

# SENATE BILL NO. 819

March 05, 2020, Introduced by Senator MCMORROW 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 203, 204, 537, and 609c (MCL 436.1203, 436.1204, 436.1537, and 436.1609c), section 203 as amended by 2016 PA 520, section 204 as added by 2018 PA 178, section 537 as amended by 2018 PA 560, and section 609c as added by 2017 PA 130.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1** Sec. 203. (1) Except as provided in this section and section

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

8 (2) Notwithstanding R 436.1011(7)(b) and R 436.1527 of the  
9 Michigan Administrative Code and except as provided in subsections  
10 (3), ~~(12)~~, ~~(13)~~, ~~(14)~~, (15), ~~and (16)~~, **(17)**, **(18)**, **and (20)** a  
11 retailer shall not deliver alcoholic liquor to a consumer in this  
12 state at the home or business of the consumer or at any location  
13 away from the licensed premises of the retailer. The purpose of  
14 this subsection is to exercise this state's authority under section  
15 2 of amendment XXI of the constitution of the United States, to  
16 maintain the inherent police powers to regulate the transportation  
17 and delivery of alcoholic liquor, and to promote a transparent  
18 system for the transportation and delivery of alcoholic liquor. The  
19 regulation described in this subsection is considered necessary for  
20 both of the following reasons:

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

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

26 (3) For purposes of subsection (1), a retailer that holds a  
27 specially designated merchant license located in this state **or a**  
28 **licensed qualified out-of-state retailer** may use a common carrier  
29 to deliver wine to a consumer in this state. A retailer **or a**

1 **licensed qualified out-of-state retailer** that uses a common carrier  
2 to deliver wine to a consumer under this subsection shall comply  
3 with all of the following, **as applicable:**

4 (a) Pay any applicable taxes to the commission and pay any  
5 applicable taxes to the department of treasury as directed by the  
6 department of treasury. On the request of the department of  
7 treasury, a retailer **or licensed qualified out-of-state retailer**  
8 shall furnish an affidavit to verify payment.

9 (b) Comply with all laws of this state, including, but not  
10 limited to, the prohibition on sales to minors.

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

21 (d) On request of the commission, make available to the  
22 commission any document used to verify the age of the individual  
23 ordering or receiving the wine from the retailer **or licensed**  
24 **qualified out-of-state retailer.**

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

1 (f) Place a label on the top panel of the shipping container  
2 containing the name and address of the individual placing the order  
3 and the name of the designated recipient if different from the name  
4 of the individual placing the order.

5 (4) For purposes of subsection (1), a direct shipper may sell,  
6 deliver, or import wine to consumers in this state by means of any  
7 mail order, internet, telephone, computer, device, or other  
8 electronic means, or sell directly to a consumer on the winery  
9 premises. A direct shipper that sells, delivers, or imports wine to  
10 a consumer under this subsection shall comply with all of the  
11 following:

12 (a) Hold a direct shipper license.

13 (b) Pay any applicable taxes to the commission and pay any  
14 applicable taxes to the department of treasury as directed by the  
15 department of treasury. On the request of the department of  
16 treasury, a direct shipper shall furnish an affidavit to verify  
17 payment.

18 (c) Comply with all laws of this state, including, but not  
19 limited to, the prohibition on sales to minors.

20 (d) Verify the age of the individual placing the order by  
21 obtaining from him or her a copy of a photo identification issued  
22 by this state, another state, or the federal government or by using  
23 an identification verification service. The person receiving and  
24 accepting the order on behalf of the direct shipper shall record  
25 the name, address, date of birth, and telephone number of the  
26 individual placing the order on the order form or other verifiable  
27 record of a type and generated in a manner approved by the  
28 commission and provide a duplicate to the commission.

29 (e) On request of the commission, make available to the

1 commission any document used to verify the age of the individual  
2 ordering or receiving the wine from the direct shipper.

3 (f) Stamp, print, or label on the outside of the shipping  
4 container that the package "Contains Alcohol. Must be delivered to  
5 a person 21 years of age or older." The recipient at the time of  
6 the delivery shall provide photo identification verifying his or  
7 her age and sign for the delivery.

8 (g) Place a label on the top panel of the shipping container  
9 containing the name and address of the individual placing the order  
10 and the name of the designated recipient if different from the name  
11 of the individual placing the order. The direct shipper must have  
12 received a registration number of approval from the commission for  
13 any wine imported into this state. However, the registration number  
14 of approval from the commission is not required to be on the  
15 invoice or on the label of the wine that the direct shipper sells,  
16 delivers, or imports to a consumer in this state.

17 (h) Direct ship not more than 1,500 9-liter cases, or 13,500  
18 liters in total, of wine in a calendar year to consumers in this  
19 state. If a direct shipper, whether located in this state or  
20 outside this state, owns, in whole or in part, or commonly manages  
21 1 or more direct shippers, it shall not in combination ship to  
22 consumers in this state more than 13,500 liters of wine in the  
23 aggregate.

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

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

1           (k) Consent and submit to the jurisdiction of the commission,  
2 the department of treasury, and the courts of this state concerning  
3 enforcement of this section and any related laws, rules, and  
4 regulations.

5           (5) For purposes of subsection (1), a qualified out-of-state  
6 retailer may sell, deliver, or import wine to consumers in this  
7 state by means of any mail order, internet, telephone, computer,  
8 device, or other electronic means. A qualified out-of-state  
9 retailer that sells, delivers, or imports wine to a consumer under  
10 this subsection shall comply with all of the following:

11           (a) Hold a qualified out-of-state retailer license granted  
12 under subsection (14).

13           (b) Pay any applicable taxes to the commission and pay any  
14 applicable taxes to the department of treasury as directed by the  
15 department of treasury. On the request of the department of  
16 treasury, a qualified out-of-state retailer shall furnish an  
17 affidavit to verify payment.

18           (c) Comply with all laws of this state, including, but not  
19 limited to, the prohibition on sales to minors.

20           (d) Verify the age of the individual placing the order by  
21 obtaining from him or her a copy of a photo identification issued  
22 by this state, another state, or the federal government or by using  
23 an identification verification service. The person receiving and  
24 accepting the order on behalf of the qualified out-of-state  
25 retailer shall record the name, address, date of birth, and  
26 telephone number of the individual placing the order on the order  
27 form or other verifiable record of a type and generated in a manner  
28 approved by the commission and provide a duplicate to the  
29 commission.

1 (e) On request of the commission, make available to the  
2 commission any document used to verify the age of the individual  
3 ordering or receiving the wine from the qualified out-of-state  
4 retailer.

5 (f) Stamp, print, or label on the outside of the shipping  
6 container that the package "Contains Alcohol. Must be delivered to  
7 a person 21 years of age or older." The recipient at the time of  
8 the delivery shall provide photo identification verifying his or  
9 her age and sign for the delivery.

10 (g) Place a label on the top panel of the shipping container  
11 containing the name and address of the individual placing the order  
12 and the name of the designated recipient if different from the name  
13 of the individual placing the order. The qualified out-of-state  
14 retailer must have received a registration number of approval from  
15 the commission for any wine imported into this state. However, the  
16 registration number of approval from the commission is not required  
17 to be on the invoice or on the label of the wine that the qualified  
18 out-of-state retailer sells, delivers, or imports to a consumer in  
19 this state.

20 (h) Authorize and allow the commission and the department of  
21 treasury to conduct an audit of the qualified out-of-state  
22 retailer's records.

23 (i) Consent and submit to the jurisdiction of the commission,  
24 the department of treasury, and the courts of this state concerning  
25 enforcement of this section and any related laws, rules, and  
26 regulations.

27 (6) ~~(5)~~—For a delivery of wine through the use of a common  
28 carrier under subsection (3), a person taking the order on behalf  
29 of the retailer or a licensed qualified out-of-state retailer shall

1 comply with subsection (3)(b) to (f). For a sale, delivery, or  
2 importation of wine occurring by any means described in subsection  
3 (4), a person taking the order on behalf of the direct shipper  
4 shall comply with subsection (4)(c) to (g). **For a sale, delivery,  
5 or importation of wine occurring by any means described in  
6 subsection (5), a person taking the order on behalf of the  
7 qualified out-of-state retailer shall comply with subsection (5)(c)  
8 to (g).**

9       (7) ~~(6)~~—A person that delivers the wine for a direct shipper  
10 **or that delivers the spirits for a spirits shipper** under this  
11 section shall verify that the individual accepting delivery is 21  
12 years of age or older and is the individual who placed the order or  
13 the designated recipient, is an individual 21 years of age or older  
14 currently occupying or present at the address, or is an individual  
15 otherwise authorized through a rule promulgated under this act by  
16 the commission to receive alcoholic liquor under this section. If  
17 the delivery person, after a diligent inquiry, determines that the  
18 purchaser or designated recipient is not 21 years of age or older,  
19 the delivery person shall return the wine to the direct shipper **or  
20 return the spirits to the spirits shipper, as applicable.** A  
21 delivery person who returns wine to the direct shipper **or returns  
22 spirits to the spirits shipper, as applicable,** because the  
23 purchaser or designated recipient is not 21 years of age or older  
24 is not liable for any damages suffered by the purchaser, ~~or~~ direct  
25 shipper, **or spirits shipper, as applicable.**

26       (8) A person that delivers the wine for a qualified out-of-  
27 state retailer under this section shall verify that the individual  
28 accepting delivery is 21 years of age or older and is the  
29 individual who placed the order or the designated recipient, is an



1 individual 21 years of age or older currently occupying or present  
2 at the address, or is an individual otherwise authorized through a  
3 rule promulgated under this act by the commission to receive wine  
4 under this section. If the delivery person, after a diligent  
5 inquiry, determines that the purchaser or designated recipient is  
6 not 21 years of age or older, the delivery person shall return the  
7 wine to the qualified out-of-state retailer. A delivery person who  
8 returns wine to the qualified out-of-state retailer because the  
9 purchaser or designated recipient is not 21 years of age or older  
10 is not liable for any damages suffered by the purchaser or  
11 qualified out-of-state retailer.

12 (9) ~~(7) All~~ Except as otherwise provided under this section,  
13 all spirits for sale, use, storage, or distribution in this state  
14 shall ~~must~~ originally be purchased by and imported into the state  
15 by the commission, or by prior written authority of the commission.

16 (10) ~~(8)~~ This section does not apply to alcoholic liquor  
17 brought into this state for personal or household use in an amount  
18 permitted by federal law by an individual 21 years of age or older  
19 at the time of reentry into this state from ~~without~~ outside the  
20 territorial limits of the United States if the individual has been  
21 outside the territorial limits of the United States for more than  
22 48 hours and has not brought alcoholic liquor into the United  
23 States during the preceding 30 days.

24 (11) ~~(9)~~ An individual 21 years of age or older may do either  
25 of the following in relation to alcoholic liquor that contains less  
26 than 21% alcohol by volume:

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

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

4 **(12)** ~~(10)~~—A direct shipper shall not sell, deliver, or import  
5 wine to a consumer unless it applies for and is granted a direct  
6 shipper license from the commission. This subsection does not  
7 prohibit wine tasting or the selling at retail by a wine maker of  
8 wines he or she produced and bottled or wine manufactured for that  
9 wine maker by another wine maker, if done in compliance with this  
10 act. Only the following persons qualify for the issuance of a  
11 direct shipper license:

12 (a) A wine maker.

13 (b) A wine producer and bottler located inside this country  
14 but outside of this state holding both a federal basic permit  
15 issued by the Alcohol and Tobacco Tax and Trade Bureau of the  
16 United States Department of Treasury and a license to manufacture  
17 wine in its state of domicile.

18 **(13)** ~~(11)~~—An applicant for a direct shipper license shall  
19 submit an application to the commission in a written or electronic  
20 format provided by the commission and accompanied by an application  
21 and initial license fee of \$100.00. The application must be  
22 accompanied by a copy or other evidence of the existing federal  
23 basic permit or license, or both, held by the applicant. The direct  
24 shipper may renew its license annually by submission of a license  
25 renewal fee of \$100.00 and a completed renewal application. The  
26 commission shall use the fees collected under this section to  
27 conduct investigations and audits of direct shippers. The failure  
28 to renew, or the revocation or suspension of, the applicant's  
29 existing Michigan license, federal basic permit, or license to

1 manufacture wine in its state of domicile is grounds for revocation  
2 or denial of the direct shipper license. If a direct shipper is  
3 found guilty of violating this act or a rule promulgated by the  
4 commission, the commission shall notify both the alcoholic liquor  
5 control agency in the direct shipper's state of domicile and the  
6 Alcohol and Tobacco Tax and Trade Bureau of the United States  
7 Department of Treasury of the violation.

8       **(14) A qualified out-of-state retailer shall not sell,**  
9 **deliver, or import wine to a consumer unless it applies for and is**  
10 **granted a qualified out-of-state retailer license from the**  
11 **commission. An applicant for a qualified out-of-state retailer**  
12 **license shall submit an application to the commission in a written**  
13 **or electronic format provided by the commission and accompanied by**  
14 **an application and initial license fee of \$200.00. The application**  
15 **must be accompanied by a copy or other evidence of the applicant's**  
16 **state's equivalent to a retailer license. The commission shall use**  
17 **the fees collected under this section to conduct investigations and**  
18 **audits of qualified out-of-state retailers. The failure to renew,**  
19 **or the revocation or suspension of, the applicant's existing**  
20 **Michigan license or the applicant's state's equivalent to a**  
21 **retailer license is grounds for revocation or denial of the**  
22 **qualified out-of-state retailer license. If a qualified out-of-**  
23 **state retailer is found guilty of violating this act or a rule**  
24 **promulgated by the commission, the commission shall notify the**  
25 **alcoholic liquor control agency in the qualified out-of-state**  
26 **retailer's state of domicile.**

27       **(15) ~~(12)~~A retailer that holds a specially designated**  
28 **merchant license, a brewpub, a micro brewer, or an out-of-state**  
29 **entity that is the substantial equivalent of a brewpub or micro**

1 brewer may deliver beer and wine, **and a licensed qualified out-of-**  
 2 **state retailer may deliver wine**, to the home or other designated  
 3 location of a consumer in this state if all of the following  
 4 conditions are met:

5 (a) The beer or wine, or both, **as applicable**, is delivered by  
 6 the retailer's, **licensed qualified out-of-state retailer's**,  
 7 brewpub's, or micro brewer's employee.

8 (b) The retailer, **licensed qualified out-of-state retailer**,  
 9 brewpub, or micro brewer or its employee who delivers the beer or  
 10 wine, or both, **as applicable**, verifies that the individual  
 11 accepting delivery is at least 21 years of age.

12 (c) If the retailer, **licensed qualified out-of-state retailer**,  
 13 brewpub, or micro brewer or its employee intends to provide service  
 14 to consumers, the retailer, brewpub, or micro brewer or its  
 15 employee providing the service has received alcohol server training  
 16 through a server training program approved by the commission.

17 **(16) ~~(13)~~**A retailer that holds a specially designated  
 18 merchant license **or a licensed qualified out-of-state retailer** may  
 19 use a third party that provides delivery service to municipalities  
 20 in this state that are surrounded by water and inaccessible by  
 21 motor vehicle to deliver beer and wine, **and a licensed qualified**  
 22 **out-of-state retailer may use a third party that provides delivery**  
 23 **service to municipalities in this state that are surrounded by**  
 24 **water and inaccessible by motor vehicle to deliver wine**, to the  
 25 home or other designated location of that consumer if the delivery  
 26 service is approved by the commission and agrees to verify that the  
 27 individual accepting delivery of the beer ~~and-or~~ wine, **as**  
 28 **applicable**, is at least 21 years of age.

29 **(17) ~~(14)~~**A retailer that holds a specially designated

1 distributor license may deliver spirits to the home or other  
2 designated location of a consumer in this state if all of the  
3 following conditions are met:

4 (a) The spirits are delivered by the retailer's employee.

5 (b) The retailer or its employee who delivers the spirits  
6 verifies that the individual accepting delivery is at least 21  
7 years of age.

8 (c) If the retailer or its employee intends to provide service  
9 to consumers, the retailer or its employee providing the service  
10 has received alcohol server training through a server training  
11 program approved by the commission.

12 **(18)** ~~(15)~~—A retailer that holds a specially designated  
13 merchant license located in this state may use a third party  
14 facilitator service by means of the internet or mobile application  
15 to facilitate the sale of beer or wine to be delivered to the home  
16 or designated location of a consumer as provided in subsection ~~(12)~~  
17 **(15)** or this subsection, and a third party facilitator service may  
18 deliver beer or wine to a consumer on behalf of a retailer that  
19 holds a specially designated merchant license located in this  
20 state, if all of the following conditions are met:

21 (a) If the third party facilitator service delivers beer or  
22 wine under this subsection, the third party facilitator service  
23 verifies that the individual accepting the delivery of the beer or  
24 wine is at least 21 years of age.

25 (b) A manufacturer, warehouser, wholesaler, outstate seller of  
26 beer, outstate seller of wine, supplier of spirits, or outstate  
27 seller of mixed spirit ~~drinks~~**drink** does not have a direct or  
28 indirect interest in the third party facilitator service.

29 (c) A manufacturer, warehouser, wholesaler, outstate seller of

1 beer, outstate seller of wine, supplier of spirits, or outstate  
2 seller of mixed spirit ~~drinks~~**drink** does not aid or assist a third  
3 party facilitator service by gift, loan of money or property of any  
4 description, or other valuable thing as defined in section 609, and  
5 a third party facilitator service does not accept the same.

6 (d) The retailer or consumer pays the fees associated with  
7 deliveries provided for under this subsection.

8 (e) The third party facilitator service offers services for  
9 all brands available at the retail location.

10 (19) **A licensed qualified out-of-state retailer may use a**  
11 **third party facilitator service by means of the internet or mobile**  
12 **application to facilitate the sale of wine to be delivered to the**  
13 **home or designated location of a consumer as provided in subsection**  
14 **(15) or this subsection, and a third party facilitator service may**  
15 **deliver wine to a consumer on behalf of a licensed qualified out-**  
16 **of-state retailer, if all of the following conditions are met:**

17 (a) If the third party facilitator service delivers wine under  
18 this subsection, the third party facilitator service verifies that  
19 the individual accepting the delivery of the wine is at least 21  
20 years of age.

21 (b) A manufacturer, warehouser, wholesaler, outstate seller of  
22 beer, outstate seller of wine, supplier of spirits, or outstate  
23 seller of mixed spirit drink does not have a direct or indirect  
24 interest in the third party facilitator service.

25 (c) A manufacturer, warehouser, wholesaler, outstate seller of  
26 beer, outstate seller of wine, supplier of spirits, or outstate  
27 seller of mixed spirit drink does not aid or assist a third party  
28 facilitator service by gift, loan of money or property of any  
29 description, or other valuable thing as defined in section 609, and

1 a third party facilitator service does not accept the same.

2 (d) The licensed qualified out-of-state retailer or consumer  
3 pays the fees associated with deliveries provided for under this  
4 subsection.

5 (e) The third party facilitator service offers services for  
6 all brands available at the retail location.

7 (20) ~~(16)~~ A retailer that holds a specially designated  
8 distributor license located in this state may use a third party  
9 facilitator service by means of the internet or mobile application  
10 to facilitate the sale of spirits to be delivered to the home or  
11 designated location of a consumer as provided in subsection ~~(14)~~  
12 (17) or this subsection, and a third party facilitator service may  
13 deliver spirits to a consumer on behalf of a retailer that holds a  
14 specially designated distributor license located in this state, if  
15 all of the following conditions are met:

16 (a) If the third party facilitator service delivers spirits  
17 under this subsection, the third party facilitator service verifies  
18 that the individual accepting the delivery of the spirits is at  
19 least 21 years of age.

20 (b) A manufacturer, warehouser, wholesaler, outstate seller of  
21 beer, outstate seller of wine, supplier of spirits, or outstate  
22 seller of mixed spirit ~~drinks~~ **drink** does not have a direct or  
23 indirect interest in the third party facilitator service.

24 (c) A manufacturer, warehouser, wholesaler, outstate seller of  
25 beer, outstate seller of wine, supplier of spirits, or outstate  
26 seller of mixed spirit ~~drinks~~ **drink** does not aid or assist a third  
27 party facilitator service by gift, loan of money or property of any  
28 description, or other valuable thing as defined in section 609, and  
29 a third party facilitator service does not accept the same.

1 (d) The retailer or consumer pays the fees associated with  
2 deliveries provided for under this subsection.

3 (e) The third party facilitator service offers services for  
4 all brands available at the retail location.

5 (21) ~~(17)~~ A third party facilitator service shall not deliver  
6 beer, wine, or spirits to a consumer under subsection ~~(15) or (16),~~  
7 **(18), (19), or (20)**, as applicable, and shall not facilitate the  
8 sale of beer, wine, or spirits under subsection ~~(15) or (16), (18),~~  
9 **(19), or (20)**, as applicable, unless it applies for and is granted  
10 a third party facilitator service license by the commission. The  
11 commission may charge a reasonable application fee, initial license  
12 fee, and annual license renewal fee. The commission shall establish  
13 a fee under this subsection by written order.

14 (22) ~~(18)~~ If a third party facilitator service used by a  
15 retailer that holds a specially designated merchant or specially  
16 designated distributor license **or a licensed qualified out-of-state**  
17 **retailer** under subsection ~~(15) or (16), (18), (19), or (20)~~, as  
18 applicable, violates this section, the commission shall not treat  
19 the third party facilitator service's violation as a violation by  
20 the retailer **or licensed qualified out-of-state retailer**.

21 (23) ~~(19)~~ For purposes of subsection (1), a qualified micro  
22 brewer or an out-of-state entity that is the substantial equivalent  
23 of a qualified micro brewer may sell and deliver beer to a retailer  
24 in this state if all of the following conditions are met:

25 (a) The retailer is not located in a sales territory for which  
26 the qualified micro brewer has granted exclusive sales rights to a  
27 wholesaler under sections 401 and 403 for the sale of any brand or  
28 brands of beer produced by that micro brewer.

29 (b) The beer is sold and delivered by an employee of the



1 qualified micro brewer, not an agent, and is transported and  
2 delivered using a vehicle owned by the qualified micro brewer.

3 (c) The qualified micro brewer is in compliance with  
4 applicable state and federal law and applicable regulatory  
5 provisions of this act and rules adopted by the commission under  
6 this act including, but not limited to, those requirements related  
7 to each of the following:

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

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

10 (iii) Price schedules and temporary price reductions.

11 **(24)** ~~(20)~~—A common carrier that carries or transports  
12 alcoholic liquor into this state to a person in this state shall  
13 submit quarterly reports to the commission. A report required under  
14 this subsection must include all of the following about each  
15 delivery to a consumer in this state during the preceding calendar  
16 quarter:

17 (a) The name and business address of the person that ships  
18 alcoholic liquor.

19 (b) The name and address of the recipient of alcoholic liquor.

20 (c) The weight of alcoholic liquor delivered to a consignee.

21 (d) The date of the delivery.

22 **(25)** ~~(21)~~—A common carrier described in subsection ~~(20)~~—**(24)**  
23 shall maintain the books, records, and documents supporting a  
24 report submitted under subsection ~~(20)~~—**(24)** for 3 years unless the  
25 commission notifies the common carrier in writing that the books,  
26 records, and supporting documents may be destroyed. Within 30 days  
27 after the commission's request, the common carrier shall make the  
28 books, records, and documents available for inspection during  
29 normal business hours. Within 30 days after a local law enforcement

1 agency's or local governmental unit's request, the common carrier  
2 shall also make the books, records, and documents available for  
3 inspection to a local law enforcement agency or local governmental  
4 unit where the carrier resides or does business.

5 **(26)** ~~(22)~~—A third party facilitator service that delivers  
6 beer, wine, or spirits to a consumer under subsection ~~(15) or (16)~~,  
7 **(18), (19), or (20)**, as applicable, shall submit quarterly reports  
8 to the commission. A report required under this subsection must  
9 include all of the following about each delivery to a consumer in  
10 this state during the preceding calendar quarter:

11 (a) The name and business address of the person that ships  
12 beer, wine, or spirits.

13 (b) The name and address of the recipient of beer, wine, or  
14 spirits.

15 (c) The weight of beer, wine, or spirits delivered to a  
16 consignee.

17 (d) The date of the delivery.

18 **(27)** ~~(23)~~—A third party facilitator service shall maintain the  
19 books, records, and documents supporting a report submitted under  
20 subsection ~~(22)~~—**(26)** for 3 years unless the commission notifies the  
21 third party facilitator service in writing that the books, records,  
22 and supporting documents may be destroyed. Within 30 days after the  
23 commission's request, the third party facilitator service shall  
24 make the books, records, and documents available for inspection  
25 during normal business hours. Within 30 days after a local law  
26 enforcement agency's or local governmental unit's request, the  
27 third party facilitator service shall also make the books, records,  
28 and documents available for inspection to a local law enforcement  
29 agency or local governmental unit where the third party facilitator

1 service resides or does business.

2 (28) ~~(24)~~—A report submitted under subsection ~~(20)~~—(24) or  
3 ~~(22)~~—(26) is subject to disclosure under the freedom of information  
4 act, 1976 PA 442, MCL 15.231 to 15.246.

5 (29) For purposes of subsection (1), a spirits shipper may  
6 sell, deliver, or import spirits to consumers in this state by  
7 means of any mail order, internet, telephone, computer, device, or  
8 other electronic means. A spirits shipper that sells, delivers, or  
9 imports spirits to a consumer under this subsection shall comply  
10 with all of the following:

11 (a) Hold a spirits shipper license.

12 (b) Pay any applicable taxes to the commission and pay any  
13 applicable taxes to the department of treasury as directed by the  
14 department of treasury. On the request of the department of  
15 treasury, a spirits shipper shall furnish an affidavit to verify  
16 payment.

17 (c) Comply with all laws of this state, including, but not  
18 limited to, the prohibition on sales to minors.

19 (d) Verify the age of the individual placing the order by  
20 obtaining from him or her a copy of a photo identification issued  
21 by this state, another state, or the federal government or by using  
22 an identification verification service. The person receiving and  
23 accepting the order on behalf of the spirits shipper shall record  
24 the name, address, date of birth, and telephone number of the  
25 individual placing the order on the order form or other verifiable  
26 record of a type and generated in a manner approved by the  
27 commission and provide a duplicate to the commission.

28 (e) On request of the commission, make available to the  
29 commission any document used to verify the age of the individual

1 ordering or receiving the spirits from the spirits shipper.

2 (f) Stamp, print, or label on the outside of the shipping  
3 container that the package "Contains Alcohol. Must be delivered to  
4 a person 21 years of age or older." The recipient at the time of  
5 the delivery shall provide photo identification verifying his or  
6 her age and sign for the delivery.

7 (g) Place a label on the top panel of the shipping container  
8 containing the name and address of the individual placing the order  
9 and the name of the designated recipient if different from the name  
10 of the individual placing the order. The spirits shipper must have  
11 received a registration number of approval from the commission for  
12 any spirits imported into this state. However, the registration  
13 number of approval from the commission is not required to be on the  
14 invoice or on the label of the spirits that the spirits shipper  
15 sells, delivers, or imports to a consumer in this state.

16 (h) Direct ship not more than 1,500 9-liter cases, or 13,500  
17 liters in total, of spirits in a calendar year to consumers in this  
18 state. If a spirits shipper, whether located in this state or  
19 outside this state, owns, in whole or in part, or commonly manages  
20 1 or more spirits shippers, it shall not in combination ship to  
21 consumers in this state more than 13,500 liters of spirits in the  
22 aggregate.

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

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

29 (30) A spirits shipper shall not sell, deliver, or import

1 spirits to a consumer unless it applies for and is granted a  
2 spirits shipper license from the commission. This subsection does  
3 not prohibit spirits tasting or the selling at retail by a  
4 distiller of spirits he or she produced and bottled or spirits  
5 manufactured for that distiller by another distiller, if done in  
6 compliance with this act. Only the following persons qualify for  
7 the issuance of a spirits shipper license:

8 (a) A distiller.

9 (b) A small distiller.

10 (c) A spirits producer and bottler located inside this country  
11 but outside of this state holding both a federal basic permit  
12 issued by the Alcohol and Tobacco Tax and Trade Bureau of the  
13 United States Department of Treasury and a license to manufacture  
14 spirits in its state of domicile.

15 (31) An applicant for a spirits shipper license shall submit  
16 an application to the commission in a written or electronic format  
17 provided by the commission and accompanied by an application and  
18 initial license fee of \$100.00. The application must be accompanied  
19 by a copy or other evidence of the existing federal basic permit or  
20 license, or both, held by the applicant. The spirits shipper may  
21 renew its license annually by submission of a license renewal fee  
22 of \$100.00 and a completed renewal application. The commission  
23 shall use the fees collected under this section to conduct  
24 investigations and audits of spirits shippers. The failure to  
25 renew, or the revocation or suspension of, the applicant's existing  
26 Michigan license, federal basic permit, or license to manufacture  
27 spirits in its state of domicile is grounds for revocation or  
28 denial of the spirits shipper license. If a spirits shipper is  
29 found guilty of violating this act or a rule promulgated by the

1 commission, the commission shall notify both the alcoholic liquor  
2 control agency in the spirits shipper's state of domicile and the  
3 Alcohol and Tobacco Tax and Trade Bureau of the United States  
4 Department of Treasury of the violation.

5 (32) ~~(25)~~—As used in this section:

6 (a) "Common carrier" means a company that transports goods, on  
7 reasonable request, on regular routes and at set rates.

8 (b) "Computer" means any connected, directly interoperable or  
9 interactive device, equipment, or facility that uses a computer  
10 program or other instructions to perform specific operations  
11 including logical, arithmetic, or memory functions with or on  
12 computer data or a computer program and that can store, retrieve,  
13 alter, or communicate the results of the operations to a person,  
14 computer program, computer, computer system, or computer network.

15 (c) "Computer network" means the interconnection of hardware  
16 or wireless communication lines with a computer through remote  
17 terminals, or a complex consisting of 2 or more interconnected  
18 computers.

19 (d) "Computer program" means a series of internal or external  
20 instructions communicated in a form acceptable to a computer that  
21 directs the functioning of a computer, computer system, or computer  
22 network in a manner designed to provide or produce products or  
23 results from the computer, computer system, or computer network.

24 (e) "Computer system" means a set of related, connected or  
25 unconnected, computer equipment, devices, software, or hardware.

26 (f) "Consumer" means an individual who purchases beer, wine,  
27 or spirits for personal consumption and not for resale.

28 (g) "Device" includes, but is not limited to, an electronic,  
29 magnetic, electrochemical, biochemical, hydraulic, optical, or

1 organic object that performs input, output, or storage functions by  
2 the manipulation of electronic, magnetic, or other impulses.

3 (h) "Diligent inquiry" means a diligent good faith effort to  
4 determine the age of an individual, that includes at least an  
5 examination of an official Michigan operator's or chauffeur's  
6 license, an official Michigan personal identification card, or any  
7 other bona fide picture identification that establishes the  
8 identity and age of the individual.

9 (i) "Direct shipper" means a person who sells, delivers, or  
10 imports wine, to consumers in this state, that he or she produces  
11 and bottles or wine that is manufactured by a wine maker for  
12 another wine maker and that is transacted or caused to be  
13 transacted through the use of any mail order, internet, telephone,  
14 computer, device, or other electronic means, or sells directly to  
15 consumers on the winery premises.

16 (j) "Identification verification service" means an internet-  
17 based service approved by the commission specializing in age and  
18 identity verification.

19 **(k) "Licensed qualified out-of-state retailer" means a**  
20 **qualified out-of-state retailer that is licensed under subsection**  
21 **(14).**

22 (l) ~~(k)~~ "Mobile application" means a specialized software  
23 program downloaded onto a wireless communication device.

24 (m) ~~(l)~~ "Qualified micro brewer" means a micro brewer that  
25 produces in total less than 1,000 barrels of beer per year. In  
26 determining the 1,000-barrel threshold, all brands and labels of a  
27 micro brewer, whether brewed in this state or outside this state,  
28 must be combined.

29 (n) "Qualified out-of-state retailer" means a person that

1 holds a license in its state of domicile that is substantially  
2 equivalent to a retailer.

3 (o) "Spirits shipper" means a person who sells, delivers, or  
4 imports spirits, to consumers in this state, that he or she  
5 produces and bottles, or spirits that are manufactured by a  
6 distiller for another distiller and that is transacted or caused to  
7 be transacted through the use of any mail order, internet,  
8 telephone, computer, device, or other electronic means.

9 (p) ~~(m)~~—"Third party facilitator service" means a person  
10 licensed by the commission to do any of the following:

11 (i) Facilitate the sale of beer or wine to a consumer as  
12 provided in subsection ~~(15)~~ **(18) or (19), as applicable**, on behalf  
13 of a retailer that holds a specially designated merchant license  
14 located in this state **or a licensed qualified out-of-state**  
15 **retailer.**

16 (ii) Facilitate the sale of spirits to a consumer as provided  
17 in subsection ~~(16)~~ **(20)** on behalf of a retailer that holds a  
18 specially designated distributor license located in this state.

19 (iii) Deliver beer or wine to a consumer as provided in  
20 subsection ~~(15)~~ **(18) or (19), as applicable**, on behalf of a  
21 retailer that holds a specially designated merchant license located  
22 in this state **or a licensed qualified out-of-state retailer.**

23 (iv) Deliver spirits to a consumer as provided in subsection  
24 ~~(16)~~ **(20)** on behalf of a retailer that holds a specially designated  
25 distributor license located in this state.

26 Sec. 204. (1) Except for an individual who brings, transports,  
27 ships, or imports alcoholic liquor into this state under section  
28 ~~203(8) or (9), 203(10) or (11)~~, as applicable, for a retailer, or  
29 for sacramental wines imported under section 301, a person shall



1 not sell, deliver, or import beer, wine, or mixed spirit drink in  
2 this state unless the person is 1 of the following:

3 (a) A supplier as that term is defined in section 603.

4 (b) A licensed direct shipper described in section  
5 ~~203(10)~~.**203(12)**.

6 **(c) A licensed qualified out-of-state retailer as that term is**  
7 **defined in section 203.**

8 (d) ~~(e)~~—A wholesaler.

9 (2) Except for an individual who brings, transports, ships, or  
10 imports alcoholic liquor into this state under section ~~203(8)~~ ~~or~~  
11 ~~(9)~~, **203(10) or (11)**, as applicable, for a retailer, or for  
12 sacramental wines imported under section 301, a person described in  
13 subsection (1) may only sell, deliver, or import beer, wine, or  
14 mixed spirit drink in this state in 1 of the following ways:

15 (a) A licensed direct shipper may sell to a consumer under  
16 section 203.

17 **(b) A licensed qualified out-of-state retailer may sell to a**  
18 **consumer under section 203.**

19 (c) ~~(b)~~—An outstate seller of beer, outstate seller of wine,  
20 or outstate seller of mixed spirit drink, may deliver the beer,  
21 wine, or mixed spirit drink to the licensed premises of the  
22 wholesalers designated to sell and deliver the beer, wine, or mixed  
23 spirit drink to the individual licensed location of the retailer in  
24 the wholesaler's sales territory under section 305 or 403, as  
25 applicable.

26 (d) ~~(e)~~—A wholesaler that picks up the beer, wine, or mixed  
27 spirit drink from the premises of an outstate seller of beer,  
28 outstate seller of wine, or outstate seller of mixed spirit drink,  
29 may deliver the beer, wine, or mixed spirit drink to the licensed

1 premises of the wholesaler designated to sell and deliver the beer,  
2 wine, or mixed spirit drink to the individual licensed location of  
3 the retailer in the wholesaler's sales territory under section 305  
4 or 403, as applicable.

5       **(e)** ~~(d)~~—An outstate seller of beer, outstate seller of wine,  
6 or outstate seller of mixed spirit drink may deliver the beer,  
7 wine, or mixed spirit drink to its licensed premises in this state.  
8 However, the beer, wine, or mixed spirit drink must be delivered to  
9 the licensed premises of the wholesaler designated to sell and  
10 deliver the beer, wine, or mixed spirit drink to the individual  
11 licensed location of the retailer in the wholesaler's sales  
12 territory under section 305 or 403, as applicable.

13       **(f)** ~~(e)~~—A brewer, wine maker, or mixed spirit drink  
14 manufacturer that has a manufacturing plant located outside of this  
15 state may deliver the beer, wine, or mixed spirit drink  
16 manufactured in the manufacturing plant to its licensed premises in  
17 this state. However, the beer, wine, or mixed spirit drink must be  
18 delivered to the licensed premises of the wholesaler designated to  
19 sell and deliver the beer, wine, or mixed spirit drink to the  
20 individual licensed location of the retailer in the wholesaler's  
21 sales territory under section 305 or 403, as applicable.

22       **(g)** ~~(f)~~—Except as otherwise provided in this act, a brewer,  
23 wine maker, or mixed spirit drink manufacturer may deliver the  
24 beer, wine, or mixed spirit drink to the licensed premises of the  
25 wholesaler designated to sell and deliver the beer, wine, or mixed  
26 spirit drink to the individual licensed location of the retailer in  
27 the wholesaler's sales territory under section 305 or 403, as  
28 applicable.

29       (3) Except as otherwise provided in subsection (4), both of

1 the following apply to beer, wine, or mixed spirit drink that is  
2 delivered to a wholesaler under this act:

3 (a) The wholesaler shall maintain the beer, wine, or mixed  
4 spirit drink on the wholesaler's licensed premises.

5 (b) The wholesaler shall make the beer, wine, or mixed spirit  
6 drink maintained on the wholesaler's licensed premises as required  
7 under subdivision (a) available for inspection by the commission  
8 for at least 24 hours before the wholesaler delivers the beer,  
9 wine, or mixed spirit drink to a retailer.

10 (4) For beer, wine, or mixed spirit drink that has been  
11 delivered to a wholesaler under this act, subsection (3) does not  
12 apply and the wholesaler may deliver beer, wine, or mixed spirit  
13 drink to a retailer if all of the following apply:

14 (a) Either of the following applies:

15 (i) The wholesaler cannot fulfill the retailer's order for the  
16 beer, wine, or mixed spirit drink from the inventory currently  
17 available on the wholesaler's licensed premises.

18 (ii) The wholesaler intends to deliver the beer, wine, or mixed  
19 spirit drink to a special licensee, including as provided under  
20 section 526, before the 24-hour period under subsection (3) (b) has  
21 expired.

22 (b) Either of the following applies:

23 (i) The beer, wine, or mixed spirit drink has been delivered to  
24 the address of the wholesaler's licensed premises.

25 (ii) The wholesaler picked up the beer, wine, or mixed spirit  
26 drink from the licensed premises of any of the following:

27 (A) A brewer.

28 (B) A wine maker.

29 (C) A mixed spirit manufacturer.

1 (D) An outstate seller of beer.

2 (E) An outstate seller of wine.

3 (F) An outstate seller of mixed spirit drink.

4 (G) A wholesaler.

5 (c) The wholesaler maintains the invoice of the delivery and  
6 attaches documentation to the invoice that details each product and  
7 the amount of each product that was not placed on the wholesaler's  
8 floor.

9 (5) This section does not prohibit a brewer, micro brewer,  
10 wine maker, small wine maker, or retailer from selling alcoholic  
11 liquor or nonalcoholic beverages as provided in this act.

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

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

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

18 (c) Clubs, where beer, wine, mixed spirit drink, and spirits  
19 may be sold for consumption on the premises only to bona fide  
20 members if consumption is limited to these members and their bona  
21 fide guests, who are 21 years of age or older.

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

24 **(e) Spirit shippers, where spirits may be sold and shipped**  
25 **directly to the consumer.**

26 **(f) Qualified out-of-state retailers, where wine may be sold**  
27 **and shipped directly to the consumer.**

28 **(g) ~~(e)~~—Hotels of class A, where beer and wine may be sold for**  
29 **consumption on the premises and in the rooms of bona fide**

1 registered guests. Hotels of class B where beer, wine, mixed spirit  
2 drink, and spirits may be sold for consumption on the premises and  
3 in the rooms of bona fide registered guests.

4       **(h)** ~~(f)~~—Specially designated merchants, where beer and wine  
5 may be sold for consumption off the premises only.

6       **(i)** ~~(g)~~—Specially designated distributors, where spirits and  
7 mixed spirit drink may be sold for consumption off the premises  
8 only.

9       **(j)** ~~(h)~~—Special licensee, where beer and wine or beer, wine,  
10 mixed spirit drink, and spirits may be sold for consumption on the  
11 premises only.

12       **(k)** ~~(i)~~—Dining cars or other railroad or Pullman cars,  
13 watercraft, or aircraft, where alcoholic liquor may be sold for  
14 consumption on the premises only, subject to rules promulgated by  
15 the commission.

16       **(l)** ~~(j)~~—Brewpubs, where beer manufactured on the premises by  
17 the licensee may be sold for consumption on or off the premises by  
18 any of the following licensees:

19       (i) Class C.

20       (ii) Tavern.

21       (iii) Class A hotel.

22       (iv) Class B hotel.

23       **(m)** ~~(k)~~—Micro brewers and brewers, where beer manufactured by  
24 the micro brewer or brewer may be sold in an approved tasting room  
25 under section 536 to a consumer for consumption on or off the  
26 manufacturing premises.

27       **(n)** ~~(l)~~—Class G-1 licensee, where beer, wine, mixed spirit  
28 drink, and spirits may be sold for consumption on the premises only  
29 to members required to pay an annual membership fee and consumption

1 is limited to these members and their bona fide guests.

2       **(o)** ~~(m)~~—Class G-2 licensee, where beer and wine may be sold  
3 for consumption on the premises only to members required to pay an  
4 annual membership fee and consumption is limited to these members  
5 and their bona fide guests.

6       **(p)** ~~(n)~~—Motorsports event licensee, where beer and wine may be  
7 sold for consumption on the premises during sanctioned motorsports  
8 events only.

9       **(q)** ~~(o)~~—Wine maker or small wine maker, where wine  
10 manufactured by the wine maker or small wine maker may be sold by  
11 direct shipment as provided in section 203, at retail for  
12 consumption on or off the premises in an approved tasting room  
13 under section 536, or as otherwise provided for in this act.

14       **(r)** ~~(p)~~—Small wine maker, where wine bottled by the small wine  
15 maker may be sold by direct shipment as provided in section 203, at  
16 retail for consumption on or off the premises in an approved  
17 tasting room under section 536, or as otherwise provided for in  
18 this act.

19       **(s)** ~~(q)~~—Wine maker or small wine maker, where shiners ~~as that~~  
20 ~~term is defined in section 111~~ may be sold by direct shipment as  
21 provided in section 203, at retail for consumption on or off the  
22 premises in an approved tasting room under section 536, or as  
23 otherwise provided for in this act.

24       **(t)** ~~(r)~~—Distiller or small distiller, where spirits  
25 manufactured by the distiller or small distiller may be sold to the  
26 consumer at retail for consumption on or off the premises in an  
27 approved tasting room under section 536.

28       **(u)** ~~(s)~~—Nonpublic continuing care retirement center license,  
29 where beer, wine, mixed spirit drink, mixed wine drink, and spirits

1 may be sold at retail and served on the licensed premises to  
 2 residents and bona fide guests accompanying the resident for  
 3 consumption only on the licensed premises.

4 **(v)** ~~(t)~~—A small wine maker or an out-of-state entity that is  
 5 the substantial equivalent of a small wine maker, that holds a  
 6 farmer's market permit, where wine manufactured or bottled by the  
 7 small wine maker and shiners ~~as that term is defined in section 111~~  
 8 may be sampled and sold at a farmers' market for consumption off  
 9 the licensed premises.

10 **(w)** ~~(u)~~—A brandy manufacturer where brandy manufactured by the  
 11 brandy manufacturer may be sold at retail for consumption on or off  
 12 the premises in an approved tasting room under section 536 located  
 13 on the manufacturing premises of the brandy manufacturer.

14 **(x)** ~~(v)~~—A mixed spirit drink manufacturer where mixed spirit  
 15 drink manufactured by the mixed spirit drink manufacturer may be  
 16 sold at retail for consumption on or off the premises in an  
 17 approved tasting room under section 536.

18 (2) Notwithstanding section 1025(1), an outstate seller of  
 19 beer, an outstate seller of wine, a wine maker, a brewer, a micro  
 20 brewer, or a specially designated merchant, or an agent of any of  
 21 those persons, that does not hold a license allowing the  
 22 consumption of alcoholic liquor on the premises at the same  
 23 licensed address, may conduct beer and wine tastings on the  
 24 licensed premises of a specially designated merchant under the  
 25 following conditions:

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

27 (b) The tasting samples provided to a customer do not exceed 3  
 28 servings at up to 3 ounces per serving of beer or 3 servings at up  
 29 to 2 ounces of wine. A customer shall not be provided more than a

1 total of 3 samples of beer or wine within a 24-hour period per  
2 licensed premises.

3 (c) The specially designated merchant, outstate seller of  
4 beer, outstate seller of wine, wine maker, micro brewer, or brewer  
5 has first obtained an annual beer and wine tasting permit approved  
6 by the commission.

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

10 (3) While a beer or wine tasting is conducted under subsection  
11 (2), a specially designated merchant, outstate seller of beer,  
12 outstate seller of wine, wine maker, micro brewer, or brewer, or  
13 its agent or employee who has successfully completed a server  
14 training program as provided for in section 906, shall devote full  
15 time to the beer and wine tasting activity and shall not perform  
16 other duties, including the sale of alcoholic liquor for  
17 consumption off the licensed premises. Beer and wine used for the  
18 tasting must come from the specially designated merchant's  
19 inventory, and all open bottles must be removed from the premises  
20 on the same business day or resealed and stored in a locked,  
21 separate storage compartment on the licensed premises when not  
22 being used for the activities allowed by the permit.

23 (4) A wholesaler shall not conduct or participate in beer and  
24 wine tastings allowed under a permit issued under subsection (2).

25 (5) A beer and wine tasting under subsection (2) may only be  
26 conducted during the legal hours for the sale of alcoholic liquor  
27 by the licensee.

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



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

4 (b) The growler is sealed and has a label affixed to it that  
5 includes at least the brand name of the beer, the class of the  
6 beer, the net contents of the container, and the name of the  
7 retailer filling the growler. The label conditions described in  
8 this subdivision do not apply to either of the following:

9 (i) A brewpub described in subsection ~~(1)(j)~~, **(1)(l)**, but only  
10 as to beer that the brewpub produces.

11 (ii) A micro brewer or brewer described in subsection  
12 ~~(1)(k)~~. **(1)(m)**.

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

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

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

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

23 (7) A wine maker, brandy manufacturer, small distiller, micro  
24 brewer, brewer, or brewpub shall provide water, and may, in the  
25 sole discretion of the wine maker, brandy manufacturer, small  
26 distiller, micro brewer, brewer, or brewpub, sell or provide other  
27 nonalcoholic beverages, for consumption on or off the premises  
28 where the wine maker, brandy manufacturer, small distiller, micro  
29 brewer, brewer, or brewpub is licensed.

1 (8) As used in this section:

2 (a) "Eligible merchant" means a person that holds a specially  
3 designated merchant license.

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

8 Sec. 609c. (1) A manufacturer that sells direct to a retailer  
9 as provided under section ~~203(19)~~**203(23)** or a wholesaler may  
10 refund to a retailer the amount the retailer paid for beer or wine,  
11 as applicable, or a manufacturer that sells direct to a retailer as  
12 provided under section ~~203(19)~~**203(23)** or a wholesaler may replace  
13 that beer or wine for any of the following reasons:

14 (a) The beer or wine is outdated.

15 (b) The beer or wine is defective.

16 (c) An error in the beer or wine delivered.

17 (d) The beer or wine may no longer be lawfully sold.

18 (e) The termination of the retailer's business.

19 (f) The formula, proof, label, or container of the beer or  
20 wine is changed.

21 (g) The beer or wine is discontinued.

22 (h) The retailer is only open a portion of the year and the  
23 beer or wine is likely to spoil during the off-season.

24 (2) If beer is within 30 days of its out-of-date code, a  
25 manufacturer that sells direct to a retailer as provided under  
26 section ~~203(19)~~**203(23)** or a wholesaler may refund to a retailer  
27 the amount the retailer paid for the beer.

28 (3) A manufacturer that sells direct to a retailer as provided  
29 under section ~~203(19)~~**203(23)** or a wholesaler may only issue a

- 1 refund or replacement under this section for beer or wine that the
- 2 manufacturer or wholesaler sold to the retailer.