

**SUBSTITUTE FOR
SENATE BILL NO. 868**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 105 (MCL 436.1105), as amended by 2022 PA 226.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 105. (1) "Alcohol" means the product of distillation of
2 fermented liquid, whether or not rectified or diluted with water,
3 but does not mean ethyl or industrial alcohol, diluted or not, that
4 has been denatured or otherwise rendered unfit for beverage
5 purposes.

6 (2) "Alcohol vapor device" means any device that provides for
7 the use of air or oxygen bubbled through alcoholic liquor to
8 produce a vapor or mist that allows the user to inhale this
9 alcoholic vapor through the mouth or nose.



1 (3) "Alcoholic liquor" means any spirituous, vinous, malt, or
2 fermented liquor, powder, liquids, and compounds, whether or not
3 medicated, proprietary, **or** patented, and by whatever name called,
4 containing 1/2 of 1% or more of alcohol by volume that are fit for
5 use for food purposes or beverage purposes as defined and
6 classified by the commission according to alcoholic content as
7 belonging to 1 of the varieties defined in this chapter.

8 (4) "Alternating proprietorship" means 1 of the following:

9 (a) An arrangement in which 2 or more wine makers or small
10 wine makers take turns using the same space and equipment to
11 manufacture wine under section 603(9)(a) and in accordance with 27
12 CFR 24.136.

13 (b) An arrangement in which 2 or more brewers or micro brewers
14 take turns using the same space and equipment to manufacture beer
15 under section 603(9)(b) and in accordance with 27 CFR 25.52.

16 (5) "Approved tasting room" means a tasting room that is
17 approved by the commission. A licensee with an approved tasting
18 room is not a retail licensee as that term is used in this act and
19 the rules promulgated under this act except for sections 701, 801,
20 803, 815, 905, and 906.

21 (6) "Authorized distribution agent" means a person approved by
22 the commission to do 1 or more of the following:

23 (a) To store spirits owned by a supplier of spirits or the
24 commission.

25 (b) To deliver spirits sold by the commission to retail
26 licensees.

27 (c) To perform any function needed to store spirits owned by a
28 supplier of spirits or by the commission or to deliver spirits sold
29 by the commission to retail licensees.



1 (7) "Bar" means a barrier or counter at which alcoholic liquor
2 is sold to, served to, or consumed by customers.

3 (8) "Beer" means a beverage obtained by alcoholic fermentation
4 of an infusion or decoction of barley, malt, hops, sugar, or other
5 cereal in potable water.

6 (9) "Bottle" or "bottling" means a process, separate from
7 manufacturing, using owned or leased equipment to fill and seal a
8 container, including a keg, with alcoholic liquor for sale at
9 wholesale or retail in accordance with this act. Bottle or bottling
10 does not include filling a growler for sale at retail.

11 (10) "Brand" means any word, ~~name,~~ **group of words, letter,**
12 ~~group of letters, symbol, trademark,~~ **group of symbols,** or
13 combination thereof adopted and used by a supplier to **name,**
14 **identify, or trademark** a specific beer, malt beverage, wine, mixed
15 wine drink, or mixed spirit drink product. ~~and to distinguish that~~
16 ~~product from another beer, malt beverage, wine, mixed wine drink,~~
17 ~~or mixed spirit drink product that is produced or marketed by that~~
18 ~~or another supplier. As used in this subsection, "supplier" means a~~
19 ~~brewer, micro brewer, an outstate seller of beer, a wine maker, a~~
20 ~~small wine maker, an outstate seller of wine, a manufacturer of~~
21 ~~mixed wine drink, an outstate seller of a mixed wine drink, a mixed~~
22 ~~spirit drink manufacturer, or an outstate seller of mixed spirit~~
23 ~~drink.~~ **A supplier's legal name, assumed name, trade name, or any**
24 **doing-business-as name is considered a brand name, identifier, or**
25 **trademark if it is used on the container or packaging of the beer,**
26 **wine, mixed wine drink, or mixed spirit drink to market the**
27 **product, except under the following circumstances:**

28 (a) **The use of a supplier's legal name, assumed name, trade**
29 **name, or any doing-business-as name is not considered a brand name,**



1 identifier, or trademark if it is used on the back of the container
2 solely for any of the following purposes:

3 (i) Identifying the supplier that has manufactured the beer,
4 wine, mixed wine drink, or mixed spirit drink.

5 (ii) Identifying the supplier that has bottled the beer, wine,
6 mixed wine drink, or mixed spirit drink.

7 (iii) Identifying the supplier that imported the beer, wine,
8 mixed wine drink, or mixed spirit drink.

9 (b) If the beer, wine, mixed wine drink, or mixed spirit drink
10 includes 2 or more brands of different suppliers, in which case the
11 supplier that registers the product with the commission shall
12 appoint the wholesaler or wholesalers that have rights to that
13 supplier's underlying brand.

14 (11) "Brand extension" means any ~~brand that incorporates all~~
15 ~~or a substantial part of the unique features of a preexisting~~
16 ~~brand, regardless of whether the extension is beer, wine, mixed~~
17 ~~wine drink, or mixed spirit drink.~~ beer, wine, mixed wine drink, or
18 mixed spirit drink brand that is marketed, in any manner, using the
19 same name, identifier, or trademark associated with a brand that
20 has preceded it in being sold or offered for sale in this state, or
21 a derivative or portion of the name, identifier, or trademark,
22 regardless of any of the following:

23 (a) The addition of words or letters in a word.

24 (b) The addition of a name, identifier, or trademark.

25 (c) The addition of a symbol.

26 (d) Any differences in the packaging, formulation, or
27 production of the beer, wine, mixed wine drink, or mixed spirit
28 drink or the shape, size, or type of container in which the beer,
29 wine, mixed wine drink, or mixed spirit drink is sold.



1 (e) Changes in the alcohol category used in the brand
2 extension. As used in this subdivision only, alcohol category means
3 a beer category, a wine category, a mixed wine drink category, or a
4 mixed spirit drink category.

5 (f) The manufacturer, importer, or licensed outstate seller of
6 the brand extension being different from the manufacturer,
7 importer, or licensed outstate seller of the underlying brand the
8 extension is based on.

9 (12) "Brandy" means an alcoholic liquor as defined in 27 CFR
10 5.22(d).

11 (13) "Brandy manufacturer" means a wine maker or a small wine
12 maker licensed under this act to manufacture brandy. A wine maker
13 or small wine maker authorized to manufacture brandy shall not
14 manufacture any other spirits. The commission may approve a brandy
15 manufacturer to sell brandy that it manufactures at retail in
16 accordance with section 537.

17 (14) "Brewer" means a person located in this state that is
18 licensed to manufacture beer and sell at retail in accordance with
19 section 537 and to licensed wholesalers beer manufactured by the
20 person.

21 (15) "Brewpub" means a license issued in conjunction with a
22 class C, tavern, class A hotel, or class B hotel license that
23 authorizes the person licensed with the class C, tavern, class A
24 hotel, or class B hotel **license** to manufacture and brew not more
25 than 18,000 barrels of beer per calendar year in this state and
26 sell at its licensed premises the beer produced for consumption on
27 or off the licensed brewery premises in the manner provided for in
28 sections 405, 407, and 537.

29 (16) As used in subsection (10), "supplier" means a brewer, a



1 micro brewer, an outstate seller of beer, a wine maker, a small
2 wine maker, an outstate seller of wine, a manufacturer of a mixed
3 wine drink, an outstate seller of a mixed wine drink, a mixed
4 spirit drink manufacturer, and an outstate seller of a mixed spirit
5 drink.

6 (17) With regard to subsections (10) and (11), distribution
7 rights in effect as of the effective date of the 2024 amendatory
8 act that added this subsection are preserved. However, this
9 subsection does not limit application of subsection (11) to a beer,
10 wine, mixed wine drink, or mixed spirit drink that would be
11 considered a brand extension after the effective date of the 2024
12 amendatory act that added this subsection that is based on a brand
13 that was in existence before the effective date of the 2024
14 amendatory act that added this subsection.