

Act No. 131
Public Acts of 2019
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**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2019**

Introduced by Senators MacGregor, Bizon, Lucido, Horn, LaSata, Barrett, Ananich, Hertel and VanderWall

ENROLLED SENATE BILL No. 320

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” 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:

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

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

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

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

(d) The sale, gift, or keeping and storing for sale by druggists and general merchants and others of medicinal preparations manufactured in accordance with the formulas prescribed by the United States pharmacopoeia and

national formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, that contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in those preparations and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve them, that are manufactured and sold as medicine and not as beverages, that are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax.

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

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

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

(h) The purchase of alcoholic liquor for use in the manufacture of toilet, medicinal, or antiseptic preparations or solutions, or any flavoring extract or patent or proprietary medicines or preparations, by a manufacturer using alcoholic liquor exclusively for the manufacturing purposes and licensed by the commission for that use. A license issued for that use is predicated on the payment of an annual fee of \$10.00. The license expires on May 1 following the date of its issuance.

Sec. 501. (1) The commission may issue licenses as provided in this act on the payment of the fees provided in section 525 and the filing of liability insurance as provided in section 803. The commission shall provide a notification of the ability of the purchaser or transferee to obtain a tax clearance certificate, as provided in subsection (6). Subject to section 906(2) and (3), the commission shall not issue a new on premises license or transfer more than 50% interest in an existing on premises license unless the applicant or transferee offers proof acceptable to the commission that he or she has employed or has present on the licensed premises, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served who have successfully completed a server training program described in section 906. The commission may consider an individual enrolled and actively participating in a server training program as having successfully completed the program for the time the individual is participating. The commission may allow an applicant or a conditionally approved licensee at least 180 days, or more on a showing of good cause, to meet the minimum personnel training requirements of this subsection. The commission may suspend the license of a conditionally approved licensee if that licensee does not comply with this subsection. The commission may waive the server training requirements of this subsection on the basis of either of the following circumstances:

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

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

(2) A full-year license issued by the commission expires on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act is a contract between the commission and the licensee and shall be signed by both parties. If a licensee dies, the commission may approve a personal representative or independent personal representative appointed by a court of competent jurisdiction to operate the establishment, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee. The commission may grant a part-year license for a proportionate part of the license fee specified in section 525. In a resort area the commission shall grant a license for a period of time as short as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained in a manner other than by transfer must not be transferred within 3 years after it is issued except under circumstances where the licensee clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 600,000 or more, must be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that for an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body is not required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. On request of the

local legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell alcoholic liquor for consumption on the premises or any permit held in conjunction with that license.

(3) A local legislative body, by resolution, may request that the commission revoke the license of a licensee granted a license to sell alcoholic liquor for consumption off the premises whose place of business is located within the local legislative body's jurisdiction and that has been determined in commission violation hearings to have sold or furnished alcoholic liquor, on at least 3 separate occasions in a consecutive 12-month period, to a minor if those violations did not involve the use of falsified or fraudulent identification by the minor. If the commission verifies that the licensee who is the subject of the resolution has been found to have committed the violations as prescribed in this subsection, the commission may suspend or revoke the licensee's license and any permit held in conjunction with that license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) A separate on-premises tasting room permit is not required for each license type for a person licensed by the commission under any combination of brewer, micro brewer, wine maker, small wine maker, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer licenses issued to that person at the same manufacturing premises.

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

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

(8) Subject to subsection (10), an approved tasting room located off the manufacturing premises of 1 or more manufacturers, other than a brewer, micro brewer, or mixed spirit drink manufacturer, that are owned by the same person and whose manufacturing premises share the same address must comply with all of the following:

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

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

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

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

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

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

(g) The commission shall not issue to a manufacturer or manufacturers a Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, authorization for outdoor service, or permission to maintain a direct connection to unlicensed premises unless the commission has issued an off-premises tasting room license to the manufacturer or manufacturers. A Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, authorization for outdoor service, or permission to maintain a direct connection to unlicensed premises may be issued concurrently with the issuance of an off-premises tasting room license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Notwithstanding the limitation in subdivision (a), a wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may have any number of off-premises tasting room licenses or joint off-premises tasting room licenses under which alcoholic liquor manufactured by the wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may only be sold or given away as samples for consumption on the premises as provided in subsection (14)(d).

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

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

(e) A wine maker, small wine maker, distiller, small distiller, or brandy manufacturer that has an off-premises tasting room or jointly operated off-premises tasting room location that was approved by the commission before December 19, 2018 must submit to the commission in writing a designation as required under subdivision (c) by April 1, 2019.

(11) A wine maker, small wine maker, brewer, micro brewer, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer may add a nonalcoholic mixing ingredient or an alcoholic mixing ingredient manufactured by the wine maker, small wine maker, brewer, micro brewer, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer to sampled or purchased alcoholic liquor if the sampled or purchased alcoholic liquor is consumed on the premises of the approved tasting room.

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

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

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

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

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

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

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

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

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

(iii) A distiller or small distiller may offer samples of spirits or mixed drinks that do not exceed 1/2 ounce per sample.

(15) A manufacturer issued a license before December 19, 2018 that intends to sell for consumption off its licensed premises or sell, serve, and allow consumption on its licensed premises of alcoholic liquor as allowed under this section and section 537 must comply with this section by April 1, 2019.

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

(17) Local approval under subsection (7)(c), (8)(c), or (9)(c) is not required for a tasting room that was in existence before December 19, 2018.

Sec. 701. (1) A person shall not sell or furnish alcoholic liquor to a minor. Except as otherwise provided in subsection (2) and subject to subsections (4), (5), and (6), a person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the individual is a minor, is guilty of a misdemeanor. A retail licensee or a retail licensee's clerk, agent, or employee who violates this subsection shall be punished in the manner provided for licensees in section 909 except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action, the retail licensee's clerk, agent, or employee is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. Except as otherwise provided in subsection (2), a person who is not a retail licensee or a retail licensee's clerk, agent, or employee and who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 and imprisonment for not more than 90 days for a first offense, a fine of not more than \$2,500.00 and imprisonment for not more than 90 days for a second or subsequent offense, and may be ordered to perform community service. For a second or subsequent offense, the secretary of state shall suspend the operator's or chauffeur's license of an individual who is not a retail licensee or retail licensee's clerk, agent, or employee and who is convicted of violating this subsection as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319. A suitable sign describing the content of this section and the penalties for its violation must be posted in a conspicuous place in each room where alcoholic liquor is sold. The commission shall approve and furnish a sign under this section.

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

(3) If a violation occurs in an establishment that is licensed by the commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee must not

be charged with a violation of subsection (1) or section 801(1) unless the licensee or the clerk, agent, or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent, or employee of the licensee failed to take immediate corrective action.

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

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

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

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

(5) If the enforcing agency is the commission and an appearance ticket or civil infraction citation has not been issued, then the commission shall recommend to a local law enforcement agency that enforcement action be taken against a violator of this section or section 703 who is not a licensee. However, subsection (4) does not apply if the minor against whom enforcement action is taken under section 703, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor, or the individual 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged. Subsection (4)(a) does not apply under either of the following circumstances:

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

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

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

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

(8) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license, a military identification card, or other bona fide documentary evidence of the age and identity of that person, is a defense to an action brought under this section.

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

(a) Decoy operations.

(b) Off-premises violations.

(c) On-premises violations.

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

(10) As used in this section:

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

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

Sec. 703. (1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except

as provided in this section. A minor who violates this subsection is responsible for a state civil infraction or guilty of a misdemeanor as follows and is not subject to the penalties prescribed in section 909:

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

(b) If a violation of this subsection occurs after 1 prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$200.00, or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

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

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

(3) If an individual who pleads guilty to a misdemeanor violation of subsection (1)(b) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (1)(b), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (1)(c), payment of the costs including minimum state cost as provided for in section 18m of chapter XA of the probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only 1 discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(a) To a court, prosecutor, or police agency on request for the purpose of determining if an individual has already used this subsection.

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

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

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

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

(5) A court may order an individual found responsible for or convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the department-designated community mental health entity as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (1) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

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

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

(8) A law enforcement agency, on determining that an individual who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (1) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The law enforcement agency shall notify the parent, guardian, or custodian not later than 48 hours after the law enforcement agency determines that the individual who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian must be notified immediately as provided in this subsection.

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

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

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

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

(i) Has consumed alcoholic liquor.

(ii) Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.

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

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

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

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

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

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

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

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

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

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

(18) As used in this section:

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

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

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

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

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

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

(i) This section or section 701 or 707.

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

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

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

Sec. 801. (1) A retail licensee shall not directly, individually, or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to a minor except as otherwise provided in this act. A retail licensee shall not directly or indirectly, individually or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to an individual who is visibly intoxicated.

(2) Except as otherwise provided in this section, an individual who suffers damage or who is personally injured by a minor or visibly intoxicated person by reason of the unlawful selling, giving, or furnishing of alcoholic liquor to the minor or visibly intoxicated person, if the unlawful sale is proven to be a proximate cause of the damage, injury, or death, or the spouse, child, parent, or guardian of that individual, has a right of action in his or her name against the person who by selling, giving, or furnishing the alcoholic liquor has caused or contributed to the intoxication of the person or who has caused or contributed to the damage, injury, or death. In an action under this section, the plaintiff has the right to recover actual damages in a sum of not less than \$50.00 in each case in which the court or jury determines that intoxication was a proximate cause of the damage, injury, or death.

(3) An action under this section must be instituted within 2 years after the injury or death. A plaintiff seeking damages under this section shall give written notice to all defendants within 120 days after entering an attorney-client relationship for the purpose of pursuing a claim under this section. Failure to give written notice within the

time specified is grounds for dismissal of a claim as to any defendants that did not receive that notice unless sufficient information for determining that a retail licensee might be liable under this section was not known and could not reasonably have been known within the 120 days. In the event of the death of either party, the right of action under this section survives to or against his or her personal representative. In each action by a husband, wife, child, or parent, the general reputation of the relation of husband and wife or parent and child is prima facie evidence of the relation, and the amount recovered by either the husband, wife, parent, or child is his or her sole and separate property. The damages, together with the costs of the action, must be recovered in an action under this section. If the parents of the individual who suffered damage or who was personally injured are entitled to damages under this section, the father and mother may sue separately, but recovery by 1 is a bar to action by the other.

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

(5) Any licensee subject to subsection (2) regarding the unlawful selling, furnishing, or giving of alcoholic liquor to a visibly intoxicated person has the right to full indemnification from the alleged visibly intoxicated person for all damages awarded against the licensee.

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

(7) There is a rebuttable presumption that a retail licensee, other than the retail licensee who last sold, gave, or furnished alcoholic liquor to the minor or the visibly intoxicated person, has not committed any act giving rise to a cause of action under subsection (2).

(8) The alleged visibly intoxicated person does not have a cause of action under this section and a person does not have a cause of action under this section for the loss of financial support, services, gifts, parental training, guidance, love, society, or companionship of the alleged visibly intoxicated person.

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

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

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

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

(3) An insurer under a policy or policies of liquor liability insurance or a surety under a bond must not be named as a defendant in an action brought against the insured or bonded licensee for liability under section 801. Bankruptcy of the insured does not discharge an insurer or surety under this section from liability. Insurance policies and bonds issued for purposes under this section must continue from year to year unless sooner canceled by the insurer.

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

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

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

Sec. 903. (1) The commission or any commissioner or duly authorized agent of the commission designated by the chairperson of the commission, on notice and proper hearing, may suspend or revoke any license on a violation of this act or any of the rules promulgated by the commission under this act. The commission or any commissioner or authorized agent of the commission designated by the chairperson of the commission, may assess a penalty of not more than \$300.00 for each violation of this act or rules promulgated under this act, or not more than \$1,000.00 for each violation of section 801(1), in addition to or instead of revocation or suspension of the license, which

penalty must be paid to the commission and deposited with the state treasurer and must be credited to the general fund of the state. The commission shall hold a hearing and order the suspension or revocation of a license if the licensee has been found liable for 3 or more separate violations of section 801(1) which violations occurred on different occasions within a 24-month period unless the violations for the sale, furnishing, or giving alcoholic liquor to a minor were discovered by the licensee and disclosed to an appropriate law enforcement agency immediately on discovery. A retail licensee who sells, offers to sell, accepts, furnishes, possesses, or allows the consumption of spirits in violation of section 901(6) is subject to an administrative fine of not more than \$2,500.00 per occurrence and the following license sanctions after notice and opportunity for an administrative hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328:

- (a) For a first violation, a license revocation or suspension for between 1 and 30 days.
- (b) For a second violation, a license revocation or suspension for between 31 and 90 days.
- (c) For a third or subsequent violation, revocation of the license.

(2) The commission shall provide a procedure by which a licensee who is aggrieved by any penalty imposed under subsection (1) and any suspension or revocation of a license ordered by the commission, a commissioner, or a duly authorized agent of the commission may request a hearing for the purpose of presenting any facts or reasons to the commission as to why the penalty, suspension, or revocation should be modified or rescinded. The request must be in writing and accompanied by a fee of \$25.00. The commission, after reviewing the record made before a commissioner or an authorized agent of the commission, may allow or refuse to allow the hearing in accordance with the commission's rules. The right to a hearing provided in this subsection, however, must not be interpreted by a court as curtailing, removing, or annulling the right of the commission to suspend or revoke licenses as provided for in this act. A licensee does not have a right of appeal from the final determination of the commission, except by leave of the circuit court. Notice of the order of suspension or revocation of a license or of the assessment of a penalty, or both, must be given in the manner prescribed by the commission. The suspension or revocation of a license or the assessment of a penalty, or both, by the commission or an authorized agent of the commission does not prohibit the institution of a criminal prosecution for a violation of this act. The institution of a criminal prosecution for a violation of this act or the acquittal or conviction of a person for a violation of this act does not prevent the suspension or revocation of a license or the assessment of a penalty, or both, by the commission. In a hearing for the suspension or revocation of a license issued under this act, proof that the defendant licensee or an agent or employee of the licensee demanded and was shown, before furnishing any alcoholic liquor to a minor, a motor vehicle operator or chauffeur license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of majority and identity of the person, may be offered as evidence in a defense to a proceeding for the suspension or revocation of a license issued under this act. A licensee who has reason to believe that a minor has used fraudulent identification to purchase alcoholic liquor in violation of section 703 shall file a police report concerning the violation with a local law enforcement agency and shall also present the alleged fraudulent identification to the local law enforcement agency at the time of filing the report if the identification is in the possession of the licensee. The commission may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the use by licensees of equipment designed to detect altered or forged driver licenses, state identification cards, and other forms of identification.

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

(4) An authorized agent who has been designated by the chairperson under subsection (3) has, in the hearing of violation cases, the same authority and responsibility as does a hearing commissioner under this act and the rules promulgated under this act.

(5) An authorized agent who has been designated by the chairperson under subsection (3) is ineligible for appointment to the commission for a period of 1 year after the person ceases to serve as an authorized agent.

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

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

(a) A vendor of spirits, brewer, mixed spirit drink manufacturer, wine maker, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subdivision, from conducting samplings or tastings of an alcoholic

liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) The beer, wine, mead, honey-based beer, or cider produced by the home brewer is only consumed by the home brewer, the home brewer's family, a club member, a judge, or a guest speaker and is not sold to members of the general public.

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

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

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

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

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

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

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

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

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

(f) Each consumer is limited to 3 samples, which total no more than 1/3 ounce of spirits per serving.

(g) The consumer is not charged for and does not purchase any sample.

(h) The alcoholic liquor used in the consumer sampling event is provided by the vendor of spirits or manufacturer, and purchased at the minimum retail selling price fixed by the commission from the specially designated distributor on whose premises the event is located. The vendor of spirits or manufacturer shall remove any unfinished product from the premises at which the event is held upon completion of the event.

(i) The consumer sampling event is not allowed if the sale of alcoholic liquor is otherwise prohibited on the premises at which the event is conducted.

(j) Samples are not offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic liquor.

(k) A consumer sampling event may be advertised in any type of media and the advertisements may include the date, time, location, and other information regarding the event.

(l) The participating vendor of spirits or manufacturer and specially designated distributor licensees complies with this act and commission rules.

(m) The vendor of spirits or manufacturer demonstrates that the individual actually conducting the sampling has successfully completed the server training program in the manner provided for in section 906 and rules promulgated by the commission.

(6) Violation of this section subjects the vendor of spirits or manufacturer to the sanctions and penalties as provided for under this act.

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

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

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

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

(b) The location of the event.

(c) Either of the following:

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

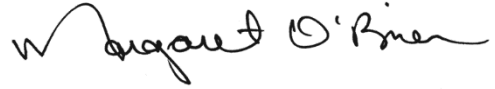
(ii) Proof that the home brewers or home brewers club has obtained a bond or liability insurance equal to that required under section 803(1).

(10) As used in this section:

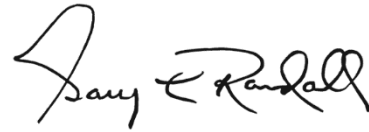
(a) "Commercial purpose" means a purpose for which monetary gain or other remuneration could reasonably be expected.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor