection (1)(c), payment of the costs including minimum
3 state cost as provided for in section 18m of chapter XIIIA of the
4 probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of
5 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
6 769.1j, and the costs of probation as prescribed in section 3 of
7 chapter XI of the code of criminal procedure, 1927 PA 175, MCL
8 771.3. If a court finds that an individual violated a term or
9 condition of probation or that the individual is utilizing this
10 subsection in another court, the court may enter an adjudication of
11 guilt, or a determination in a juvenile delinquency proceeding that
12 the individual has committed the offense, and proceed as otherwise
13 provided by law. If an individual fulfills the terms and conditions
14 of probation, the court shall discharge the individual and dismiss
15 the proceedings. A discharge and dismissal under this section is
16 without adjudication of guilt or without a determination in a
17 juvenile delinquency proceeding that the individual has committed
18 the offense and is not a conviction or juvenile adjudication for
19 purposes of disqualifications or disabilities imposed by law on
20 conviction of a crime. An individual may obtain only 1 discharge
21 and dismissal under this subsection. The court shall maintain a
22 nonpublic record of the matter while proceedings are deferred and
23 the individual is on probation and if there is a discharge and
24 dismissal under this subsection. The secretary of state shall
25 retain a nonpublic record of a plea and of the discharge and
26 dismissal under this subsection. These records shall be furnished
27 to any of the following:

28 (a) To a court, prosecutor, or police agency on request for
29 the purpose of determining if an individual has already ~~utilized~~

1 **used** this subsection.

2 (b) To the department of corrections, a prosecutor, or a law
3 enforcement agency, on the department's, a prosecutor's, or a law
4 enforcement agency's request, subject to all of the following
5 conditions:

6 (i) At the time of the request, the individual is an employee
7 of the department of corrections, the prosecutor, or the law
8 enforcement agency, or an applicant for employment with the
9 department of corrections, the prosecutor, or the law enforcement
10 agency.

11 (ii) The record is used by the department of corrections, the
12 prosecutor, or the law enforcement agency only to determine whether
13 an employee has violated his or her conditions of employment or
14 whether an applicant meets criteria for employment.

15 (4) A misdemeanor violation of subsection (1) successfully
16 deferred, discharged, and dismissed under subsection (3) is
17 considered a prior judgment for the purposes of subsection (1)(c).

18 (5) A court may order an individual found responsible for or
19 convicted of violating subsection (1) to undergo screening and
20 assessment by a person or agency as designated by the department-
21 designated community mental health entity as defined in section
22 100a of the mental health code, 1974 PA 258, MCL 330.1100a, to
23 determine whether the individual is likely to benefit from
24 rehabilitative services, including alcohol or drug education and
25 alcohol or drug treatment programs. A court may order an individual
26 subject to a misdemeanor conviction or juvenile adjudication of, or
27 placed on probation regarding, a violation of subsection (1) to
28 submit to a random or regular preliminary chemical breath analysis.
29 The parent, guardian, or custodian of a minor who is less than 18

1 years of age and not emancipated under 1968 PA 293, MCL 722.1 to
2 722.6, may request a random or regular preliminary chemical breath
3 analysis as part of the probation.

4 (6) The secretary of state shall suspend the operator's or
5 chauffeur's license of an individual convicted of a second or
6 subsequent violation of subsection (1) or of violating subsection
7 (2) as provided in section 319 of the Michigan vehicle code, 1949
8 PA 300, MCL 257.319.

9 (7) A peace officer who has reasonable cause to believe a
10 minor has consumed alcoholic liquor or has any bodily alcohol
11 content may request that individual to submit to a preliminary
12 chemical breath analysis. If a minor does not consent to a
13 preliminary chemical breath analysis, the analysis ~~shall~~**must** not
14 be administered without a court order, but a peace officer may seek
15 to obtain a court order. The results of a preliminary chemical
16 breath analysis or other acceptable blood alcohol test are
17 admissible in a state civil infraction proceeding or criminal
18 prosecution to determine if the minor has consumed or possessed
19 alcoholic liquor or had any bodily alcohol content.

20 (8) A law enforcement agency, on determining that an
21 individual who is less than 18 years of age and not emancipated
22 under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed,
23 possessed, or purchased alcoholic liquor, attempted to consume,
24 possess, or purchase alcoholic liquor, or had any bodily alcohol
25 content in violation of subsection (1) shall notify the parent or
26 parents, custodian, or guardian of the individual as to the nature
27 of the violation if the name of a parent, guardian, or custodian is
28 reasonably ascertainable by the law enforcement agency. The law
29 enforcement agency shall notify the parent, guardian, or custodian

1 not later than 48 hours after the law enforcement agency determines
2 that the individual who allegedly violated subsection (1) is less
3 than 18 years of age and not emancipated under 1968 PA 293, MCL
4 722.1 to 722.6. The law enforcement agency may notify the parent,
5 guardian, or custodian by any means reasonably calculated to give
6 prompt actual notice including, but not limited to, notice in
7 person, by telephone, or by first-class mail. If an individual less
8 than 17 years of age is incarcerated for violating subsection (1),
9 his or her parents or legal guardian ~~shall~~**must** be notified
10 immediately as provided in this subsection.

11 (9) This section does not prohibit a minor from possessing
12 alcoholic liquor during regular working hours and in the course of
13 his or her employment if employed by a person licensed by this act,
14 by the commission, or by an agent of the commission, if the
15 alcoholic liquor is not possessed for his or her personal
16 consumption.

17 (10) The following individuals are not considered to be in
18 violation of subsection (1):

19 (a) A minor who has consumed alcoholic liquor and who
20 voluntarily presents himself or herself to a health facility or
21 agency for treatment or for observation including, but not limited
22 to, medical examination and treatment for any condition arising
23 from a violation of sections 520b to 520g of the Michigan penal
24 code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a
25 minor.

26 (b) A minor who accompanies an individual who meets both of
27 the following criteria:

28 (i) Has consumed alcoholic liquor.

29 (ii) Voluntarily presents himself or herself to a health

1 facility or agency for treatment or for observation including, but
2 not limited to, medical examination and treatment for any condition
3 arising from a violation of sections 520b to 520g of the Michigan
4 penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed
5 against a minor.

6 (c) A minor who initiates contact with a peace officer or
7 emergency medical services personnel for the purpose of obtaining
8 medical assistance for a legitimate health care concern.

9 (11) If a minor who is less than 18 years of age and who is
10 not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily
11 presents himself or herself to a health facility or agency for
12 treatment or for observation as provided under subsection (10), the
13 health facility or agency shall notify the parent or parents,
14 guardian, or custodian of the individual as to the nature of the
15 treatment or observation if the name of a parent, guardian, or
16 custodian is reasonably ascertainable by the health facility or
17 agency.

18 (12) This section does not limit the civil or criminal
19 liability of a vendor or the vendor's clerk, servant, agent, or
20 employee for a violation of this act.

21 (13) The consumption of alcoholic liquor by a minor who is
22 enrolled in a course offered by an accredited postsecondary
23 educational institution in an academic building of the institution
24 under the supervision of a faculty member is not prohibited by this
25 act if the purpose of the consumption is solely educational and is
26 a requirement of the course.

27 (14) The consumption by a minor of sacramental wine in
28 connection with religious services at a church, synagogue, or
29 temple is not prohibited by this act.

1 (15) Subsection (1) does not apply to a minor who participates
2 in either or both of the following:

3 (a) An undercover operation in which the minor purchases or
4 receives alcoholic liquor under the direction of the person's
5 employer and with the prior approval of the local prosecutor's
6 office as part of an employer-sponsored internal enforcement
7 action.

8 (b) An undercover operation in which the minor purchases or
9 receives alcoholic liquor under the direction of the state police,
10 the commission, or a local police agency as part of an enforcement
11 action unless the initial or contemporaneous purchase or receipt of
12 alcoholic liquor by the minor was not under the direction of the
13 state police, the commission, or the local police agency and was
14 not part of the undercover operation.

15 (16) The state police, the commission, or a local police
16 agency shall not recruit or attempt to recruit a minor for
17 participation in an undercover operation at the scene of a
18 violation of subsection (1), section 701(1), or section
19 ~~801(2)~~**801(1)**.

20 (17) In a prosecution for the violation of subsection (1)
21 concerning a minor having any bodily alcohol content, it is an
22 affirmative defense that the minor consumed the alcoholic liquor in
23 a venue or location where that consumption is legal.

24 (18) As used in this section:

25 (a) "Any bodily alcohol content" means either of the
26 following:

27 (i) An alcohol content of 0.02 grams or more per 100
28 milliliters of blood, per 210 liters of breath, or per 67
29 milliliters of urine.

1 (ii) Any presence of alcohol within a person's body resulting
2 from the consumption of alcoholic liquor, other than consumption of
3 alcoholic liquor as a part of a generally recognized religious
4 service or ceremony.

5 (b) "Emergency medical services personnel" means that term as
6 defined in section 20904 of the public health code, 1978 PA 368,
7 MCL 333.20904.

8 (c) "Health facility or agency" means that term as defined in
9 section 20106 of the public health code, 1978 PA 368, MCL
10 333.20106.

11 (d) "Prior judgment" means a conviction, juvenile
12 adjudication, finding of responsibility, or admission of
13 responsibility for any of the following, whether under a law of
14 this state, a local ordinance substantially corresponding to a law
15 of this state, a law of the United States substantially
16 corresponding to a law of this state, or a law of another state
17 substantially corresponding to a law of this state:

18 (i) This section or section 701 or 707.

19 (ii) Section 624a, 624b, or 625 of the Michigan vehicle code,
20 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.

21 (iii) Section 80176, 81134, or 82127 of the natural resources
22 and environmental protection act, 1994 PA 451, MCL 324.80176,
23 324.81134, and 324.82127.

24 (iv) Section 167a or 237 of the Michigan penal code, 1939 PA
25 328, MCL 750.167a and 750.237.

26 Sec. 801. ~~(1) Except as otherwise provided in this act, before~~
27 ~~the approval and granting, or renewal, of a license, the following~~
28 ~~licensees or applicants for that license shall make, execute, and~~
29 ~~deliver to the commission a bond executed by a surety company~~

1 ~~authorized to do business in the state or, in the discretion of the~~
 2 ~~commission, by approved personal surety running to the people of~~
 3 ~~the state, in the following amounts:~~

4 ~~(a) A manufacturer of beer, a manufacturer of wine, a mixed~~
 5 ~~spirit drink manufacturer, an outstate seller of beer, an outstate~~
 6 ~~seller of mixed spirit drink, and an outstate seller of wine, a~~
 7 ~~bond in an amount equal to 1/12 of the total beer, mixed spirit~~
 8 ~~drink, or wine excise taxes paid to the state in the last calendar~~
 9 ~~year or a bond in the sum of \$1,000.00, whichever is greater, for~~
 10 ~~the faithful performance of the conditions of the license issued~~
 11 ~~and for compliance with this act. A surety shall not cancel a bond~~
 12 ~~issued under this subdivision except upon 30 days' written notice~~
 13 ~~to the commission.~~

14 ~~(b) A special license authorizing the sale of beer, mixed~~
 15 ~~spirit drink, wine, or spirits for consumption on the premises, a~~
 16 ~~bond in the sum of \$1,000.00. A bond issued under this subdivision~~
 17 ~~shall remain in effect for 60 days after the expiration of the~~
 18 ~~special license. A bond is not required for a church or school.~~

19 ~~(1) (2)~~ A retail licensee shall not directly, individually, or
 20 by a clerk, agent, or servant sell, furnish, or give alcoholic
 21 liquor to a minor except as otherwise provided in this act. A
 22 retail licensee shall not directly or indirectly, individually or
 23 by a clerk, agent, or servant sell, furnish, or give alcoholic
 24 liquor to ~~a person~~ **an individual** who is visibly intoxicated.

25 ~~(2) (3)~~ Except as otherwise provided in this section, an
 26 individual who suffers damage or who is personally injured by a
 27 minor or visibly intoxicated person by reason of the unlawful
 28 selling, giving, or furnishing of alcoholic liquor to the minor or
 29 visibly intoxicated person, if the unlawful sale is proven to be a

1 proximate cause of the damage, injury, or death, or the spouse,
 2 child, parent, or guardian of that individual, ~~shall have~~ **has** a
 3 right of action in his or her name against the person who by
 4 selling, giving, or furnishing the alcoholic liquor has caused or
 5 contributed to the intoxication of the person or who has caused or
 6 contributed to the damage, injury, or death. In an action ~~pursuant~~
 7 ~~to~~ **under** this section, the plaintiff ~~shall have~~ **has** the right to
 8 recover actual damages in a sum of not less than \$50.00 in each
 9 case in which the court or jury determines that intoxication was a
 10 proximate cause of the damage, injury, or death.

11 (3) ~~(4)~~ An action under this section ~~shall~~ **must** be instituted
 12 within 2 years after the injury or death. A plaintiff seeking
 13 damages under this section shall give written notice to all
 14 defendants within 120 days after entering an attorney-client
 15 relationship for the purpose of pursuing a claim under this
 16 section. Failure to give written notice within the time specified
 17 ~~shall be~~ **is** grounds for dismissal of a claim as to any defendants
 18 that did not receive that notice unless sufficient information for
 19 determining that a retail licensee might be liable under this
 20 section was not known and could not reasonably have been known
 21 within the 120 days. In the event of the death of either party, the
 22 right of action under this section ~~shall survive~~ **survives** to or
 23 against his or her personal representative. In each action by a
 24 husband, wife, child, or parent, the general reputation of the
 25 relation of husband and wife or parent and child ~~shall be~~ **is** prima
 26 facie evidence of the relation, and the amount recovered by either
 27 the husband, wife, parent, or child ~~shall be~~ **is** his or her sole and
 28 separate property. The damages, together with the costs of the
 29 action, ~~shall~~ **must** be recovered in an action under this section. If

1 the parents of the individual who suffered damage or who was
 2 personally injured are entitled to damages under this section, the
 3 father and mother may sue separately, but recovery by 1 is a bar to
 4 action by the other.

5 (4) ~~(5)~~—An action under this section against a retail licensee
 6 ~~shall~~**must** not be commenced unless the minor or the alleged
 7 intoxicated person is a named defendant in the action and is
 8 retained in the action until the litigation is concluded by trial
 9 or settlement.

10 (5) ~~(6)~~—Any licensee subject to ~~the provisions of~~ subsection
 11 ~~(3)~~**(2)** regarding the unlawful selling, furnishing, or giving of
 12 alcoholic liquor to a visibly intoxicated person ~~shall have~~**has** the
 13 right to full indemnification from the alleged visibly intoxicated
 14 person for all damages awarded against the licensee.

15 (6) ~~(7)~~—All defenses of the alleged visibly intoxicated person
 16 or the minor ~~shall be~~**are** available to the licensee. In an action
 17 alleging the unlawful sale of alcoholic liquor to a minor, proof
 18 that the defendant retail licensee or the defendant's agent or
 19 employee demanded and was shown a Michigan driver license or
 20 official state personal identification card, appearing to be
 21 genuine and showing that the minor was at least 21 years of age,
 22 ~~shall be~~**is** a defense to the action.

23 (7) ~~(8)~~—There ~~shall be~~**is** a rebuttable presumption that a
 24 retail licensee, other than the retail licensee who last sold,
 25 gave, or furnished alcoholic liquor to the minor or the visibly
 26 intoxicated person, has not committed any act giving rise to a
 27 cause of action under subsection ~~(3)~~**(2)**.

28 (8) ~~(9)~~—The alleged visibly intoxicated person ~~shall~~**does** not
 29 have a cause of action ~~pursuant to~~**under** this section and a person

1 ~~shall~~**does** not have a cause of action ~~pursuant to~~**under** this
 2 section for the loss of financial support, services, gifts,
 3 parental training, guidance, love, society, or companionship of the
 4 alleged visibly intoxicated person.

5 (9) ~~(10)~~—This section provides the exclusive remedy for money
 6 damages against a licensee arising out of the selling, giving, or
 7 furnishing of alcoholic liquor to a minor or intoxicated person.

8 (10) ~~(11)~~—Except as otherwise provided for under this section
 9 and section 815, a civil action under subsection ~~(3)~~**(2)** against a
 10 retail licensee ~~shall be~~**is** subject to the revised judicature act
 11 of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

12 Sec. 803. (1) Before the renewal or approval and granting of a
 13 retail license, a retail licensee or applicant for a retail license
 14 shall file with the commission proof of financial responsibility
 15 providing security for liability under section ~~801(3)~~**801(2)** of not
 16 less than \$50,000.00. The proof of financial responsibility may be
 17 in the form of cash, unencumbered securities, a policy or policies
 18 of liquor liability insurance, a constant value bond executed by a
 19 surety company authorized to do business in this state, or
 20 membership in a group self-insurance pool authorized by law that
 21 provides security for liability under section 801.

22 (2) A licensee may furnish proof of financial responsibility
 23 that exceeds the requirements of this section.

24 (3) An insurer under a policy or policies of liquor liability
 25 insurance or a surety under a bond ~~shall~~**must** not be named as a
 26 defendant in an action brought against the insured or bonded
 27 licensee for liability under section 801. Bankruptcy of the insured
 28 does not discharge an insurer or surety under this section from
 29 liability. Insurance policies and bonds issued for purposes under

1 this section ~~shall~~**must** continue from year to year unless sooner
2 canceled by the insurer.

3 (4) An insured retail licensee shall not cancel a liquor
4 liability insurance policy except upon 30 days' prior written
5 notice to the commission and unless new proof of financial
6 responsibility complying with this section is procured by the
7 retail licensee and delivered to the commission before the
8 expiration of the 30-day period. The commission shall revoke the
9 license of a retail licensee that violates this subsection.

10 (5) This section does not apply to a special licensee or
11 applicant for a special license.

12 (6) The commission shall promulgate rules under the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328, to implement and enforce this section.

15 Sec. 903. (1) The commission or any commissioner or duly
16 authorized agent of the commission designated by the chairperson of
17 the commission, ~~upon due~~**on** notice and proper hearing, may suspend
18 or revoke any license ~~upon~~**on** a violation of this act or any of the
19 rules promulgated by the commission under this act. The commission
20 or any commissioner or ~~duly~~ authorized agent of the commission
21 designated by the chairperson of the commission, may assess a
22 penalty of not more than \$300.00 for each violation of this act or
23 rules promulgated under this act, or not more than \$1,000.00 for
24 each violation of section ~~801(2),~~**801(1)**, in addition to or ~~in lieu~~
25 **instead** of revocation or suspension of the license, which penalty
26 ~~shall~~**must** be paid to the commission and deposited with the state
27 treasurer and ~~shall~~**must** be credited to the general fund of the
28 state. The commission shall hold a hearing and order the suspension
29 or revocation of a license if the licensee has been found liable

1 for 3 or more separate violations of section ~~801(2)~~**801(1)** which
 2 violations occurred on different occasions within a 24-month period
 3 unless ~~such~~**the** violations for the sale, furnishing, or giving
 4 alcoholic liquor to a minor were discovered by the licensee and
 5 disclosed to an appropriate law enforcement agency immediately ~~upon~~
 6 **on** discovery. A retail licensee who sells, offers to sell, accepts,
 7 furnishes, possesses, or allows the consumption of spirits in
 8 violation of section 901(6) is subject to an administrative fine of
 9 not more than \$2,500.00 per occurrence and the following license
 10 sanctions after notice and opportunity for an administrative
 11 hearing under the administrative procedures act of 1969, 1969 PA
 12 306, MCL 24.201 to 24.328:

13 (a) For a first violation, a license revocation or suspension
 14 for between 1 and 30 days.

15 (b) For a second violation, a license revocation or suspension
 16 for between 31 and 90 days.

17 (c) For a third or subsequent violation, revocation of the
 18 license.

19 (2) The commission shall provide a procedure by which a
 20 licensee who is aggrieved by any penalty imposed under subsection
 21 (1) and any suspension or revocation of a license ordered by the
 22 commission, a commissioner, or a duly authorized agent of the
 23 commission may request a hearing for the purpose of presenting any
 24 facts or reasons to the commission as to why the penalty,
 25 suspension, or revocation should be modified or rescinded. ~~Any such~~
 26 **The** request ~~shall~~**must** be in writing and accompanied by a fee of
 27 \$25.00. The commission, after reviewing the record made before a
 28 commissioner or a ~~duly~~**an** authorized agent of the commission, may
 29 allow or refuse to allow the hearing in accordance with the

1 commission's rules. The right to a hearing provided in this
2 subsection, however, ~~shall~~**must** not be interpreted by ~~any~~**a** court
3 as curtailing, removing, or annulling the right of the commission
4 to suspend or revoke licenses as provided for in this act. A
5 licensee does not have a right of appeal from the final
6 determination of the commission, except by leave of the circuit
7 court. Notice of the order of suspension or revocation of a license
8 or of the assessment of a penalty, or both, ~~shall~~**must** be given in
9 the manner prescribed by the commission. The suspension or
10 revocation of a license or the assessment of a penalty, or both, by
11 the commission or ~~a duly~~**an** authorized agent of the commission does
12 not prohibit the institution of a criminal prosecution for a
13 violation of this act. The institution of a criminal prosecution
14 for a violation of this act or the acquittal or conviction of a
15 person for a violation of this act does not prevent the suspension
16 or revocation of a license or the assessment of a penalty, or both,
17 by the commission. In a hearing for the suspension or revocation of
18 a license issued under this act, proof that the defendant licensee
19 or an agent or employee of the licensee demanded and was shown,
20 before furnishing any alcoholic liquor to a minor, a motor vehicle
21 operator or chauffeur license or a registration certificate issued
22 by the federal selective service, or other bona fide documentary
23 evidence of majority and identity of the person, may be offered as
24 evidence in a defense to a proceeding for the suspension or
25 revocation of a license issued under this act. A licensee who has
26 reason to believe that a minor has used fraudulent identification
27 to purchase alcoholic liquor in violation of section 703 shall file
28 a police report concerning the violation with a local law
29 enforcement agency and shall also present the alleged fraudulent

1 identification to the local law enforcement agency at the time of
 2 filing the report if the identification is in the possession of the
 3 licensee. The commission may promulgate rules ~~pursuant to~~ **under** the
 4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 5 24.328, regarding the ~~utilization~~ **use** by licensees of equipment
 6 designed to detect altered or forged driver licenses, state
 7 identification cards, and other forms of identification.

8 (3) In addition to the hearing commissioners provided for in
 9 section 209, the chairperson of the commission may designate not
 10 more than 2 ~~duly~~ authorized agents to hear violation cases. A
 11 person appointed under this subsection ~~shall~~ **must** be a member in
 12 good standing of the ~~state bar~~ **State Bar** of Michigan.

13 (4) ~~A duly~~ **An** authorized agent who has been designated by the
 14 chairperson ~~pursuant to~~ **under** subsection (3) ~~shall have,~~ **has,** in
 15 the hearing of violation cases, the same authority and
 16 responsibility as does a hearing commissioner under this act and
 17 the rules promulgated under this act.

18 (5) ~~A duly~~ **An** authorized agent who has been designated by the
 19 chairperson ~~pursuant to~~ **under** subsection (3) ~~shall be~~ **is** ineligible
 20 for appointment to the commission for a period of 1 year after the
 21 person ceases to serve as a ~~duly~~ **an** authorized agent.

22 Sec. 1025. (1) Except as otherwise provided in subsection (3),
 23 and subject to subsection (2), a vendor shall not give away any
 24 alcoholic liquor of any kind or description at any time in
 25 connection with his or her business, except a vendor that is a
 26 manufacturer for consumption on the premises only.

27 (2) Subsection (1) does not prevent any of the following:

28 (a) A vendor of spirits, brewer, mixed spirit drink
 29 manufacturer, wine maker, small wine maker, outstate seller of

1 beer, outstate seller of wine, or outstate seller of mixed spirit
2 drink, or a bona fide market research organization retained by 1 of
3 the persons named in this subdivision, from conducting samplings or
4 tastings of an alcoholic liquor product before it is approved for
5 sale in this state, if the sampling or tasting is conducted
6 pursuant to prior written approval of the commission.

7 (b) A person from conducting any sampling or tasting
8 authorized by rule of the commission.

9 (c) The holder of a farmer's market permit from conducting a
10 tasting authorized under section 415.

11 (d) A person from conducting ~~of~~ any sampling or tasting
12 authorized under section 537.

13 (e) A retailer licensed for consumption on the premises from
14 conducting a sampling authorized under section 1027(2).

15 (f) A person from conducting a sampling at a consumer sampling
16 event authorized under section 1027(4) and (5).

17 (g) A class A or B hotel designed to attract and accommodate
18 tourists and visitors in a resort area from giving away alcoholic
19 liquor to an invitee or guest in connection with a business event
20 or as a part of a room special or promotion for overnight
21 accommodations.

22 (3) A wholesaler or manufacturer may give samples of beer or
23 wine to an employee of the wholesaler if all of the following
24 conditions are met:

25 (a) The sampling is for the purpose of educating the employee
26 regarding the beer or wine.

27 (b) The employee is at least 21 years of age.

28 (c) The sampling takes place on the licensed premises of the
29 wholesaler.

1 (4) A vendor shall not sell an alcoholic liquor to an
2 individual in an intoxicated condition.

3 (5) Evidence of any breathalyzer or blood alcohol test results
4 obtained in a licensed establishment, or on property adjacent to
5 the licensed premises and under the control or ownership of the
6 licensee, is not admissible to prove a violation of this section,
7 section 707(1), (2), (3), or (4), or section ~~801(2)~~. **801(1)**. To
8 establish a violation of this section, section 707(1), (2), (3), or
9 (4), or section ~~801(2)~~, **801(1)**, the individual's intoxicated
10 condition at the time of the sale or consumption of alcohol must be
11 proven by direct observation by law enforcement or commission
12 enforcement personnel or through other admissible witness
13 statements or corroborating evidence obtained as part of the
14 standard investigation other than breathalyzer or blood alcohol
15 test results.

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

21 (2) Notwithstanding section 1025(1) or (2), a retailer
22 licensed by the commission for consumption on the premises may
23 allow customers to sample beer, wine, and spirits if the retailer
24 does not charge for the samples provided to customers. Sample
25 serving sizes ~~shall~~ **must** not exceed 3 ounces for beer, 2 ounces for
26 wine, and 1/2 ounce for spirits. A customer ~~shall~~ **must** not be
27 provided more than 2 samples within a 24-hour period per licensed
28 premises.

29 (3) This section does not prohibit any of the following:

1 (a) A vendor of spirits, brewer, wine maker, mixed spirit
2 drink manufacturer, small wine maker, outstate seller of beer,
3 outstate seller of wine, or outstate seller of mixed spirit drink,
4 or a bona fide market research organization retained by 1 of the
5 persons named in this subsection, from conducting samplings or
6 tastings of an alcoholic liquor product before it is approved for
7 sale in this state if the sampling or tasting is conducted ~~pursuant~~
8 ~~to~~**under** prior written approval of the commission.

9 (b) An on-premises licensee from giving a sampling or tasting
10 of alcoholic liquor to an employee of the licensee during the legal
11 hours for consumption for the purpose of educating the employee
12 regarding 1 or more types of alcoholic liquor if the employee is at
13 least 21 years of age.

14 (c) A small distiller licensee from giving a sampling or
15 tasting of brands it manufactures on the licensed premises or an
16 off-site tasting facility operated by that small distiller.

17 (d) A micro brewer, brewpub, or on-premises licensee from
18 allowing the sampling and consumption on the licensed premises of
19 beer, wine, mead, honey-based beer, or cider produced by 1 or more
20 home brewers at a meeting of home brewers, or a club composed
21 primarily of home brewers, under the following circumstances:

22 (i) The sampling or consumption is for the purpose of
23 exhibitions or competitions involving home brewers.

24 (ii) The beer, honey-based beer, or cider is served in portions
25 that do not exceed 3 ounces. The wine or mead is served in portions
26 that do not exceed 2 ounces.

27 (iii) The beer, wine, mead, honey-based beer, or cider produced
28 by the home brewer is only consumed by the home brewer, the home
29 brewer's family, a club member, a judge, or a guest speaker and is

1 not sold to members of the general public.

2 (iv) The participants in the sampling or consumption otherwise
3 comply with applicable state and federal law and applicable
4 regulatory provisions of this act and rules adopted by the
5 commission under this act.

6 (v) The participants in the sampling or consumption are not
7 charged for the sampling or consumption of the beer, wine, mead,
8 honey-based beer, or cider.

9 (4) A vendor of spirits or a manufacturer may conduct a
10 consumer sampling event on the premises of a holder of a specially
11 designated distributor license upon submission of a completed
12 application to the commission.

13 (5) The holder of a consumer sampling event license shall
14 comply with the following:

15 (a) The commission must be notified in writing a minimum of 10
16 working days before the event with the date, time, and location of
17 the event.

18 (b) The consumer sampling event is limited to 3 events per
19 vendor of spirits or manufacturer per specially designated
20 distributor license per month.

21 (c) The vendor of spirits or manufacturer conducting the
22 consumer sampling event must have a licensed representative present
23 at the specially designated distributor's establishment.

24 (d) Licensed representatives or an authorized representative
25 may distribute merchandise, not to exceed \$100.00 in value, to
26 consumers 21 years of age or older during the event.

27 (e) Participating specially designated distributor licensees
28 do not receive any fee or other valuable consideration for
29 participating in the event.

1 (f) Each consumer is limited to 3 samples, which total no more
2 than 1/3 ounce of 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~~**The** consumer sampling event ~~shall is~~ not be allowed if
13 the sale of alcoholic liquor is otherwise prohibited on the
14 premises at 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~~**complies**
23 with this act and commission rules.

24 (m) The vendor of spirits or manufacturer ~~must demonstrate~~
25 **demonstrates** that the individual actually conducting the sampling
26 has successfully completed the server training program in the
27 manner provided for in section 906 and rules promulgated by the
28 commission.

29 (6) Violation of this section subjects the vendor of spirits

1 or manufacturer to the sanctions and penalties as provided for
2 under this act.

3 (7) The commission, by rule or issuance of an order, may
4 further define eligibility for licensure and processes for
5 conducting consumer sampling events.

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

9 (9) Before a micro brewer, brewpub, or on-premises licensee
10 allows an event to be held under subsection (3)(d), the micro
11 brewer, brewpub, or on-premises licensee shall enter into a written
12 agreement with the home brewers or home brewers club stating all of
13 the following:

14 (a) The date and time the event will be held.

15 (b) The location of the event.

16 (c) Either of the following:

17 (i) A statement that the micro brewer, brewpub, or on-premises
18 licensee acknowledges that it is not in control of an unregulated
19 alcoholic beverage at its establishment and agrees to assume
20 liability under section ~~801(3)~~ **801(2)** for the event.

21 (ii) Proof that the home brewers or home brewers club has
22 obtained a bond or liability insurance equal to that required under
23 section 803(1).

24 (10) As used in this section:

25 (a) "Commercial purpose" means a purpose for which monetary
26 gain or other remuneration could reasonably be expected.

27 (b) "Home brewer" means an individual who manufactures beer,
28 wine, mead, honey-based beer, or cider at his or her dwelling.