

# HOUSE BILL NO. 4043

January 30, 2025, Introduced by Rep. T. Carter and referred to Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending section 609 (MCL 436.1609), as amended by 2021 PA 18.

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

1           Sec. 609. (1) Except as provided in this section and sections  
2 605 and 1029, a manufacturer, mixed spirit drink manufacturer,  
3 warehouse, wholesaler, outstate seller of beer, outstate seller of  
4 wine, outstate seller of mixed spirit drink, or vendor of spirits  
5 shall not aid or assist any other vendor by gift, loan of money or  
6 property of any description, or other valuable thing, or by the

1 giving of premiums or rebates, and a vendor shall not accept the  
2 same. However, if manufacturers of spirits reduce the price of  
3 their products, the manufacturer of spirits may refund the amount  
4 of the price reductions to specially designated distributor  
5 licensees in a manner prescribed by the commission.

6 (2) A manufacturer, mixed spirit drink manufacturer,  
7 warehouse, wholesaler, outstate seller of beer, outstate seller of  
8 wine, outstate seller of mixed spirit drink, or vendor of spirits  
9 may, in a manner consistent with rules, regulations, and orders  
10 made by the commission, provide another licensee with an  
11 advertising item that promotes the brands and prices of alcoholic  
12 liquor produced by the manufacturer; sold by the outstate seller of  
13 beer, the outstate seller of wine, or the outstate seller of mixed  
14 spirit drink; or distributed by the wholesaler. Except as otherwise  
15 allowed under subsection (3), (4), (5), or (6), the advertising  
16 item must not have any use or value beyond the actual advertising  
17 of brands and prices of the alcoholic liquor.

18 (3) Except for those orders that were approved for specific  
19 sponsorships or festivals, a manufacturer, mixed spirit drink  
20 manufacturer, warehouse, wholesaler, outstate seller of beer,  
21 outstate seller of wine, outstate seller of mixed spirit drink, or  
22 vendor of spirits may provide goods and services to another  
23 licensee that were approved by the commission under rules or orders  
24 adopted before January 1, 2014 and the following items:

- 25 (a) Alcoholic liquor recipes literature.  
26 (b) Calendars and matchbooks.  
27 (c) Removable tap markers or signs.  
28 (d) Table tents.  
29 (e) Shelf talkers.

- 1 (f) Bottle neckers.
- 2 (g) Cooler stickers.
- 3 (h) Buttons, blinking and nonblinking.
- 4 (i) Menu clip-ons.
- 5 (j) Mirrors.
- 6 (k) Napkin holders.
- 7 (l) Spirits cold shot tap machines.
- 8 (m) Alcoholic liquor drink menus.
- 9 (n) Keg couplers that are lent to an on-premises retailer.
- 10 (o) Sporting event or entertainment tickets.
- 11 (p) Suction cups.
- 12 (q) Cooler door attachments.
- 13 (r) Tear pad holders.

14 (4) A wholesaler may sell brand logoed items to an off-  
15 premises licensee if those brand logoed items are contained within  
16 the packaging of an alcoholic liquor product that is to be sold to  
17 a consumer.

18 (5) A retailer shall not use or possess, at its licensed  
19 premises, advertising items that have a use or value beyond the  
20 actual advertising of brands and prices of alcoholic liquor except  
21 for those items allowed in subsection (3), (4), or (6), or as  
22 otherwise allowed under this subsection. A retailer may possess and  
23 use brand logoed barware that advertises spirits if the items are  
24 purchased from a manufacturer of spirits, vendor of spirits,  
25 salesperson, broker, or barware retailer. A retailer may possess  
26 and use brand logoed barware that advertises beer or wine if the  
27 items are purchased from a barware retailer. A retailer shall  
28 maintain the receipts of all purchased brand logoed barware for at  
29 least 3 years and shall make those receipts available for

1 inspection by the commission as provided in section 217. Beginning  
2 in the 2015 licensing year, a retailer shall disclose, in a manner  
3 as prescribed by the commission on the application for renewal of  
4 an existing license, if any barware was purchased by the retailer  
5 during the immediately preceding license year.

6 (6) A manufacturer, outstate seller, or vendor of spirits may  
7 provide brand logoed merchandise to an on-premises retailer and  
8 off-premises retailer to promote the brand and price of its  
9 products under R 436.1321(1) to (3) of the Michigan Administrative  
10 Code. All of the following apply to brand logoed merchandise under  
11 this subsection:

12 (a) Brand logoed merchandise must be used for display purposes  
13 only.

14 (b) Brand logoed merchandise may only provide brand  
15 advertising when used in a display.

16 (c) Brand logoed merchandise must be returned to the alcoholic  
17 beverage supplier or wholesaler on completion of the display.

18 (d) Brand logoed merchandise must not be given to the retailer  
19 or the retailer's employee or any other person for their personal  
20 use.

21 (e) The value of the brand logoed merchandise on display must  
22 not exceed \$200.00 per item.

23 (f) Brand logoed merchandise that a retailer could use in the  
24 daily operation of the retailer's business is prohibited.

25 (g) Brand logoed merchandise must be unilluminated.

26 (h) Brand logoed merchandise must not be more than 3,500  
27 square inches in dimension.

28 (i) Brand logoed merchandise must be owned by the manufacturer  
29 or supplier. The ownership of brand logoed merchandise may not be

1 transferred to the retailer, the retailer's employee, or any other  
2 person.

3 (j) A wholesaler may deliver and install a display using brand  
4 logoed merchandise provided without charge by a manufacturer,  
5 outstate seller of beer, outstate seller of wine, or outstate  
6 seller of mixed drink.

7 (7) In addition to the penalties provided under section 903, a  
8 manufacturer of beer or wine, mixed spirit drink manufacturer,  
9 warehouse, wholesaler, outstate seller of beer, outstate seller of  
10 wine, or outstate seller of mixed spirit drink that provides or  
11 sells barware and is not authorized to provide or sell barware is  
12 subject to a fine in an amount of up to \$2,500.00 as determined by  
13 the commission. Multiple violations resulting from the same  
14 incident may be treated as a single violation for purposes of  
15 issuance of any penalty imposed under this act.

16 (8) An on-premises retailer that hosts an on-premises brand  
17 promotional event conducted by a wholesaler or supplier has 14 days  
18 after the event to remove from the premises any brand logoed  
19 merchandise from the event to maintain compliance with this  
20 section.

21 (9) This act and rules promulgated under this act do not  
22 prevent a retailer that holds an off-premises license only from  
23 purchasing brand logoed inventory and selling that inventory to its  
24 customers.

25 (10) Beginning after September 25, 2015, the commission may,  
26 by rule, add an item to or remove an item from the definition of  
27 barware. The commission shall not add or remove more than 1 item  
28 per rule and shall not promulgate more than 1 rule at a time on the  
29 definition of barware. The commission shall not issue a rule that

1 adds refrigerator systems, draft systems, or furniture to the  
2 definition of barware. A rule, regulation, or order adopted after  
3 January 1, 2014 that is not adopted in accordance with this  
4 subsection and that is not consistent with this section or is in  
5 conflict with this section is void and unenforceable.

6 (11) As used in this section:

7 (a) "Barware" means the following brand logoed items:

8 (i) Trays.

9 (ii) Coasters.

10 (iii) Napkins.

11 (iv) Shirts.

12 (v) Hats.

13 (vi) Pitchers.

14 (vii) Drinkware that is intended to be reused.

15 (viii) Bar mats.

16 (ix) Buckets.

17 (x) Bottle openers.

18 (xi) Stir rods.

19 (xii) Patio umbrellas.

20 (xiii) Any packaging used to hold and deliver the alcoholic  
21 liquor purchased by the retailer.

22 **(xiv) Refrigeration systems.**

23 **(xv)** ~~(xiv)~~ Any other items that have been added by the  
24 commission under subsection (10).

25 (b) "Barware retailer" means a person that offers brand logoed  
26 barware for sale to retailers, whether or not it is in their  
27 ordinary course of business, and that is not licensed as, or  
28 directly or indirectly affiliated with, a manufacturer of beer or

1 wine, mixed spirit drink manufacturer, warehouser, wholesaler,  
2 outstate seller of beer, outstate seller of wine, or outstate  
3 seller of mixed spirit drink. For purposes of this subdivision, a  
4 licensing agreement that authorizes use of a brand logo is not a  
5 direct or indirect affiliation.

6 (c) "Broker" means a person, other than an individual, that is  
7 licensed by the commission and that is employed or otherwise  
8 retained by a manufacturer of spirits or a vendor of spirits to  
9 sell, promote, or otherwise assist in the sale or promotion of  
10 spirits.

11 (d) "Indirectly affiliated" means, for purposes of this  
12 section only, that a person owns 5% or more of the voting interest  
13 of another person.

14 (e) "Other valuable thing" means a good, service, or  
15 intangible good that is given, loaned, leased, or sold to another  
16 licensee that has value regardless of whether the value is nominal.  
17 Other valuable thing includes, but is not limited to, a good,  
18 service, or intangible good that provided a benefit, regardless of  
19 how nominal, to the licensee other than advertising the brands and  
20 prices of alcoholic liquor produced by the manufacturer; sold by  
21 the outstate seller of beer, the outstate seller of wine, or the  
22 outstate seller of mixed spirit drink; or distributed by the  
23 wholesaler, except for consumable goods and those goods, services,  
24 or intangible goods approved by rule or order of the commission  
25 before January 1, 2014.

26 (f) "Refrigeration system" means a machine less than 10 cubic  
27 feet that cools beverages.

28 (g) ~~(f)~~—"Salesperson" means, for purposes of this subsection  
29 only, a person who is employed by a vendor of spirits or a broker

1 and who is licensed by the commission to sell, deliver, or promote,  
2 or otherwise assist in the sale of, spirits in this state.