



SENATE BILL No. 259

February 14, 1995, Introduced by Senators DUNASKISS, STALLINGS, HONIGMAN and YOUNG and referred to the Committee on Local, Urban and State Affairs.

A bill to amend sections 2, 2h, 2m, 2o, 2q, 2s, 2t, 16a, 17, 19, 19d, 19e, 19g, 22, 24, 26b, 29, 30, 30d, 31, 49a, 56, 56a, and 56b of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended

"The Michigan liquor control act,"

sections 2, 2h, 2m, 2o, 2t, 16a, 19d, 19e, 19g, 22, 26b, 29, 30, 31, 49a, 56, 56a, and 56b as amended by Act No. 118 of the Public Acts of 1989, section 17 as amended by Act No. 185 of the Public Acts of 1994, sections 19 and 24 as amended by Act No. 300 of the Public Acts of 1992, and section 30d as amended by Act No. 275 of the Public Acts of 1994, being sections 436.2, 436.2h, 436.2m, 436.2o, 436.2q, 436.2s, 436.2t, 436.16a, 436.17, 436.19, 436.19d, 436.19e, 436.19g, 436.22, 436.24, 436.26b, 436.29, 436.30,

436.30d, 436.31, 436.49a, 436.56, 436.56a, and 436.56b of the Michigan Compiled Laws; and to add section 30e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 2h, 2m, 2o, 2q, 2s, 2t, 16a, 17, 19,
 2 19d, 19e, 19g, 22, 24, 26b, 29, 30, 30d, 31, 49a, 56, 56a, and
 3 56b of Act No. 8 of the Public Acts of the Extra Session of 1933,
 4 sections 2, 2h, 2m, 2o, 2t, 16a, 19d, 19e, 19g, 22, 26b, 29, 30,
 5 31, 49a, 56, 56a, and 56b as amended by Act No. 118 of the Public
 6 Acts of 1989, section 17 as amended by Act No. 185 of the Public
 7 Acts of 1994, sections 19 and 24 as amended by Act No. 300 of the
 8 Public Acts of 1992, and section 30d as amended by Act No. 275 of
 9 the Public Acts of 1994, being sections 436.2, 436.2h, 436.2m,
 10 436.2o, 436.2q, 436.2s, 436.2t, 436.16a, 436.17, 436.19, 436.19d,
 11 436.19e, 436.19g, 436.22, 436.24, 436.26b, 436.29, 436.30,
 12 436.30d, 436.31, 436.49a, 436.56, 436.56a, and 436.56b of the
 13 Michigan Compiled Laws, are amended and section 30e is added to
 14 read as follows:

15 Sec. 2. For purposes of this act, the words and phrases
 16 defined in this section and in sections 2a to 2z have the mean-
 17 ings ascribed to them in those sections, unless the context shall
 18 otherwise require:

19 (a) "Alcoholic liquor" means any spirituous, vinous, malt,
 20 or fermented liquor, liquids and compounds, whether or not medi-
 21 cated, proprietary, patented, and by whatever name called, con-
 22 taining 1/2 of 1% or more of alcohol by volume which are fit for
 23 use for beverage purposes. The commission shall define and

1 classify alcoholic liquor according to alcoholic content as
2 belonging to 1 of the varieties hereinafter defined.

3 (b) "Beer" means any beverage obtained by alcoholic ferment-
4 tation of an infusion or decoction of barley, malt, hops, or
5 other cereal in potable water.

6 (c) "Wine" means the product made by the normal alcoholic
7 fermentation of the juice of sound, ripe grapes, or any other
8 fruit with the usual cellar treatment, and containing not more
9 than 21% of alcohol by volume, including fermented fruit juices
10 other than grapes and mixed wine drinks.

11 (d) "Spirits" means any beverage which contains alcohol
12 obtained by distillation, mixed with potable water or other sub-
13 stances, or both, in solution, and includes wine containing an
14 alcoholic content of more than 21% by volume, except sacramental
15 wine and mixed spirit drink.

16 (e) "Alcohol" means the product of distillation of fermented
17 liquid, whether or not rectified or diluted with water, but does
18 not mean ethyl or industrial alcohol, diluted or not, that has
19 been denatured or otherwise rendered unfit for beverage
20 purposes.

21 (f) "Sacramental wine" means wine containing not more than
22 24% of alcohol by volume which is used for sacramental purposes.

23 (g) "Brandy" means an alcoholic liquor as defined in the
24 federal regulations, 27 C.F.R. 5.22(d) (1980).

25 (h) "Mixed wine drink" means a drink or similar product
26 marketed as a wine cooler and containing less than 7% alcohol by

1 volume, consisting of wine and plain, sparkling, or carbonated
2 water, and containing any 1 or more of the following:

3 (i) Nonalcoholic beverages.

4 (ii) Flavoring.

5 (iii) Coloring materials.

6 (iv) Fruit juices.

7 (v) Fruit adjuncts.

8 (vi) Sugar.

9 (vii) Carbon dioxide.

10 (viii) Preservatives.

11 (i) "Mixed spirit drink" means a drink produced and packaged
12 or sold by a mixed spirit drink manufacturer or an outstate
13 seller of mixed spirit drink which contains 10% or less alcohol
14 by volume consisting of distilled spirits mixed with nonalcoholic
15 beverages or flavoring or coloring materials and which may also
16 contain water, fruit juices, fruit adjuncts, sugar, carbon diox-
17 ide, or preservatives.

18 (J) "LOW ALCOHOL DRINK" MEANS A PREMIXED DRINK OR SIMILAR
19 PRODUCT CONTAINING 7% OR LESS ALCOHOL BY VOLUME, CONSISTING OF
20 WINE OR SPIRITS AND PLAIN, SPARKLING, OR CARBONATED WATER, AND
21 CONTAINING ANY 1 OR MORE OF THE FOLLOWING:

22 (i) NONALCOHOLIC BEVERAGES.

23 (ii) FLAVORING.

24 (iii) COLORING MATERIALS.

25 (iv) FRUIT JUICES.

26 (v) FRUIT ADJUNCTS.

1 (vi) SUGAR.

2 (vii) CARBON DIOXIDE.

3 (viii) PRESERVATIVES.

4 Sec. 2h. "Hotel" means a building which in the judgment of
5 the commission has been regularly used and kept open as such in a
6 bona fide manner for the feeding and lodging of guests, where all
7 who conduct themselves properly and who are able and ready to pay
8 for such services are received if there are accommodations for
9 them. A hotel must be prepared to show that the major portion of
10 its receipts is derived from the renting of rooms and the sale of
11 food. The commission may require that a hotel shall have been
12 maintained as such for a period of 1 year prior to the issuance
13 of the license. For license purposes, hotels in cities of 50,000
14 population and less than 175,000 population shall contain not
15 less than 25 permanent bedrooms and in cities of 175,000 popula-
16 tion or over shall contain not less than 50 permanent bedrooms
17 within 1 structure for lease to persons, and shall be adequately
18 equipped to serve meals to not less than 100 persons at 1 time,
19 in a cafeteria or dining room provided for that purpose. A hotel
20 in a city, village, or township of less than 100,000 population
21 which does not contain at least 25 permanent bedrooms, but is
22 adequately equipped to serve meals to not less than 25 persons at
23 1 time in a public cafeteria or dining room provided for that
24 purpose, may apply to the commission setting forth the special
25 facts and circumstances, and the commission may make an exception
26 and grant the petitioner a hotel license. Class "A" hotels are
27 those hotels licensed under this act to sell LOW ALCOHOL DRINK,

1 beer, and wine. Class "B" hotels are those hotels licensed under
2 this act to sell beer, wine, spirits, LOW ALCOHOL DRINK, and
3 mixed spirit drink.

4 Sec. 2m. (1) As used in this act:

5 (a) "Brandy manufacturer" means any person licensed under
6 this act to engage in the manufacturing, rectifying or blending,
7 or both, of brandy only and not any other distilled spirit. Only
8 a licensed wine maker or a small wine maker is eligible to be a
9 brandy manufacturer.

10 (b) "Mixed spirit drink manufacturer" means any person
11 licensed under this act to manufacture in this state mixed spirit
12 drink and to sell mixed spirit drink to a wholesaler.

13 (c) "Outstate seller of beer" means a person licensed by the
14 commission to sell beer which has not been manufactured in this
15 state to a wholesaler in this state in accordance with rules
16 promulgated by the commission.

17 (d) "Outstate seller of mixed spirit drink" means a person
18 licensed by the commission to sell mixed spirit drink not manu-
19 factured in this state to a wholesaler in this state according to
20 rules promulgated by the commission.

21 (e) "Outstate seller of wine" means a person licensed by the
22 commission to sell wine which has not been manufactured in this
23 state to a wholesaler in this state in accordance with rules
24 promulgated by the commission, and to sell sacramental wine as
25 provided in section 16a.

1 (f) "Retailer" means a person licensed by the commission who
2 sells to the consumer, under rules as the commission may
3 establish.

4 (g) "Vendor" means a person licensed by the commission to
5 sell alcoholic liquor.

6 (h) "Vendor of spirits" means a person selling spirits to
7 the commission.

8 (i) "Wholesaler" means a person who sells beer, wine, LOW
9 ALCOHOL DRINK, or mixed spirit drink only to retailers or other
10 licensees, and who sells sacramental wine as provided in section
11 16a.

12 (j) "Warehouseman" means a licensee authorized by the com-
13 mission to store alcoholic beverages, but prohibited from making
14 sales or deliveries to retailers unless the licensee is also the
15 holder of a wholesaler or manufacturer license issued by the
16 commission.

17 (K) "LOW ALCOHOL DRINK MANUFACTURER" MEANS ANY PERSON
18 LICENSED BY THE COMMISSION TO MANUFACTURE IN THIS STATE LOW ALCO-
19 HOL DRINK AND TO SELL LOW ALCOHOL DRINK TO A WHOLESALER.

20 (L) "OUTSTATE SELLER OF LOW ALCOHOL DRINK" MEANS A PERSON
21 LICENSED BY THE COMMISSION TO SELL LOW ALCOHOL DRINK NOT MANUFAC-
22 TURED IN THIS STATE TO A WHOLESALER IN THIS STATE ACCORDING TO
23 RULES PROMULGATED BY THE COMMISSION.

24 (2) For the purposes of rules promulgated by the commission,
25 a mixed spirit drink manufacturer, ~~and~~ an outstate seller of
26 mixed spirit drink, A LOW ALCOHOL DRINK MANUFACTURER, AND AN
27 OUTSTATE SELLER OF LOW ALCOHOL DRINK shall be considered and

1 treated as a wine manufacturer and outstate seller of wine,
2 respectively. ~~, except that they shall be subject to the rules~~
3 ~~applicable to spirits for purposes of manufacturing and~~
4 ~~labeling.~~

5 Sec. 2o. "Special license" shall mean a contract between
6 the commission and the special licensee granting authority to
7 ~~said~~ THAT licensee to sell beer, wine, mixed spirit drink, LOW
8 ALCOHOL DRINK, or spirits. The license shall be granted only to
9 such persons and such organization and for such period of time as
10 the commission ~~shall determine~~ DETERMINES.

11 Sec. 2q. "Specially designated merchant" shall mean any
12 person to whom the commission grants a license to sell beer,
13 ~~and/or~~ wine, OR LOW ALCOHOL DRINK at retail for consumption off
14 the premises of such licensed place.

15 Sec. 2s. "Tavern" shall mean any place licensed to sell at
16 retail LOW ALCOHOL DRINK, beer, and wine for consumption on the
17 premises only.

18 Sec. 2t. "Class C license" shall mean any place licensed to
19 sell at retail beer, wine, mixed spirit drink, LOW ALCOHOL DRINK,
20 and spirits for consumption on the premises.

21 Sec. 16a. (1) There shall be levied and collected by the
22 commission on all wines AND LOW ALCOHOL DRINK containing 16% or
23 less of alcohol by volume sold in this state and manufactured
24 from grapes, ~~or fruits~~ FRUIT, OR ANY OTHER FARM PRODUCTS not
25 grown in this state, a tax at the rate of 13.5 cents per liter if
26 sold in bulk and in a like ratio if sold in smaller quantities.

1 (2) There shall be levied and collected by the commission on
2 all wines containing more than 16% of alcohol by volume sold in
3 this state a tax at the rate of 20 cents per liter if sold in
4 bulk and in a like ratio if sold in smaller quantities.

5 (3) The commission shall reduce by 12.5 cents per liter the
6 tax specified in subsection (1) and shall reduce by 19 cents per
7 liter the tax specified in subsection (2) on all wines manufac-
8 tured in Michigan from grapes grown in Michigan, for which the
9 wineries, blenders, or rectifiers have paid the Michigan grape
10 growers \$100.00 per ton, or more, at the shipping point, the
11 buyer furnishing at his or her expense all necessary packages or
12 containers and paying transportation charges beyond the shipping
13 point. Not less than \$100.00 of the minimum payment specified in
14 this subsection shall be paid in cash by December 15 of the year
15 in which the grapes are delivered. The remainder of the minimum
16 payment shall be made by a promissory note payable without inter-
17 est before April 16 of the year following the delivery of the
18 grapes. The tax shall also be reduced as provided in this sub-
19 section on all wines manufactured in Michigan from Michigan grown
20 fruits, other than grapes, and also on these wines when blended
21 with wine or wine spirits manufactured in Michigan and also
22 blended with wine or wine spirits manufactured from grapes and
23 fruits not grown in Michigan, when the blend does not use in the
24 finished product over 25% in volume of wine or wine spirits manu-
25 factured outside the state of Michigan. All wines not manufac-
26 tured and not entitled to tax reduction as provided in this
27 section shall be subject to and shall pay to the commission the

1 full amount of tax as provided in this act. Every Michigan
2 winery, as a condition precedent to the commission having juris-
3 diction to grant or recognize any claim for tax reduction shall,
4 on or before December 15 of each year, when Michigan grapes are
5 purchased, file with the commission a detailed and sworn state-
6 ment showing the date, place of delivery, and amount of grapes
7 purchased of Michigan grape growers, and the name and address of
8 the Michigan growers from whom the purchases are made, together
9 with a sworn statement that the grapes have been paid for at the
10 price and manner provided for in this act, and that this act has
11 been fully complied with. The commission may promulgate other
12 necessary and proper rules as in the opinion of the commission
13 will prevent tax evasion or allow wineries tax reduction on more
14 liters of wine than would ordinarily be produced and manufactured
15 from the tonnage purchased and on which tax reduction could
16 legally be claimed.

17 (4) All sacramental wines shall be nontaxable when used by
18 churches and sacramental wines may be imported and the commission
19 shall not impose restrictions on importations of wine for sacra-
20 mental purposes but may promulgate rules as will prevent any
21 abuses which result from the importations. A wholesaler or an
22 outstate seller of wine may sell sacramental wine directly to a
23 church for sacramental purposes.

24 (5) The commission shall levy and collect on all mixed
25 spirit drink sold in this state a tax at the rate of 48 cents per
26 liter if sold in bulk or a like ratio if sold in smaller
27 quantities.

1 (6) On approval by the commission, the corporation and
2 securities bureau shall incorporate a limited number of farm
3 mutual cooperative wineries as, in the judgment of the commis-
4 sion, will be beneficial to the Michigan grape and fruit
5 industry. These wineries shall be licensed under this act and
6 the payment of 1 license fee annually by the corporation shall
7 authorize wine making on the premises of the corporation and also
8 on the premises of the grape and fruit growing farmers who are
9 members of or stockholders in the corporation. The stockholders
10 or members, on incorporation of a farmers' cooperative corpora-
11 tion as provided for in this section shall be certified to be
12 Michigan grape and fruit growing farmers. Wine making by cooper-
13 ative corporations on farm premises is allowed but all sales of
14 the wine shall be made by the corporation and from the corpora-
15 tion premises.

16 ~~(7) The commission may sell any existing inventory of mixed~~
17 ~~spirit drink and any mixed spirit drink which is on order as of~~
18 ~~the effective date of the 1989 amendatory act that amended this~~
19 ~~section to any vendor who holds a license to sell mixed spirit~~
20 ~~drink at wholesale or retail. Prices for mixed spirit drink sold~~
21 ~~pursuant to this subsection shall be established by the~~
22 ~~commission.~~

23 Sec. 17. (1) The commission may issue licenses, as provided
24 in this act, upon the payment of the fees provided in section 19
25 and the filing of the bonds required in section 22 or liability
26 insurance as provided in section 22a.

1 (2) The commission shall issue licenses to manufacturers
2 only when 25% or more of the capital stock is owned by residents
3 of this state, except that this limitation shall not apply to
4 manufacturers of wine, LOW ALCOHOL DRINK, mixed spirit drink,
5 beer, or malt beverages or to distillers or rectifiers.

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

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

20 (4) A local legislative body, by resolution, may request
21 that the commission revoke the license of a licensee granted a
22 license to sell alcoholic liquor for consumption off the premises
23 whose place of business is located within the local legislative
24 body's jurisdiction and who has been determined pursuant to com-
25 mission violation hearings to have sold or furnished alcoholic
26 liquor, on at least 3 separate occasions in a single calendar
27 year, to a person who is less than 21 years of age if those

1 violations did not involve the use of falsified or fraudulent
2 identification by the person who is less than 21 years of age.
3 If the commission verifies that the licensee who is the subject
4 of the resolution has been found to have committed the violations
5 as prescribed in this subsection, the commission may suspend or
6 revoke the licensee's license and any permit held in conjunction
7 with that license.

8 (5) Except as otherwise provided in this act, a license
9 other than a special license which has been approved by the gov-
10 erning authority of such state owned land shall not be issued by
11 the commission to sell alcoholic liquor, either on or off the
12 premises, if the property or establishment to be covered by the
13 license is situated in or on state owned land. However, this
14 prohibition shall not apply to the following land:

15 (a) The Michigan state fairgrounds.

16 (b) The Upper Peninsula state fairgrounds.

17 (c) Armories, air bases, and naval installations owned or
18 leased by the state or provided by the federal government by
19 either lease, license, or use permit and used by outside parties
20 of a nonmilitary or nonstate governmental nature.

21 (d) Land which was under lease to a person licensed in the
22 calendar year 1954 and on which a licensed establishment is pres-
23 ently located.

24 (e) Land which was owned or leased by the federal govern-
25 ment, used as a military installation, and transferred to this
26 state before January 1, 1980 pursuant to Act No. 151 of the
27 Public Acts of 1978, being sections 3.551 to 3.561 of the

1 Michigan Compiled Laws. Two additional licenses may be issued
2 pursuant to this subdivision for establishments located on this
3 state land without regard to or effect on the quota provisions of
4 section 19c in the local governmental unit in which the license
5 will be issued. A person issued a license pursuant to this sub-
6 division may renew the license and transfer ownership of the
7 license, without regard to or effect on the quota provisions of
8 section 19c, if title to the property covered by the license is
9 transferred from the state to another person or to another gov-
10 ernmental unit. The commission shall not transfer a license
11 issued under this subdivision to another location. Before the
12 issuance of a license, and annually thereafter before the issu-
13 ance of a license for a new licensing period, the applicant for a
14 license shall submit to the commission a certificate from the
15 department or agency charged with control of the land setting
16 forth that the issuance of a license is not incompatible with the
17 objects and purposes entrusted to that department or agency under
18 the law establishing control of the land in the department or
19 agency. This subsection does not prohibit the issuance of a
20 license pursuant to section 17h.

21 (f) Property owned by the Michigan state waterways commis-
22 sion and leased to persons under the harbor development act, Act
23 No. 79 of the Public Acts of 1988, being sections 281.1251 to
24 281.1268 of the Michigan Compiled Laws. A license may be issued
25 under this subdivision to a lessee without regard to the quota
26 provisions of section 19c, but the license shall not be issued
27 without the written approval of the Michigan state waterways

1 commission or its designee. A license issued under this
2 subdivision shall not be transferable as to ownership or loca-
3 tion, and, if the licensee goes out of business, the license
4 shall be surrendered to the commission.

5 (g) Property owned by the state treasurer of this state when
6 acting in the capacity of custodian of the assets of the state
7 retirement systems created by the public school employees retire-
8 ment act of 1979, Act No. 300 of the Public Acts of 1980, being
9 sections 38.1301 to 38.1408 of the Michigan Compiled Laws; the
10 state employees' retirement act, Act No. 240 of the Public Acts
11 of 1943, being sections 38.1 to 38.48 of the Michigan Compiled
12 Laws; the state police retirement act of 1986, Act No. 182 of the
13 Public Acts of 1986, being sections 38.1601 to 38.1648 of the
14 Michigan Compiled Laws; and the judges retirement act of 1992,
15 Act No. 234 of the Public Acts of 1992, being sections 38.2101 to
16 38.2608 of the Michigan Compiled Laws.

17 (6) This act does not prohibit a hotel which is or was the
18 holder of a license authorizing the retail sale of alcoholic
19 liquor for consumption on the premises from applying for and
20 receiving under this act any other and different type of license
21 authorizing the retail sale of alcoholic liquor for consumption
22 on the premises, and the application for the license shall not be
23 considered a new application for a license so long as the total
24 number of public licenses for consumption on the premises does
25 not exceed the authorized total established in this act and the
26 sale of alcoholic liquor is approved by the electors. The
27 commission may divide the state into 3 zones and establish for

1 each zone an anniversary date for renewal of full-year retail
2 licenses in the licensing year. The commission shall promulgate
3 rules pursuant to the administrative procedures act of 1969, Act
4 No. 306 of the Public Acts of 1969, as amended, being
5 sections 24.201 to 24.328 of the Michigan Compiled Laws, for the
6 effective administration of the renewal of licenses.

7 (7) Until July 1, 1994, the commission, with the written
8 approval of the department of natural resources in the case of
9 the Michigan state fairgrounds and the department of agriculture
10 in the case of the Upper Peninsula state fairgrounds may issue
11 without regard to the quota provision of section 19c a tavern
12 license to a person as concessionaire leasing or renting a por-
13 tion of either the Upper Peninsula state fairgrounds or the state
14 fairgrounds, or both, to service the licensed area in use for
15 recreational or exhibition purposes other than at the time of the
16 annual Upper Peninsula state fair under section 2 of Act No. 89
17 of the Public Acts of 1927, being section 285.142 of the Michigan
18 Compiled Laws. A license issued under this subsection is not
19 transferable.

20 (8) Beginning July 1, 1994, the commission, with the written
21 approval of the department of natural resources in the case of
22 the Michigan state fairgrounds and the department of agriculture
23 in the case of the Upper Peninsula state fairgrounds may issue
24 without regard to the quota provision of section 19c a tavern
25 license to a person as concessionaire leasing or renting a por-
26 tion of either the Upper Peninsula state fairgrounds or the state
27 fairgrounds, or both, to service the licensed area in use for

1 recreational or exhibition purposes, other than at the time of
2 the annual state fair, under section 6 of the Michigan exposition
3 and fairgrounds act, Act No. 361 of the Public Acts of 1978,
4 being section 285.166 of the Michigan Compiled Laws, and the
5 annual Upper Peninsula state fair, under section 2 of Act No. 89
6 of the Public Acts of 1927, as amended, being section 285.142 of
7 the Michigan Compiled Laws. A license issued under this subsec-
8 tion is not transferable.

9 (9) Notwithstanding section 3, a collector, who is 21 years
10 of age or older, of ceramic commemorative bottles containing
11 alcoholic liquor and which bear an unbroken federal tax stamp or
12 seal may sell or trade the bottles to other such collectors of
13 the bottles without obtaining a license pursuant to this act.
14 All sales conducted pursuant to this subsection shall be for the
15 purpose of exchanging ceramic commemorative bottles between pri-
16 vate collectors of the bottles and shall not be for the purpose
17 of selling alcoholic liquor for personal consumption. A sale or
18 exchange conducted pursuant to this subsection shall not occur in
19 any of the following ways:

20 (a) In connection with the business of a holder of an alco-
21 holic liquor license.

22 (b) In connection with any other business.

23 Sec. 19. (1) The following license fees shall be paid at
24 the time of filing applications or as otherwise provided in this
25 act:

1 (a) Manufacturers of spirits, but not including makers,
2 blenders, and rectifiers of wines containing 21% of alcohol or
3 less by volume, \$10,000.00.

4 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
5 fraction of a barrel, production annually with a maximum fee of
6 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
7 delivery to retail licensees. A fee increase shall not apply to
8 a manufacturer of less than 15,000 barrels production per year.

9 (c) Outstate seller of beer, delivering or selling beer in
10 this state, \$1,000.00.

11 (d) Wine makers, blenders, and rectifiers of wine, including
12 makers, blenders, and rectifiers of wines containing 21% or less
13 alcohol by volume, \$100.00. The small wine maker license fee
14 shall be \$25.00.

15 (e) Outstate seller of wine, delivering or selling wine in
16 this state, \$300.00.

17 (f) Outstate seller of mixed spirit drink, delivering or
18 selling mixed spirit drink in this state, \$300.00.

19 (g) Dining cars or other railroad or pullman cars selling
20 alcoholic liquor, \$100.00 per train.

21 (h) Wholesale vendors other than manufacturers of beer,
22 \$300.00 for the first motor vehicle used in delivery to retail
23 licensees and \$50.00 for each additional motor vehicle used in
24 delivery to retail licensees.

25 (i) Watercraft, licensed to carry passengers, selling alco-
26 holic liquor, a minimum fee of \$100.00 and a maximum fee of

1 \$500.00 per year computed on the basis of \$1.00 per person per
2 passenger capacity.

3 (j) Specially designated merchants, for selling LOW ALCOHOL
4 DRINK, beer, or wine for consumption off the premises only, but
5 not at wholesale, \$100.00 for each location regardless of the
6 fact that the location may be a part of a system or chain of
7 merchandising.

8 (k) Specially designated distributors licensed by the com-
9 mission to distribute spirits and mixed spirit drink in the orig-
10 inal package for the commission for consumption off the premises,
11 \$150.00 per year; and \$3.00 additional fee for each \$1,000.00 or
12 major fraction of that amount in excess of \$25,000.00 of the
13 total retail value of merchandise purchased under each license
14 from the ~~liquor control~~ commission during the previous calendar
15 year.

16 (l) Hotels of class A selling LOW ALCOHOL DRINK, beer, and
17 wine, a minimum fee of \$250.00 and for all bedrooms in excess of
18 20, \$1.00 for each additional bedroom, but not to exceed
19 \$500.00.

20 (m) Hotels of class B selling beer, wine, LOW ALCOHOL DRINK,
21 mixed spirit drink, and spirits, a minimum fee of \$600.00 and for
22 all bedrooms in excess of 20, \$3.00 for each additional bedroom.
23 If a hotel of class B sells beer, wine, LOW ALCOHOL DRINK, mixed
24 spirit drink, and spirits in more than 1 public bar, the fee
25 shall entitle the hotel to sell in only 1 public bar, other than
26 a bedroom, and a license shall be secured for each additional

1 public bar, other than a bedroom, the fee for which shall be
2 \$350.00.

3 (n) Taverns, selling LOW ALCOHOL DRINK, beer, and wine,
4 \$250.00.

5 (o) Class C license selling beer, wine, LOW ALCOHOL DRINK,
6 mixed spirit drink, and spirits, \$600.00. If a class C licensee
7 sells beer, wine, LOW ALCOHOL DRINK, mixed spirit drink, and
8 spirits in more than 1 bar, a fee of \$350.00 shall be paid for
9 each additional bar. In municipally owned or supported facili-
10 ties in which nonprofit organizations operate concession stands,
11 a fee of \$100.00 shall be paid for each additional bar.

12 (p) Clubs selling beer, wine, LOW ALCOHOL DRINK, mixed
13 spirit drink, and spirits, \$300.00 for clubs having 150 or less
14 duly accredited members and \$1.00 for each additional member.
15 The membership list for the purpose only of determining the
16 license fees to be paid under this section shall be the accredi-
17 ted list of members as determined by a sworn affidavit 30 days
18 before the closing of the license year. This section shall not
19 prevent the commission from checking a membership list and making
20 its own determination from the list or otherwise. The list of
21 members and additional members shall not be required of a club
22 paying the maximum fee. The maximum fee shall not exceed \$750.00
23 for any 1 club.

24 (q) Warehouses, to be fixed by the commission with a minimum
25 fee for each warehouse of \$50.00.

26 (r) Special licenses, a fee of \$50.00 per day, except that
27 the fee for that license or permit issued to any bona fide

1 nonprofit association, duly organized and in continuous existence
2 for 1 year before the filing of its application, shall be
3 \$25.00. Not more than 5 special licenses may be granted to any
4 organization, including an auxiliary of the organization, in a
5 calendar year.

6 (s) Airlines licensed to carry passengers in this state,
7 which sell, offer for sale, provide, or transport alcoholic
8 liquor, \$600.00.

9 (t) Brandy manufacturer, \$100.00.

10 (u) Mixed spirit drink manufacturer, \$100.00.

11 (v) Brewpub, \$100.00.

12 (w) OUTSTATE SELLER OF LOW ALCOHOL DRINK, DELIVERING OR
13 SELLING LOW ALCOHOL DRINK IN THIS STATE, \$300.00.

14 (X) LOW ALCOHOL DRINK MANUFACTURER, \$100.00.

15 (2) The fees provided in this act for the various types of
16 licenses shall not be prorated for a portion of the effective
17 period of the license.

18 Sec. 19d. (1) A retail vendor licensed under this act to
19 sell for consumption on the premises may apply for a license as a
20 specially designated merchant. A specially designated distribu-
21 tor may apply for a license as a specially designated merchant.
22 Except as provided in section 31(5), a warehouseman, mixed
23 spirit drink manufacturer, LOW ALCOHOL DRINK MANUFACTURER, whole-
24 saler, outstate seller of beer, outstate seller of wine, outstate
25 seller of mixed spirit drink, OUTSTATE SELLER OF LOW ALCOHOL
26 DRINK, or vendor of spirits shall not be licensed as a specially
27 designated merchant or a specially designated distributor or

1 permitted to sell or deliver to the consumer any quantity of
2 alcoholic liquor at retail.

3 (2) A specially designated distributor or specially desig-
4 nated merchant or any other retailer shall not hold a LICENSE AS
5 A mixed spirit DRINK MANUFACTURER, LOW ALCOHOL drink manufactur-
6 er, ~~wholesale, warehouse~~ WHOLESALER, WAREHOUSEMAN, outstate
7 seller of beer, OUTSTATE SELLER OF LOW ALCOHOL DRINK, outstate
8 seller of mixed spirit drink, or outstate seller of wine.
9 ~~license.~~

10 (3) A brewer, warehouseman, or wholesaler shall not be
11 licensed as a specially designated merchant, except for brewers
12 who manufacture less than 200,000 barrels of beer per year. This
13 subsection shall not affect the operation of a brewery hospital-
14 ity room.

15 (4) A wholesaler may sell or deliver beer and alcoholic
16 liquor to hospitals, military establishments, governments of fed-
17 eral Indian reservations, and churches requiring sacramental
18 wines and may sell to the wholesaler's own employees to a limit
19 of 2 cases of 24 12-ounce units or its equivalent of malt bever-
20 age per week, or 1 case of 12 1-liter units or its equivalent of
21 wine or mixed spirit drink per week.

22 Sec. 19e. (1) Except as provided in subsection (2), (3), or
23 (5), a licensee enumerated under section 19 or any other person
24 shall not sell at retail, give away, or furnish and a person
25 shall not knowingly and willfully buy spirits or mixed spirit
26 drink between the hours of 2 a.m. and 12 midnight on Sunday. If
27 January 1 falls on Sunday the hours may be extended to 4 a.m.

1 (2) If the legislative body of a county has authorized the
2 sale of spirits and mixed spirit drink for consumption on the
3 premises on Sunday, by resolution approved by a majority of the
4 legislative body voting on that resolution, the spirits and mixed
5 spirit drink may be sold after 12 noon in an establishment
6 licensed under this act in which the gross receipts derived from
7 the sale of food and other goods and services exceed 50% of the
8 total gross receipts. With respect to an action taken by the
9 legislative body, or, if the legislative body fails to act, a
10 petition may be filed with the county clerk requesting the sub-
11 mission of the question of the sale of spirits and mixed spirit
12 drink for consumption on the premises in addition to LOW ALCOHOL
13 DRINK, beer, and wine on Sunday. The petition shall be signed by
14 a number of the registered and qualified electors of a county
15 which shall be not less than 8% of the total number of votes cast
16 for all candidates for the office of secretary of state in the
17 county at the last general election held for that purpose. The
18 question shall not be submitted to the electors of a county more
19 than once every 4 years.

20 The county clerk shall submit the question at the next regu-
21 lar state election held in the county if the petitions are filed
22 not less than 60 days before the election. The question of the
23 sale of spirits and mixed spirit drink for consumption on the
24 premises, in addition to LOW ALCOHOL DRINK, beer, and wine, on
25 Sunday shall be submitted by ballot in substantially the follow-
26 ing form:

1 "Shall the sale of spirits and mixed spirit drink for
2 consumption on the premises be permitted on Sunday, in an
3 establishment licensed under the MICHIGAN liquor control act in
4 which the gross receipts derived from the sale of food or other
5 goods and services exceed 50% of the total gross receipts within
6 the county of under the provisions of the law govern-
7 ing the sale of spirits and mixed spirit drink for consumption?

8 Yes

9 No "

10 (3) If the legislative body of a county has authorized the
11 sale of spirits and mixed spirit drink for consumption off the
12 premises on Sunday, by resolution approved by a majority of the
13 legislative body voting on the resolution, spirits and mixed
14 spirit drink may be sold after 12 noon in a retail establishment
15 licensed under this act. With respect to an action taken by the
16 legislative body, or, if the legislative body fails to act, a
17 petition may be filed with the county clerk requesting the sub-
18 mission of the question of the sale of spirits and mixed spirit
19 drink for consumption off the premises, in addition to LOW ALCO-
20 HOL DRINK, beer, and wine, in a retail establishment licensed
21 under this act on Sunday. The petition shall be signed by a
22 number of the registered and qualified electors of a county which
23 shall be not less than 8% of the total number of votes cast for
24 all candidates for the office of secretary of state in the county
25 at the last general election held for that purpose. The question
26 shall not be submitted to the electors of a county more than once
27 every 4 years. The county clerk shall submit the question at the

1 next regular state election held in the county if the petitions
2 are filed not less than 60 days before the election. The ques-
3 tion of the sale of spirits and mixed spirit drink for consump-
4 tion off the premises, in addition to LOW ALCOHOL DRINK, beer,
5 and wine, in a retail establishment licensed under this act on
6 Sunday shall be submitted by ballot in substantially the follow-
7 ing form:

8 "Shall the sale of spirits and mixed spirit drink for con-
9 sumption off the premises be permitted, on Sunday, in a retail
10 establishment licensed under the MICHIGAN liquor control act
11 within the county of under the provisions of the law
12 governing the sale of spirits and mixed spirit drink for
13 consumption?

14 Yes

15 No "

16 (4) Votes on a question submitted pursuant to this section
17 shall be taken, counted, and canvassed in the same manner as
18 votes cast in county elections are taken, counted, and
19 canvassed. A ballot shall be furnished by the election commis-
20 sion or similar body of the respective county. If a majority of
21 the electors voting at an election vote in favor of the proposal,
22 spirits and mixed spirit drink may be sold in the county under
23 this act for consumption on the premises or by a retail estab-
24 lishment for consumption off the premises, in addition to LOW
25 ALCOHOL DRINK, beer, and wine, on Sunday. The sale shall not be
26 permitted in a city, village, or township in which the sale of
27 spirits and mixed spirit drink is prohibited under this act. A

1 violation of this section is a misdemeanor. This section shall
2 not apply to spirits and mixed spirit drink served to a bona fide
3 guest in the residence of a person or sold or furnished for
4 medicinal purposes as provided for in this act.

5 (5) A licensee enumerated under section 19 or any other
6 person shall not sell at retail, and a person shall not knowingly
7 and willfully buy, alcoholic liquor between the hours of 9
8 p.m. on December 24 and 7 a.m. on December 26. If December 26
9 falls on Sunday, the hours of closing shall be determined pursu-
10 ant to this act. The legislative body of a city, village, or
11 township, by resolution or ordinance, may prohibit the sale of
12 alcoholic liquor on Sunday or a legal holiday, primary election
13 day, general election day, or municipal election day.

14 Sec. 19g. (1) A person shall not conduct samplings or tast-
15 ings of any alcoholic liquor for a commercial purpose except at
16 premises that are licensed by the commission for the sale and
17 consumption of alcoholic liquor on the premises, unless otherwise
18 provided by rule of the commission.

19 (2) This section does not prevent a vendor of spirits,
20 brewer, wine maker, mixed spirit drink manufacturer, LOW ALCOHOL
21 DRINK MANUFACTURER, small wine maker, outstate seller of beer,
22 outstate seller of wine, outstate seller of mixed spirit drink,
23 OUTSTATE SELLER OF LOW ALCOHOL DRINK, or a bona fide market
24 research organization retained by 1 of the persons named in this
25 subsection, from conducting samplings or tastings of an alcoholic
26 liquor product before it is approved for sale in this state, if

1 the sampling or tasting is conducted pursuant to prior written
2 approval of the commission.

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

6 (4) For purposes of this section, "commercial purpose" means
7 any purpose for which monetary gain or other remuneration could
8 reasonably be expected.

9 Sec. 22. (1) As used in this section, "minor" means a
10 person less than 21 years of age.

11 (2) Except as otherwise provided in this act, before the
12 approval and granting, or renewal, of a license, the following
13 licensees or applicants for such licenses shall make, execute,
14 and deliver to the commission a bond executed by a surety company
15 authorized to do business in the state, or in the discretion of
16 the commission, by approved personal surety running to the people
17 of the state, in the following amounts:

18 (a) A manufacturer of beer, a manufacturer of wine, a mixed
19 spirit drink manufacturer, A LOW ALCOHOL DRINK MANUFACTURER, AN
20 OUTSTATE SELLER OF LOW ALCOHOL DRINK, an outstate seller of beer,
21 an outstate seller of mixed spirit drink, and an outstate seller
22 of wine, a bond in an amount equal to 1/12 of the total beer,
23 mixed spirit drink, LOW ALCOHOL DRINK, or wine excise taxes paid
24 to the state in the last calendar year, or a bond in the sum of
25 \$1,000.00, whichever is greater, for the faithful performance of
26 the conditions of the license issued and for compliance with this
27 act. A surety shall not cancel a bond issued under this

1 subdivision except upon 30 days' written notice to the
2 commission.

3 (b) A special license authorizing the sale of beer, mixed
4 spirit drink, LOW ALCOHOL DRINK, wine, or spirits for consumption
5 on the premises, a bond in the sum of \$1,000.00. A bond issued
6 under this subdivision shall remain in effect for 60 days after
7 the expiration of the special license. A bond shall not be
8 required for a church or school.

9 (3) A retail licensee shall not directly, individually, or
10 by a clerk, agent, or servant sell, furnish, or give alcoholic
11 liquor to a minor except as otherwise provided in this act, nor
12 directly or indirectly, individually or by a clerk, agent, or
13 servant sell, furnish, or give alcoholic liquor to a person who
14 is visibly intoxicated.

15 (4) Except as otherwise provided in this section, an indi-
16 vidual who suffers damage or is personally injured by a minor or
17 visibly intoxicated person by reason of the unlawful selling,
18 giving, or furnishing of alcoholic liquor to the minor or visibly
19 intoxicated person, if the unlawful sale is proven to be a proxi-
20 mate cause of the damage, injury, or death, or the spouse, child,
21 parent, or guardian of that individual, shall have a right of
22 action in his or her name against the person who by selling,
23 giving, or furnishing the alcoholic liquor has caused or contrib-
24 uted to the intoxication of the person or who has caused or con-
25 tributed to the damage, injury, or death. In an action pursuant
26 to this section, the plaintiff shall have the right to recover
27 actual damages in a sum of not less than \$50.00 in each case in

1 which the court or jury determines that intoxication was a
2 proximate cause of the damage, injury, or death.

3 (5) An action under this section shall be instituted within
4 2 years after the injury or death. A plaintiff seeking damages
5 under this section shall give written notice to all defendants
6 within 120 days after entering an attorney-client relationship
7 for the purpose of pursuing a claim under this section. Failure
8 to give written notice within the time specified shall be grounds
9 for dismissal of a claim as to any defendants that did not
10 receive such notice unless sufficient information for determining
11 that a retail licensee might be liable under this section was not
12 known and could not reasonably have been known within the 120
13 days. In the event of the death of either party, the right of
14 action under this section shall survive to or against his or her
15 personal representative. In each action by a husband, wife,
16 child, or parent, the general reputation of the relation of hus-
17 band and wife or parent and child shall be prima facie evidence
18 of the relation, and the amount recovered by either the husband,
19 wife, parent, or child shall be his or her sole and separate
20 property. The damages, together with the costs of the action,
21 shall be recovered in an action under this section. If the par-
22 ents of the individual who suffered damage or who was personally
23 injured are entitled to damages under this section, the father
24 and mother may sue separately, but recovery by 1 is a bar to
25 action by the other.

26 (6) An action under this section against a retail licensee
27 shall not be commenced unless the minor or the alleged

1 intoxicated person is a named defendant in the action and is
2 retained in the action until the litigation is concluded by trial
3 or settlement.

4 (7) Any licensee subject to the provisions of subsection (4)
5 regarding the unlawful selling, furnishing, or giving of alco-
6 holic liquor to a visibly intoxicated person shall have the right
7 to full indemnification from the alleged visibly intoxicated
8 person for all damages awarded against the licensee.

9 (8) All defenses of the alleged visibly intoxicated person
10 or the minor shall be available to the licensee. In an action
11 alleging the unlawful sale of alcoholic liquor to a minor, proof
12 that the defendant retail licensee or the defendant's agent or
13 employee demanded and was shown a Michigan driver's license or
14 official state personal identification card, appearing to be gen-
15 uine and showing that the minor was at least 21 years of age,
16 shall be a defense to the action.

17 (9) There shall be a rebuttable presumption that a retail
18 licensee, other than the retail licensee who last sold, gave, or
19 furnished alcoholic liquor to the minor or the visibly intoxi-
20 cated person, has not committed any act giving rise to a cause of
21 action under subsection (4).

22 (10) The alleged visibly intoxicated person shall not have a
23 cause of action pursuant to this section nor shall any person
24 have a cause of action pursuant to this section for the loss of
25 financial support, services, gifts, parental training, guidance,
26 love, society, or companionship of the alleged visibly
27 intoxicated person.

1 (11) This section provides the exclusive remedy for money
2 damages against a licensee arising out of the selling, giving, or
3 furnishing of alcoholic liquor.

4 (12) Except as otherwise provided for under this section and
5 section 22h, a civil action under subsection (4) against a retail
6 licensee ~~shall be~~ IS subject to the revised judicature act of
7 1961, Act No. 236 of the Public Acts of 1961, being sections
8 600.101 to 600.9947 of the Michigan Compiled Laws.

9 Sec. 24. The following classes of vendors may sell alco-
10 holic liquors at retail as provided in this section:

11 (a) Taverns where LOW ALCOHOL DRINK, beer, and wine may be
12 sold for consumption on the premises only.

13 (b) Class C license where beer, wine, LOW ALCOHOL DRINK,
14 mixed spirit drink, and spirits may be sold for consumption on
15 the premises.

16 (c) Clubs where beer, wine, LOW ALCOHOL DRINK, mixed spirit
17 drink, and spirits may be sold for consumption on the premises
18 only to bona fide members, who have attained the age of 21
19 years.

20 (d) Hotels of class A where LOW ALCOHOL DRINK, beer, and
21 wine may be sold for consumption on the premises and in the rooms
22 of bona fide registered guests. Hotels of class B where beer,
23 wine, LOW ALCOHOL DRINK, mixed spirit drink, and spirits may be
24 sold for consumption on the premises and in the rooms of bona
25 fide registered guests.

1 (e) Specially designated merchants, where LOW ALCOHOL DRINK,
2 beer, and wine may be sold for consumption off the premises
3 only.

4 (f) Specially designated distributors where spirits and
5 mixed spirit drink may be sold for consumption off the premises
6 only.

7 (g) Special licenses where LOW ALCOHOL DRINK, beer, and wine
8 or beer, wine, LOW ALCOHOL DRINK, mixed spirit drink, and spirits
9 may be sold for consumption on the premises only.

10 (h) Dining cars or other railroad or pullman cars, water-
11 craft, or aircraft, where alcoholic liquor may be sold for con-
12 sumption on the premises only, subject to rules promulgated by
13 the commission.

14 (i) Brewpubs where beer manufactured on the premises by the
15 licensee may be sold only for consumption on the premises by any
16 of the following licensees:

17 (i) Class "C".

18 (ii) Tavern.

19 (iii) Class "A" hotel.

20 (iv) Class "B" hotel.

21 (j) Micro brewers where beer produced by the micro brewer
22 may be sold to a consumer for consumption on or off the brewery
23 premises.

24 Sec. 26b. Alcoholic liquor may be served by any hotel
25 licensed individually under the provisions of this act in the
26 room of a bona fide guest. Spirits or mixed spirit drink shall
27 not be consumed in any place licensed under this act to sell LOW

1 ALCOHOL DRINK, beer, or wine and not licensed to sell spirits or
2 mixed spirit drink.

3 Sec. 29. (1) A vendor shall not give away any alcoholic
4 liquor of any kind or description at any time in connection with
5 his or her business except manufacturers for consumption on the
6 premises only. This subsection does not prevent a vendor of
7 spirits, brewer, mixed spirit drink manufacturer, LOW ALCOHOL
8 DRINK MANUFACTURER, wine maker, small wine maker, outstate seller
9 of beer, outstate seller of wine, outstate seller of mixed spirit
10 drink, OUTSTATE SELLER OF LOW ALCOHOL DRINK, or a bona fide
11 market research organization retained by 1 of the persons named
12 in this subsection, from conducting samplings or tastings of an
13 alcoholic liquor product before it is approved for sale in this
14 state, if the sampling or tasting is conducted pursuant to prior
15 written approval of the commission ~~, nor does~~ AND this subsec-
16 tion DOES NOT prevent the ~~conducting~~ CONDUCT of any sampling or
17 tasting authorized by rule of the commission.

18 (2) A vendor shall not sell any alcoholic liquor to any
19 person in an intoxicated condition.

20 Sec. 30. Except as provided in section 31a, a manufacturer,
21 mixed spirit drink manufacturer, LOW ALCOHOL DRINK MANUFACTURER,
22 warehouseman, wholesaler, outstate seller of beer, outstate
23 seller of wine, outstate seller of mixed spirit drink, OUTSTATE
24 SELLER OF LOW ALCOHOL DRINK, or vendor of spirits shall not aid
25 or assist any other vendor by gift, loan of money or property of
26 any description, or other valuable thing, or by the giving of
27 premiums or rebates, and a vendor shall not accept the same.

1 However, if manufacturers of spirits reduce the price of their
2 products, the manufacturer of spirits may refund the amount of
3 the price reductions to specially designated distributor licens-
4 ees in a manner prescribed by the commission.

5 Sec. 30d. (1) A manufacturer and outstate seller of wine
6 shall grant to each of its wholesalers a sales territory within
7 which the wholesaler shall be a distributor of the specified
8 brand or brands of the manufacturer or outstate seller of wine.
9 The territory shall be the territory agreed upon between the
10 wholesaler and manufacturer or outstate seller of wine. A manu-
11 facturer or outstate seller of wine may grant the right to sell a
12 specified brand or brands in a sales territory to more than 1
13 wholesaler.

14 (2) Notwithstanding subsection (1), a brand extension is not
15 considered a new or different brand and a manufacturer or an out-
16 state seller of wine shall assign a brand extension to the whole-
17 saler which was granted the sales territory for the brand from
18 which the brand extension resulted.

19 (3) Subsection (2) does not apply where, before January 1,
20 1994, a manufacturer or an outstate seller of wine had assigned a
21 brand extension to a wholesaler which was not the appointed
22 wholesaler for the brand from which the brand extension was
23 made.

24 (4) Until March 1, 1995, a manufacturer or an outstate
25 seller of wine who acquired or otherwise obtained the right to
26 assign brands of another manufacturer or outstate seller of wine
27 between January 1, 1994 and March 1, 1995 shall assign a brand

1 extension to the wholesaler which was granted the sales territory
2 for the brand from which the brand extension resulted. Beginning
3 March 1, 1995, a manufacturer or an outstate seller of wine who
4 acquires or otherwise obtains the right to assign brands of
5 another manufacturer or outstate seller of wine is not required
6 to assign a new brand extension to the wholesaler which is
7 granted the exclusive sales territory to the brand from which the
8 new brand extension results. Any brand extension assigned
9 between January 1, 1994 and March 1, 1995 shall remain assigned
10 to the assigned wholesaler.

11 (5) A manufacturer of a mixed wine drink, mixed spirit drink
12 manufacturer, LOW ALCOHOL DRINK MANUFACTURER, OUTSTATE SELLER OF
13 LOW ALCOHOL DRINK, outstate seller of a mixed wine drink, or out-
14 state seller of mixed spirit drink shall grant to each of its
15 wholesalers an exclusive sales territory in which the wholesaler
16 shall be a distributor of the specified brand or brands of the
17 manufacturer or outstate seller. The territory shall be the ter-
18 ritory agreed upon between the wholesaler and manufacturer of a
19 mixed wine drink, mixed spirit drink manufacturer, LOW ALCOHOL
20 DRINK MANUFACTURER, OUTSTATE SELLER OF LOW ALCOHOL DRINK, out-
21 state seller of mixed wine drinks, or outstate seller of mixed
22 spirit drink.

23 (6) Notwithstanding subsection (5), a brand extension is not
24 considered a new or different brand. A manufacturer of a mixed
25 wine drink, mixed spirit drink manufacturer, LOW ALCOHOL DRINK
26 MANUFACTURER, OUTSTATE SELLER OF LOW ALCOHOL DRINK, outstate
27 seller of a mixed wine drink, or outstate seller of mixed spirit

1 drink shall assign a brand extension to the wholesaler which was
2 granted the exclusive sales territory for the brand from which
3 the brand extension resulted.

4 (7) Subsection (6) does not apply where, before January 1,
5 1994, a manufacturer of a mixed wine drink, mixed spirit drink
6 manufacturer, LOW ALCOHOL DRINK MANUFACTURER, OUTSTATE SELLER OF
7 LOW ALCOHOL DRINK, outstate seller of a mixed wine drink, or out-
8 state seller of mixed spirit drink had assigned a brand extension
9 to a wholesaler which was not the appointed wholesaler for the
10 brand from which the brand extension was made.

11 (8) Until March 1, 1995, a manufacturer of a mixed wine
12 drink, mixed spirit drink manufacturer, LOW ALCOHOL DRINK MANU-
13 FACTURER, OUTSTATE SELLER OF LOW ALCOHOL DRINK, outstate seller
14 of mixed wine drink, or an outstate seller of mixed spirit drink
15 who acquired or otherwise obtained the right to assign brands of
16 another manufacturer of a mixed wine drink, mixed spirit drink
17 manufacturer, LOW ALCOHOL DRINK MANUFACTURER, OUTSTATE SELLER OF
18 LOW ALCOHOL DRINK, outstate seller of a mixed wine drink, or out-
19 state seller of mixed spirit drink between January 1, 1994 and
20 March 1, 1995 shall assign a brand extension to the wholesaler
21 which was granted the exclusive sales territory for the brand
22 from which the brand extension resulted. Beginning March 1,
23 1995, a manufacturer of mixed wine drink, mixed spirit drink man-
24 ufacturer, LOW ALCOHOL DRINK MANUFACTURER, OUTSTATE SELLER OF LOW
25 ALCOHOL DRINK, an outstate seller of mixed wine drink, or an out-
26 state seller of mixed spirit drink who acquires or otherwise
27 obtains the right to assign brands of another manufacturer of

1 mixed wine drink, mixed spirit drink manufacturer, LOW ALCOHOL
2 DRINK MANUFACTURER, OUTSTATE SELLER OF LOW ALCOHOL DRINK, out-
3 state seller of mixed wine drink, or outstate seller of mixed
4 spirit drink is not required to assign a new brand extension to
5 the wholesaler which is granted the exclusive sales territory to
6 the brand from which the new brand extension results. Any brand
7 extension assigned between January 1, 1994 and March 1, 1995
8 shall remain assigned to the assigned wholesaler.

9 SEC. 30E. (1) THE PURPOSE OF THIS SECTION IS TO PROVIDE A
10 STRUCTURE FOR THE BUSINESS RELATIONS BETWEEN A WHOLESALER OF LOW
11 ALCOHOL DRINK AND A SUPPLIER OF LOW ALCOHOL DRINK. REGULATION IN
12 THIS AREA IS NECESSARY FOR THE FOLLOWING REASONS:

13 (A) TO MAINTAIN STABILITY AND HEALTHY COMPETITION IN THE LOW
14 ALCOHOL DRINK INDUSTRY IN THIS STATE.

15 (B) TO PROMOTE AND MAINTAIN A SOUND, STABLE, AND VIABLE
16 3-TIER DISTRIBUTION SYSTEM OF LOW ALCOHOL DRINK TO THE PUBLIC.

17 (C) TO RECOGNIZE THE MARKETING DISTINCTIONS BETWEEN BEER,
18 WINE, AND LOW ALCOHOL DRINK.

19 (D) TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE.

20 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES
21 OTHERWISE:

22 (A) "AGREEMENT" MEANS ANY AGREEMENT BETWEEN A WHOLESALER AND
23 A SUPPLIER, WHETHER ORAL OR WRITTEN, WHEREBY A WHOLESALER IS
24 GRANTED THE RIGHT TO OFFER AND SELL A BRAND OR BRANDS OF LOW
25 ALCOHOL DRINK SOLD BY A SUPPLIER.

26 (B) "ANCILLARY BUSINESS" MEANS A BUSINESS OWNED BY A
27 WHOLESALER, A STOCKHOLDER OF A WHOLESALER, OR A PARTNER OF A

1 WHOLESALER THE PRIMARY PURPOSE OF WHICH IS DIRECTLY RELATED TO
2 THE TRANSPORTING, STORING, OR MARKETING OF THE BRAND OR BRANDS OF
3 LOW ALCOHOL DRINK OF A SUPPLIER WITH WHOM THE WHOLESALER HAS AN
4 AGREEMENT; OR A BUSINESS OWNED BY A WHOLESALER, A STOCKHOLDER OF
5 A WHOLESALER, OR A PARTNER OF A WHOLESALER WHICH RECYCLES EMPTY
6 RETURNABLE BEVERAGE CONTAINERS.

7 (C) "DESIGNATED MEMBER" MEANS THE SPOUSE, CHILD, GRANDCHILD,
8 PARENT, BROTHER, OR SISTER OF A DECEASED INDIVIDUAL WHO OWNED AN
9 INTEREST IN A WHOLESALER, WHO IS ENTITLED TO INHERIT THE DECEASED
10 INDIVIDUAL'S OWNERSHIP INTEREST IN THE WHOLESALER UNDER THE
11 DECEASED INDIVIDUAL'S WILL, OR WHO HAS OTHERWISE BEEN DESIGNATED
12 IN WRITING BY THE DECEASED INDIVIDUAL TO SUCCEED THE DECEASED
13 INDIVIDUAL IN THE WHOLESALER'S BUSINESS, OR IS ENTITLED TO
14 INHERIT OWNERSHIP INTEREST UNDER THE LAWS OF INTESTATE SUCCESSION
15 OF THIS STATE. WITH RESPECT TO AN INCAPACITATED INDIVIDUAL
16 OWNING AN OWNERSHIP INTEREST IN A WHOLESALER, DESIGNATED MEMBER
17 MEANS THE PERSON APPOINTED BY A COURT AS THE CONSERVATOR OF THE
18 INDIVIDUAL'S PROPERTY. DESIGNATED MEMBER ALSO INCLUDES THE
19 APPOINTED AND QUALIFIED PERSONAL REPRESENTATIVE AND THE TESTAMEN-
20 TARY TRUSTEE OF A DECEASED INDIVIDUAL OWNING AN OWNERSHIP INTER-
21 EST IN A WHOLESALER.

22 (D) "GOOD FAITH" MEANS HONESTY IN FACT AND THE OBSERVANCE OF
23 REASONABLE COMMERCIAL STANDARDS OF FAIR DEALING IN THE TRADE, AS
24 DEFINED AND INTERPRETED UNDER SECTION 2103 OF THE UNIFORM COMMER-
25 CIAL CODE, ACT NO. 174 OF THE PUBLIC ACTS OF 1962, BEING SECTION
26 440.2103 OF THE MICHIGAN COMPILED LAWS.

1 (E) "MASTER DISTRIBUTOR" MEANS A WHOLESALER WHO ACTS IN THE
2 SAME OR SIMILAR CAPACITY AS A LOW ALCOHOL DRINK MANUFACTURER OR
3 AN OUTSTATE SELLER OF LOW ALCOHOL DRINK FOR A BRAND OR BRANDS OF
4 LOW ALCOHOL DRINK TO OTHER WHOLESALERS ON A REGULAR BASIS IN THE
5 NORMAL COURSE OF BUSINESS.

6 (F) "REASONABLE QUALIFICATIONS" MEANS THE AVERAGE STANDARD
7 OF THE CRITERIA USED BY THE RESPECTIVE SUPPLIER FOR WHOLESALERS
8 THAT ENTERED INTO OR RENEWED AN AGREEMENT WITH THE SUPPLIERS
9 DURING A PERIOD OF 24 MONTHS PRIOR TO THE PROPOSED TRANSFER OF
10 THE WHOLESALER'S BUSINESS.

11 (G) "RETALIATORY ACTION" MEANS ACTION THAT INCLUDES, BUT IS
12 NOT LIMITED TO, THE REFUSAL TO CONTINUE AN AGREEMENT, OR A MATE-
13 RIAL REDUCTION IN THE QUALITY OF SERVICE OR QUANTITY OF PRODUCTS
14 AVAILABLE TO A WHOLESALER UNDER AN AGREEMENT, WHICH REFUSAL OR
15 REDUCTION IS NOT MADE IN GOOD FAITH.

16 (H) "SALES TERRITORY" MEANS AN AREA OF SALES RESPONSIBILITY
17 FOR THE BRAND OR BRANDS OF LOW ALCOHOL DRINK SOLD BY A SUPPLIER
18 AS DESIGNATED BY AN AGREEMENT.

19 (I) "SUCCESSOR" MEANS A SUPPLIER WHO OBTAINS, IN ANY MANNER
20 FROM ANY PERSON, INCLUDING A PERSON WHO IS NOT A SUPPLIER, THE
21 DISTRIBUTION RIGHTS OF 1 OR MORE BRANDS OF LOW ALCOHOL DRINK
22 WHICH A LICENSED MICHIGAN WHOLESALER HAS DISTRIBUTED IN THIS
23 STATE PURSUANT TO AN AGREEMENT WITH ANOTHER SUPPLIER, WHO PREVI-
24 OUSLY HAD THE DISTRIBUTION RIGHTS FOR THE BRAND OR BRANDS.

25 (J) "SUPPLIER" MEANS A LOW ALCOHOL DRINK MANUFACTURER OR AN
26 OUTSTATE SELLER OF LOW ALCOHOL DRINK, OR A MASTER DISTRIBUTOR.

1 (K) "TRANSFER OF A WHOLESALER'S BUSINESS" MEANS THE
2 VOLUNTARY SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE BUSINESS OR
3 CONTROL OF THE BUSINESS OF THE WHOLESALER, INCLUDING THE SALE OR
4 OTHER TRANSFER OF STOCK OR ASSETS BY MERGER, CONSOLIDATION, OR
5 DISSOLUTION.

6 (3) A SUPPLIER SHALL NOT DO ANY OF THE FOLLOWING:

7 (A) COERCE, OR ATTEMPT TO COERCE, A WHOLESALER TO ACCEPT
8 DELIVERY OF ANY LOW ALCOHOL DRINK OR OTHER COMMODITY THAT HAS NOT
9 BEEN ORDERED BY THE WHOLESALER. HOWEVER, A SUPPLIER MAY IMPOSE
10 REASONABLE INVENTORY REQUIREMENTS UPON A WHOLESALER IF THE
11 REQUIREMENTS ARE MADE IN GOOD FAITH AND ARE GENERALLY APPLIED TO
12 OTHER WHOLESALERS HAVING AN AGREEMENT WITH THE SUPPLIER.

13 (B) COERCE, OR ATTEMPT TO COERCE, ANY WHOLESALER TO ACCEPT
14 DELIVERY OF ANY LOW ALCOHOL DRINK OR OTHER COMMODITY ORDERED BY A
15 WHOLESALER IF THE ORDER WAS PROPERLY CANCELED BY THE WHOLESALER
16 IN ACCORDANCE WITH THE PROCEDURES AGREED UPON BY THE SUPPLIER AND
17 WHOLESALER.

18 (C) COERCE, OR ATTEMPT TO COERCE, ANY WHOLESALER TO DO ANY
19 ILLEGAL ACT BY THREATENING TO AMEND, CANCEL, TERMINATE, OR REFUSE
20 TO RENEW ANY AGREEMENT EXISTING BETWEEN THE SUPPLIER AND
21 WHOLESALER.

22 (D) REQUIRE A WHOLESALER TO ASSENT TO ANY CONDITION, STIPU-
23 LATION, OR PROVISION LIMITING THE WHOLESALER'S RIGHT TO SELL THE
24 BRAND OR BRANDS OF LOW ALCOHOL DRINK OF ANY OTHER SUPPLIER ANY-
25 WHERE IN THIS STATE UNLESS THE ACQUISITION OF THE BRAND OR BRANDS
26 OF ANOTHER SUPPLIER WOULD MATERIALLY IMPAIR THE QUALITY OF

1 SERVICE OF THE BRAND OR BRANDS OF THE SUPPLIER PRESENTLY BEING
2 SOLD BY THE WHOLESALER.

3 (E) REQUIRE A WHOLESALER TO PURCHASE 1 OR MORE BRANDS OF LOW
4 ALCOHOL DRINK IN ORDER FOR THE WHOLESALER TO PURCHASE ANOTHER
5 BRAND OR BRANDS OF LOW ALCOHOL DRINK FOR ANY REASON. HOWEVER, A
6 WHOLESALER THAT HAS AGREED TO DISTRIBUTE A BRAND OR BRANDS BEFORE
7 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION
8 SHALL CONTINUE TO DISTRIBUTE THE BRAND OR BRANDS IN CONFORMANCE
9 WITH THIS SECTION.

10 (F) REQUEST A WHOLESALER TO SUBMIT PROFIT AND LOSS STATE-
11 MENTS, BALANCE SHEETS, OR FINANCIAL RECORDS AS A REQUIREMENT FOR
12 RENEWING OR RETAINING AN AGREEMENT.

13 (G) WITHHOLD DELIVERY OF LOW ALCOHOL DRINK ORDERED BY A
14 WHOLESALER, OR CHANGE A WHOLESALER'S QUOTA OF A BRAND OR BRANDS
15 IF THE WITHHOLDING OR CHANGE IS NOT MADE IN GOOD FAITH.

16 (H) REQUIRE A WHOLESALER BY ANY MEANS TO PARTICIPATE IN OR
17 CONTRIBUTE TO ANY LOCAL OR NATIONAL ADVERTISING FUND CONTROLLED
18 DIRECTLY OR INDIRECTLY BY A SUPPLIER.

19 (I) FAIL TO PROVIDE EACH WHOLESALER OF THE SUPPLIER'S BRAND
20 OR BRANDS WITH A WRITTEN AGREEMENT WHICH CONTAINS IN TOTAL THE
21 SUPPLIER'S AGREEMENT WITH EACH WHOLESALER, AND DESIGNATES A SPE-
22 CIFIC SALES TERRITORY.

23 (J) FIX, MAINTAIN, OR ESTABLISH THE PRICE AT WHICH A WHOLE-
24 SALER SHALL SELL ANY LOW ALCOHOL DRINK.

25 (K) TAKE ANY RETALIATORY ACTION AGAINST A WHOLESALER THAT
26 FILES A COMPLAINT REGARDING AN ALLEGED VIOLATION BY THE SUPPLIER
27 OF STATE OR FEDERAL LAW OR AN ADMINISTRATIVE RULE.

1 (1) REQUIRE OR PROHIBIT ANY CHANGE IN THE MANAGER OR
2 SUCCESSOR MANAGER OF ANY WHOLESALER WHO HAS BEEN APPROVED BY THE
3 SUPPLIER AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
4 ADDED THIS SECTION. AFTER THE EFFECTIVE DATE OF THE AMENDATORY
5 ACT THAT ADDED THIS SECTION, IF A SUPPLIER REQUIRES A MANAGER OR
6 SUCCESSOR MANAGER BE APPOINTED, OR IF A WHOLESALER CHANGES AN
7 APPROVED MANAGER OR SUCCESSOR MANAGER, A SUPPLIER SHALL NOT
8 INTERFERE WITH OR PROHIBIT THE APPOINTMENT UNLESS THE PERSON
9 FAILS TO MEET THE REASONABLE WRITTEN STANDARDS FOR MICHIGAN
10 WHOLESALERS OF THE SUPPLIER WHICH STANDARDS HAVE BEEN PROVIDED TO
11 THE WHOLESALER.

12 (M) REQUIRE BY ANY AGREEMENT OR OTHER INSTRUMENT IN CONNEC-
13 TION WITH THE AGREEMENT THAT ANY DISPUTE ARISING OUT OF OR IN
14 CONNECTION WITH THAT AGREEMENT BE DETERMINED THROUGH THE APPLICA-
15 TION OF THE LAW OF ANY OTHER STATE. ANY SUPPLIER OR WHOLESALER
16 AGGRIEVED BY ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH AN
17 AGREEMENT GOVERNED BY THIS ACT HAS THE RIGHT TO FILE AN APPROPRI-
18 ATE ACTION CONSISTENT WITH THIS ACT IN ANY COURT IN THIS STATE
19 HAVING VENUE.

20 (4) A WHOLESALER SHALL NOT SELL OR DELIVER LOW ALCOHOL DRINK
21 TO A RETAIL LICENSEE LOCATED OUTSIDE THE SALES TERRITORY DESIG-
22 NATED BY THE SUPPLIER OF A PARTICULAR BRAND OR BRANDS OF LOW
23 ALCOHOL DRINK. HOWEVER, DURING PERIODS OF TEMPORARY SERVICE
24 INTERRUPTIONS IMPACTING A PARTICULAR SALES TERRITORY, A WHOLE-
25 SALER WHO NORMALLY SERVICES THE IMPACTED SALES TERRITORY SHALL
26 FILE WITH THE COMMISSION A WRITTEN NOTICE DESIGNATING THE
27 SPECIFIC WHOLESALER OR WHOLESALERS WHO WILL SERVICE THE SALES

1 TERRITORY DURING THE PERIOD OF TEMPORARY SERVICE INTERRUPTION AND
2 THE APPROXIMATE LENGTH OF TIME OF THE SERVICE INTERRUPTION. WHEN
3 THE TEMPORARY SERVICE INTERRUPTION IS OVER, THE WHOLESALER WHO
4 NORMALLY SERVICES THE SALES TERRITORY SHALL NOTIFY IN WRITING THE
5 COMMISSION AND THE WHOLESALER, OR WHOLESALERS, WHICH IS SERVICING
6 THE SALES TERRITORY ON A TEMPORARY BASIS OF THIS FACT AND ANY
7 WHOLESALER SERVICING THE SALES TERRITORY ON A TEMPORARY BASIS
8 SHALL CEASE SERVICING THE SALES TERRITORY UPON RECEIPT OF THE
9 NOTICE.

10 A WHOLESALER WHO IS DESIGNATED TO SERVICE THE IMPACTED SALES
11 TERRITORY DURING THE PERIOD OF TEMPORARY SERVICE DOES NOT VIOLATE
12 THIS SUBSECTION.

13 A WHOLESALER WHO HAS BEEN DESIGNATED TO SERVICE THE IMPACTED
14 SALES TERRITORY DURING THE PERIOD OF TEMPORARY SERVICE INTERRUPT-
15 TION DOES NOT HAVE ANY OF THE RIGHTS OR DUTIES PROVIDED UNDER
16 SUBSECTIONS (6) TO (12).

17 (5) A SUPPLIER OR WHOLESALER SHALL NOT RESTRICT OR INHIBIT,
18 DIRECTLY OR INDIRECTLY, THE RIGHT OF FREE ASSOCIATION AMONG SUP-
19 PLIERS OR WHOLESALERS FOR ANY LAWFUL PURPOSE.

20 (6) NOTWITHSTANDING THE TERMS, PROVISIONS, OR CONDITIONS OF
21 ANY AGREEMENT, A SUPPLIER SHALL NOT AMEND ANY AGREEMENT UNLESS
22 THE SUPPLIER IS ACTING IN GOOD FAITH IN MAKING THE AMENDMENT.

23 (7) NOTWITHSTANDING ANY AGREEMENT AND EXCEPT AS OTHERWISE
24 PROVIDED FOR IN THIS SECTION, A SUPPLIER SHALL NOT CAUSE A WHOLE-
25 SALER TO RESIGN FROM AN AGREEMENT; OR CANCEL, TERMINATE, FAIL TO
26 RENEW, OR REFUSE TO CONTINUE UNDER AN AGREEMENT UNLESS THE
27 SUPPLIER HAS COMPLIED WITH ALL OF THE FOLLOWING:

1 (A) HAS SATISFIED THE APPLICABLE NOTICE REQUIREMENTS OF
2 SUBSECTION (10).

3 (B) HAS ACTED IN GOOD FAITH.

4 (C) HAS GOOD CAUSE FOR THE CANCELLATION, TERMINATION, NONRE-
5 NEWAL, DISCONTINUANCE, OR FORCED RESIGNATION.

6 (8) NOTWITHSTANDING ANY AGREEMENT, GOOD CAUSE SHALL EXIST
7 FOR THE PURPOSES OF A TERMINATION, CANCELLATION, NONRENEWAL, OR
8 DISCONTINUANCE UNDER SUBSECTION (7) (C) WHEN ALL OF THE FOLLOWING
9 OCCUR:

10 (A) THERE IS A FAILURE BY THE WHOLESALER TO COMPLY WITH A
11 PROVISION OF THE AGREEMENT WHICH IS BOTH REASONABLE AND OF MATE-
12 RIAL SIGNIFICANCE TO THE BUSINESS RELATIONSHIP BETWEEN THE WHOLE-
13 SALER AND THE SUPPLIER.

14 (B) THE SUPPLIER FIRST ACQUIRED KNOWLEDGE OF THE FAILURE
15 DESCRIBED IN SUBDIVISION (A) NOT MORE THAN 2 YEARS BEFORE THE
16 DATE NOTIFICATION WAS GIVEN PURSUANT TO SUBSECTION (7).

17 (C) THE WHOLESALER WAS GIVEN WRITTEN NOTICE BY THE SUPPLIER
18 OF FAILURE TO COMPLY WITH THE AGREEMENT.

19 (D) THE WHOLESALER WAS AFFORDED A REASONABLE OPPORTUNITY TO
20 ASSERT GOOD FAITH EFFORTS TO COMPLY WITH THE AGREEMENT WITHIN THE
21 TIME LIMITS AS PROVIDED FOR IN SUBDIVISION (E).

22 (E) THE WHOLESALER HAS BEEN AFFORDED 25 DAYS IN WHICH TO
23 SUBMIT A PLAN OF CORRECTIVE ACTION TO COMPLY WITH THE AGREEMENT
24 AND AN ADDITIONAL 75 DAYS TO CURE SUCH NONCOMPLIANCE IN ACCORD-
25 ANCE WITH THE PLAN.

26 (9) A SUPPLIER OR WHOLESALER WHO TERMINATES, CANCELS,
27 NONRENEWS, OR DISCONTINUES AN AGREEMENT HAS THE BURDEN OF SHOWING

1 THAT IT HAS ACTED IN GOOD FAITH, COMPLIED WITH THE APPLICABLE
2 NOTICE REQUIREMENTS UNDER THIS SECTION, AND THAT THERE WAS GOOD
3 CAUSE FOR THE TERMINATION, CANCELLATION, NONRENEWAL, OR
4 DISCONTINUANCE.

5 (10) NOTWITHSTANDING ANY AGREEMENT AND EXCEPT AS OTHERWISE
6 PROVIDED IN THIS SECTION, THE SUPPLIER SHALL FURNISH WRITTEN
7 NOTICE OF THE TERMINATION, CANCELLATION, NONRENEWAL, OR DISCON-
8 TINUANCE OF AN AGREEMENT TO THE WHOLESALER NOT LESS THAN 15 DAYS
9 BEFORE THE EFFECTIVE DATE OF THE TERMINATION, CANCELLATION, NON-
10 RENEWAL, OR DISCONTINUANCE. THE NOTICE SHALL BE BY CERTIFIED
11 MAIL AND SHALL CONTAIN ALL OF THE FOLLOWING:

12 (A) A STATEMENT OF INTENTION TO TERMINATE, CANCEL, NOT
13 RENEW, OR DISCONTINUE THE AGREEMENT.

14 (B) A STATEMENT OF THE REASON FOR THE TERMINATION, CANCELLA-
15 TION, NONRENEWAL, OR DISCONTINUANCE.

16 (C) THE DATE ON WHICH THE TERMINATION, CANCELLATION, NONRE-
17 NEWAL, OR DISCONTINUANCE TAKES EFFECT.

18 (11) NOTWITHSTANDING SUBSECTIONS (7) AND (10), A SUPPLIER
19 MAY IMMEDIATELY TERMINATE, CANCEL, FAIL TO RENEW, OR DISCONTINUE
20 AN AGREEMENT UPON WRITTEN NOTICE GIVEN IN THE MANNER AND CONTAIN-
21 ING THE INFORMATION REQUIRED BY SUBSECTION (10) IF ANY OF THE
22 FOLLOWING OCCUR:

23 (A) INSOLVENCY OF THE WHOLESALER, THE FILING OF ANY PETITION
24 BY OR AGAINST THE WHOLESALER UNDER ANY BANKRUPTCY OR RECEIVERSHIP
25 LAW, OR THE DISSOLUTION OR LIQUIDATION OF THE WHOLESALER THAT
26 MATERIALLY AFFECTS THE WHOLESALER'S ABILITY TO REMAIN IN
27 BUSINESS.

1 (B) REVOCATION OF THE WHOLESALER'S LICENSE BY THE COMMISSION
2 WHEREBY THE WHOLESALER CANNOT SERVICE THE WHOLESALER'S SALES TER-
3 RITORY FOR MORE THAN 60 DAYS.

4 (C) THE WHOLESALER, OR AN INDIVIDUAL WHO OWNS MORE THAN 10%
5 OF THE STOCK OF A CORPORATE WHOLESALER, HAS BEEN CONVICTED OF A
6 FELONY. AS USED IN THIS SUBDIVISION, "FELONY" MEANS A FELONY
7 UNDER THE UNITED STATES CODE OR THE MICHIGAN COMPILED LAWS.
8 HOWEVER, AN EXISTING APPROVED STOCKHOLDER OR STOCKHOLDERS HAVE
9 THE RIGHT TO PURCHASE THE STOCK OF THE OFFENDING STOCKHOLDER
10 PRIOR TO THE CONVICTION OF THE OFFENDING STOCKHOLDER, AND IF THE
11 SALE IS COMPLETED PRIOR TO CONVICTION, THIS SUBDIVISION SHALL NOT
12 APPLY.

13 (12) NOTWITHSTANDING SUBSECTIONS (7), (10), AND (11), UPON
14 NOT LESS THAN 15 DAYS' PRIOR WRITTEN NOTICE GIVEN IN THE MANNER
15 AND CONTAINING THE INFORMATION REQUIRED BY SUBSECTION (10), A
16 SUPPLIER MAY TERMINATE, CANCEL, FAIL TO RENEW, OR DISCONTINUE AN
17 AGREEMENT IF ANY OF THE FOLLOWING OCCUR:

18 (A) THERE WAS FRAUDULENT CONDUCT ON THE PART OF THE WHOLE-
19 SALER IN DEALINGS WITH THE SUPPLIER.

20 (B) THE WHOLESALER FAILED TO CONFINE ITS SALES OF A BRAND OR
21 BRANDS TO THE ASSIGNED SALES TERRITORY. THIS SUBDIVISION DOES
22 NOT APPLY IF THERE IS A DISPUTE BETWEEN 2 OR MORE WHOLESALERS AS
23 TO THE BOUNDARIES OF THE ASSIGNED TERRITORY, AND THE BOUNDARIES
24 CANNOT BE DETERMINED BY A READING OF THE DESCRIPTION CONTAINED IN
25 THE AGREEMENTS BETWEEN THE SUPPLIER AND THE WHOLESALERS.

26 (C) THE SALE BY THE WHOLESALER OF ANY BRAND OR BRANDS SOLD
27 BY THE SUPPLIER TO THE WHOLESALER AND KNOWN BY THE WHOLESALER TO

1 BE INELIGIBLE FOR SALE PRIOR TO THE ACTUAL SALE TO THE RETAILER.
2 THE SUPPLIER SHALL REPURCHASE THE INELIGIBLE PRODUCT FROM THE
3 WHOLESALER IF THE INELIGIBILITY IS CAUSED BY THE SUPPLIER. THE
4 SUPPLIER MUST GIVE THE WHOLESALER WRITTEN NOTICE SPECIFYING THE
5 INELIGIBLE PRODUCT.

6 (13) NOTWITHSTANDING SUBSECTIONS (7), (10), (11), AND (12),
7 A SUPPLIER MAY TERMINATE, CANCEL, NOT RENEW, OR DISCONTINUE AN
8 AGREEMENT UPON NOT LESS THAN 30 DAYS' PRIOR WRITTEN NOTICE IF THE
9 SUPPLIER DISCONTINUES PRODUCTION OR DISCONTINUES DISTRIBUTION IN
10 THIS STATE OF ALL THE BRANDS SOLD BY THE SUPPLIER TO THE
11 WHOLESALER. THIS SECTION DOES NOT PROHIBIT A SUPPLIER UPON NOT
12 LESS THAN 30 DAYS' NOTICE FROM DISCONTINUING THE DISTRIBUTION OF
13 ANY PARTICULAR BRAND OR PACKAGE OF LOW ALCOHOL DRINK. THIS SUB-
14 SECTION DOES NOT PROHIBIT A SUPPLIER FROM CONDUCTING TEST MARKET-
15 ING OF A NEW BRAND OF LOW ALCOHOL DRINK OR FROM CONDUCTING THE
16 TEST MARKETING OF A BRAND OF LOW ALCOHOL DRINK THAT IS NOT CUR-
17 RENTLY BEING SOLD IN THIS STATE IF THE SUPPLIER HAS NOTIFIED THE
18 COMMISSION IN WRITING OF ITS PLANS TO TEST MARKET. THE NOTICE
19 SHALL DESCRIBE THE MARKET AREA IN WHICH THE TEST SHALL BE CON-
20 DUCTED; THE NAME OR NAMES OF THE WHOLESALER OR WHOLESALERS WHO
21 WILL BE SELLING THE LOW ALCOHOL DRINK; THE NAME OR NAMES OF THE
22 BRAND OF LOW ALCOHOL DRINK BEING TESTED; AND THE PERIOD OF TIME
23 DURING WHICH THE TESTING WILL TAKE PLACE. A MARKET TESTING
24 PERIOD SHALL NOT EXCEED 18 MONTHS.

25 (14) THE WHOLESALER SHALL DEVOTE REASONABLE EFFORTS AND
26 RESOURCES TO SALES AND DISTRIBUTION OF ALL THE SUPPLIER'S

1 PRODUCTS THAT THE WHOLESALER HAS BEEN GRANTED THE RIGHT TO SELL
2 AND DISTRIBUTE AND SHALL MAINTAIN REASONABLE SALES LEVELS.

3 (15) A SUPPLIER SHALL NOT WITHHOLD CONSENT TO ANY TRANSFER
4 OF A WHOLESALER'S BUSINESS IF THE PROPOSED TRANSFEREE MEETS THE
5 MATERIAL AND REASONABLE QUALIFICATIONS AND STANDARDS REQUIRED BY
6 THE SUPPLIER. A WHOLESALER SHALL GIVE THE SUPPLIER WRITTEN
7 NOTICE OF INTENT TO TRANSFER THE WHOLESALER'S BUSINESS. A SUP-
8 PLIER SHALL NOT UNREASONABLY DELAY A RESPONSE TO A REQUEST FOR A
9 PROPOSED TRANSFER OF A WHOLESALER'S BUSINESS. HOWEVER, A TRANS-
10 FER OF A WHOLESALER'S BUSINESS THAT IS NOT APPROVED BY THE SUP-
11 PLIER IS NULL AND VOID. A SUPPLIER SHALL NOT INTERFERE WITH, OR
12 PREVENT, THE TRANSFER OF THE WHOLESALER'S BUSINESS IF THE PRO-
13 POSED TRANSFEREE IS A DESIGNATED MEMBER.

14 (16) A SUPPLIER AS PART OF THE WRITTEN AGREEMENT REQUIRED BY
15 THIS SECTION MAY, SUBJECT TO SUBSECTION (3)(1), REQUIRE A WHOLE-
16 SALER TO DESIGNATE A SUCCESSOR MANAGER WHO SHALL BE SUBJECT TO
17 PRIOR APPROVAL BY THE SUPPLIER. IF THE DESIGNATED SUCCESSOR MAN-
18 AGER FAILS TO ASSUME THE ROLE OF APPROVED MANAGER OR FOR ANY
19 REASON DOES NOT CONTINUE TO MANAGE THE WHOLESALER'S BUSINESS,
20 AFTER ASSUMING THAT RESPONSIBILITY, THEN ANY SUCCESSOR SHALL BE
21 SUBJECT TO THE PRIOR APPROVAL OF THE SUPPLIER, SUBJECT TO THE
22 PROVISIONS OF SUBSECTION (3)(1), NOTWITHSTANDING THE TRANSFEREE'S
23 INTEREST AS A DESIGNATED MEMBER.

24 (17) A SUPPLIER THAT AMENDS, CANCELS, TERMINATES, OR REFUSES
25 TO RENEW ANY AGREEMENT; CAUSES A WHOLESALER TO RESIGN FROM AN
26 AGREEMENT; OR WITHHOLDS CONSENT TO ANY ASSIGNMENT OR TRANSFER OF
27 A WHOLESALER'S BUSINESS, EXCEPT AS PROVIDED FOR IN THIS SECTION,

1 SHALL PAY THE WHOLESALER REASONABLE COMPENSATION FOR THE
2 DIMINISHED VALUE OF THE WHOLESALER'S BUSINESS OR OF ANY ANCILLARY
3 BUSINESS THAT HAS BEEN NEGATIVELY AFFECTED BY THE ACT OF THE SUP-
4 PLIER, OR BOTH. THE VALUE OF THE WHOLESALER'S BUSINESS OR ANCIL-
5 LARY BUSINESS INCLUDES, BUT IS NOT LIMITED TO, ITS GOODWILL.

6 (18) EITHER PARTY MAY, AT ANY TIME, DETERMINE THAT MUTUAL
7 AGREEMENT ON THE AMOUNT OF REASONABLE COMPENSATION CANNOT BE
8 REACHED. IF SUCH A DETERMINATION BE MADE, THE SUPPLIER OR THE
9 WHOLESALER SHALL SEND WRITTEN NOTICE TO THE OTHER PARTY DECLARING
10 THEIR INTENTION TO PROCEED WITH ARBITRATION. ARBITRATION SHALL
11 PROCEED ONLY BY MUTUAL AGREEMENT OF BOTH PARTIES.

12 (19) THE MATTER OF DETERMINING THE AMOUNT OF COMPENSATION
13 UNDER ARBITRATION MAY, BY AGREEMENT OF THE PARTIES, BE SUBMITTED
14 TO A 5-MEMBER ARBITRATION PANEL CONSISTING OF 2 REPRESENTATIVES
15 SELECTED BY THE SUPPLIER BUT UNASSOCIATED WITH THE AFFECTED SUP-
16 PLIER, 2 WHOLESALER REPRESENTATIVES SELECTED BY THE WHOLESALER
17 BUT UNASSOCIATED WITH THE WHOLESALER, AND AN IMPARTIAL
18 ARBITRATOR.

19 (20) NOT MORE THAN 10 DAYS AFTER THE NOTICE TO ENTER INTO
20 ARBITRATION HAS BEEN SENT, EACH PARTY SHALL REQUEST, IN WRITING,
21 A LIST OF 5 ARBITRATORS FROM THE AMERICAN ARBITRATION
22 ASSOCIATION. NOT MORE THAN 10 DAYS AFTER THE RECEIPT OF THE LIST
23 OF 5 CHOICES, THE WHOLESALER ARBITRATORS AND THE SUPPLIER ARBI-
24 TRATORS MAY STRIKE AND DISQUALIFY UP TO 2 NAMES EACH FROM THE
25 LIST. IF EITHER PARTY FAILS TO RESPOND WITHIN THE 10 DAYS OR IF
26 MORE THAN 1 NAME REMAINS, THE AMERICAN ARBITRATION ASSOCIATION
27 SHALL MAKE THE SELECTION OF THE IMPARTIAL ARBITRATOR.

1 (21) NOT MORE THAN 30 DAYS AFTER THE LIST OF ARBITRATORS IS
2 RECEIVED, THE WHOLESALER AND SUPPLIER SHALL EXCHANGE IN WRITING
3 THE NAMES OF THEIR RESPECTIVE ARBITRATION PANEL REPRESENTATIVES.

4 (22) NOT MORE THAN 30 DAYS AFTER THE FINAL SELECTION OF THE
5 ARBITRATION PANEL IS MADE, THE ARBITRATION PANEL SHALL CONVENE TO
6 DECIDE THE DISPUTE. THE PANEL SHALL RENDER A DECISION BY MAJOR-
7 ITY VOTE OF THE PARTICIPANTS WITHIN 20 DAYS FROM THE CONCLUSION
8 OF THE ARBITRATION.

9 (23) THE COST OF THE IMPARTIAL ARBITRATOR, THE STENOGRAPHER,
10 AND THE MEETING SITE SHALL BE EQUALLY DIVIDED BETWEEN THE WHOLE-
11 SALER AND THE SUPPLIER. ALL OTHER COSTS SHALL BE PAID BY THE
12 PARTY INCURRING THEM. THE AWARD OF THE ARBITRATION PANEL IS
13 FINAL AND BINDING ON THE PARTIES.

14 (24) IF EITHER PARTY FAILS TO ABIDE BY THE TIME LIMITATIONS
15 PRESCRIBED IN SUBSECTIONS (20), (21), AND (22), OR FAILS OR
16 REFUSES TO MAKE THE SELECTION OF ANY ARBITRATORS, OR FAILS TO
17 PARTICIPATE IN THE ARBITRATION HEARINGS, THE OTHER PARTY SHALL
18 MAKE THE SELECTION OF THEIR ARBITRATORS AND PROCEED TO
19 ARBITRATION. THE PARTY WHO HAS FAILED OR REFUSED TO COMPLY AS
20 PRESCRIBED IN THIS SUBSECTION SHALL BE CONSIDERED TO BE IN
21 DEFAULT. ANY PARTY CONSIDERED TO BE IN DEFAULT PURSUANT TO THIS
22 SUBSECTION SHALL HAVE WAIVED ANY AND ALL RIGHTS THE PARTY WOULD
23 HAVE HAD IN THE ARBITRATION AND SHALL BE CONSIDERED TO HAVE CON-
24 SENTED TO THE DETERMINATION OF THE ARBITRATION PANEL.

25 (25) A WHOLESALER SHALL NOT WAIVE ANY OF THE RIGHTS GRANTED
26 IN THIS SECTION. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT OR

1 PROHIBIT GOOD FAITH DISPUTE SETTLEMENTS VOLUNTARILY ENTERED INTO
2 BY THE PARTIES.

3 (26) A SUCCESSOR TO A SUPPLIER THAT CONTINUES IN BUSINESS AS
4 A LOW ALCOHOL DRINK MANUFACTURER, AN OUTSTATE SELLER OF LOW ALCO-
5 HOL DRINK, OR MASTER DISTRIBUTOR IS BOUND BY ALL TERMS AND CONDI-
6 TIONS OF EACH AGREEMENT OF THE SUPPLIER WITH A WHOLESALER
7 LICENSED IN THIS STATE IN EFFECT ON THE DATE ON WHICH THE SUCCE-
8 SOR RECEIVED THE DISTRIBUTION RIGHTS OF THE PREVIOUS SUPPLIER.

9 (27) THIS SECTION APPLIES TO AGREEMENTS IN EXISTENCE ON THE
10 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, AND
11 AGREEMENTS THAT ARE ENTERED INTO OR RENEWED AFTER THAT DATE.

12 (28) IF A SUPPLIER ENGAGES IN CONDUCT PROHIBITED UNDER THIS
13 SECTION, A WHOLESALER WITH WHOM THE SUPPLIER HAS AN AGREEMENT MAY
14 MAINTAIN A CIVIL ACTION AGAINST THE SUPPLIER TO RECOVER ACTUAL
15 DAMAGES REASONABLY INCURRED AS THE RESULT OF THE PROHIBITED
16 CONDUCT. IF A WHOLESALER ENGAGES IN CONDUCT PROHIBITED UNDER
17 THIS SECTION, A SUPPLIER WITH WHOM THE WHOLESALER HAS AN AGREE-
18 MENT MAY MAINTAIN A CIVIL ACTION AGAINST THE WHOLESALER TO
19 RECOVER ACTUAL DAMAGES REASONABLY INCURRED AS THE RESULT OF THE
20 PROHIBITED CONDUCT.

21 (29) A SUPPLIER THAT VIOLATES THIS SECTION IS LIABLE FOR ALL
22 ACTUAL DAMAGES AND ALL COURT COSTS AND REASONABLE ATTORNEY FEES
23 INCURRED BY A WHOLESALER AS A RESULT OF THAT VIOLATION. A WHOLE-
24 SALER THAT VIOLATES THIS SECTION IS LIABLE FOR ALL ACTUAL DAMAGES
25 AND ALL COURT COSTS AND REASONABLE ATTORNEY FEES INCURRED BY THE
26 SUPPLIER AS A RESULT OF THAT VIOLATION.

1 (30) A SUPPLIER OR WHOLESALER MAY BRING AN ACTION FOR
2 DECLARATORY JUDGMENT FOR DETERMINATION OF ANY CONTROVERSY ARISING
3 PURSUANT TO THIS SECTION.

4 (31) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF A
5 COURT FINDS THAT A SUPPLIER HAS NOT ACTED IN GOOD FAITH IN
6 EFFECTING THE AMENDMENT, TERMINATION, CANCELLATION, OR NONRENEWAL
7 OF ANY AGREEMENT; OR HAS UNREASONABLY WITHHELD ITS CONSENT TO ANY
8 ASSIGNMENT, TRANSFER, OR SALE OF A WHOLESALER'S BUSINESS, IT MAY
9 AWARD EXEMPLARY DAMAGES, AS WELL AS ACTUAL DAMAGES, COURT COSTS,
10 AND REASONABLE ATTORNEY FEES TO THE WHOLESALER WHO HAS BEEN DAM-
11 AGED BY THE ACTION OF THE SUPPLIER.

12 (32) UPON PROPER APPLICATION TO THE COURT, A SUPPLIER OR
13 WHOLESALER MAY OBTAIN INJUNCTIVE RELIEF AGAINST ANY VIOLATION OF
14 THIS SECTION. IF THE COURT GRANTS INJUNCTIVE RELIEF OR ISSUES A
15 TEMPORARY RESTRAINING ORDER, BOND SHALL NOT BE REQUIRED TO BE
16 POSTED.

17 (33) THE PROCEDURE FOR RESOLVING ANY VIOLATION OF SUBSECTION
18 (3) (A), (B), (C), (E), (F), (H), (I), (J), (K), OR (L) OR (4)
19 SHALL BE THE PROCEDURE PRESCRIBED BY THIS ACT AND THE ADMINISTRA-
20 TIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
21 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
22 LAWS. ANY OTHER VIOLATION OF OR DISPUTE REGARDING THIS SECTION,
23 UNLESS THE DISPUTE IS RESOLVED PURSUANT TO SUBSECTIONS (18) TO
24 (24), SHALL ONLY BE RESOLVED BY A CIVIL ACTION IN COURT AS PRO-
25 VIDED IN THIS SECTION AND NOT BY THE COMMISSION.

26 Sec. 31. (1) Except as provided in section 31a, a
27 manufacturer, mixed spirit drink manufacturer, LOW ALCOHOL DRINK

1 MANUFACTURER, warehouseman, wholesaler, outstate seller of beer,
2 outstate seller of wine, outstate seller of mixed spirit drink,
3 OUTSTATE SELLER OF LOW ALCOHOL DRINK, or vendor of spirits shall
4 not have any financial interest, directly or indirectly, in the
5 establishment, maintenance, operation, or promotion of the busi-
6 ness of any other vendor.

7 (2) Except as provided in section 31a, a manufacturer, mixed
8 spirit drink manufacturer, LOW ALCOHOL DRINK MANUFACTURER, ware-
9 houseman, wholesaler, outstate seller of beer, outstate seller of
10 wine, outstate seller of mixed spirit drink, OUTSTATE SELLER OF
11 LOW ALCOHOL DRINK, or vendor of spirits or a stockholder of a
12 manufacturer, mixed spirit drink manufacturer, LOW ALCOHOL DRINK
13 MANUFACTURER, warehouseman, wholesaler, outstate seller of beer,
14 outstate seller of wine, outstate seller of mixed spirit drink,
15 OUTSTATE SELLER OF LOW ALCOHOL DRINK, or vendor of spirits shall
16 not have an interest by ownership in fee, leasehold, mortgage, or
17 otherwise, directly or indirectly, in the establishment, mainte-
18 nance, operation, or promotion of the business of any other
19 vendor.

20 (3) Except as provided in section 31a, a manufacturer, mixed
21 spirit drink manufacturer, LOW ALCOHOL DRINK MANUFACTURER, ware-
22 houseman, wholesaler, outstate seller of beer, outstate seller of
23 wine, outstate seller of mixed spirit drink, OUTSTATE SELLER OF
24 LOW ALCOHOL DRINK, or vendor of spirits shall not have an inter-
25 est directly or indirectly by interlocking directors in a corpo-
26 ration or by interlocking stock ownership in a corporation in the

1 establishment, maintenance, operation, or promotion of the
2 business of any other vendor.

3 (4) Except as provided in section 31a, a person shall not
4 buy the stocks of a manufacturer, mixed spirit drink manufactur-
5 er, LOW ALCOHOL DRINK MANUFACTURER, warehouseman, wholesaler,
6 outstate seller of beer, outstate seller of wine, outstate seller
7 of mixed spirit drink, OUTSTATE SELLER OF LOW ALCOHOL DRINK, or
8 vendor of spirits and place the stock in any portfolio under an
9 arrangement, written trust agreement, or form of investment trust
10 agreement and issue participating shares based upon the portfo-
11 lio, trust agreement, or investment trust agreement, and sell the
12 participating shares within this state.

13 (5) A wine maker may sell wine made by that wine maker in a
14 restaurant for consumption on or off the premises if the restau-
15 rant is owned or leased to another person by the wine maker and
16 located on the premises where the wine maker is licensed.

17 (6) A wine maker, with the prior written approval of the
18 commission, may conduct wine tastings of wines made by that wine
19 maker and may sell the wine made by that wine maker for consump-
20 tion off the premises at a location other than the premises where
21 the wine maker is licensed to manufacture wine, under the follow-
22 ing conditions:

23 (a) That the premises upon which the wine tasting occurs
24 conforms to local and state sanitation requirements.

25 (b) That not more than 1 wine tasting location as described
26 in this subsection, per wine maker, may be approved by the
27 commission in a licensing year.

1 (c) Payment of a \$100.00 fee per location to the
2 commission.

3 (d) That the wine tasting locations shall be considered
4 licensed premises.

5 (e) That wine tasting shall not take place between the hours
6 of 2 a.m. and 7 a.m. Monday through Saturday, or between 2
7 a.m. and noon on Sunday.

8 (f) That the premises and the licensee comply with and are
9 subject to all applicable rules promulgated by the commission.

10 (7) Subsection (6) shall take effect October 24, 1982.

11 Sec. 49a. (1) A refund or credit of the tax on wine, LOW
12 ALCOHOL DRINK, or mixed spirit drink paid pursuant to section 16a
13 and the tax on beer paid pursuant to section 40 shall be made by
14 the commission to a brewer, or a wine maker, or an outstate
15 seller of beer, or an outstate seller of wine, outstate seller of
16 mixed spirit drink, OUTSTATE SELLER OF LOW ALCOHOL DRINK, LOW
17 ALCOHOL DRINK MANUFACTURER, manufacturer of mixed spirit drink,
18 or a wholesaler, or a retail licensee who paid the tax if the
19 wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink was sold to
20 a military installation or an Indian reservation in this state;
21 or if the wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink is
22 lost, made unmarketable, or condemned by order of the commission
23 as the result of a fire, flood, casualty, or other occurrence. A
24 refund or credit shall not be made as the result of theft.

25 (2) A refund or credit of the taxes as provided in subsec-
26 tion (1) shall be made for damaged wine, beer, LOW ALCOHOL DRINK,
27 or mixed spirit drink only if:

1 (a) At the time of the fire, flood, casualty, or other
2 occurrence, the wine, beer, LOW ALCOHOL DRINK, or mixed spirit
3 drink was being held for sale by the vendor claiming the refund
4 or credit.

5 (b) The refund or credit of the amount claimed, or any part
6 of the amount claimed, has not or will not be claimed for the
7 same wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink under
8 any other law or rule.

9 (c) The vendor claiming the refund or credit is not indemni-
10 fiable by any valid claim of insurance or otherwise for the tax
11 on the wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink cov-
12 ered by the claim.

13 (d) The amount claimed for a refund or credit is more than
14 \$250.00; or the refund or credit is claimed for defective wine,
15 beer, LOW ALCOHOL DRINK, or mixed spirit drink for which the com-
16 mission has authorized a manufacturer, an outstate seller of
17 beer, an outstate seller of wine, an outstate seller of mixed
18 spirit drink, OUTSTATE SELLER OF LOW ALCOHOL DRINK, LOW ALCOHOL
19 DRINK MANUFACTURER, manufacturer of mixed spirit drink, or a
20 wholesaler to make an exchange, have replaced, or be reimbursed.

21 (e) The occurrence was not caused by an intentional act of
22 the vendor or an agent of the vendor claiming the refund or
23 credit.

24 (3) A claim for a refund or credit of the tax as provided in
25 subsection (1) ~~, except for damage occurring between January 1,~~
26 ~~1980 and April 20, 1982,~~ shall be made not later than 3 months
27 after either of the following:

1 (a) The date upon which the damage was first discovered or
2 occurred.

3 (b) The date of sale to a military installation or Indian
4 reservation in this state.

5 (4) A claim for a refund or credit of the tax as provided in
6 subsection (1) shall be submitted to the commission on a form
7 approved by the commission. The claim shall contain the follow-
8 ing information, as applicable:

9 (a) The name and business address of the vendor claiming the
10 refund or credit.

11 (b) The address where the wine, beer, LOW ALCOHOL DRINK, or
12 mixed spirit drink was lost, made unmarketable, or condemned, if
13 different from the business address.

14 (c) The address of the military installation or Indian res-
15 ervation to which the wine, beer, LOW ALCOHOL DRINK, or mixed
16 spirit drink was sold.

17 (d) The kind of wine, beer, LOW ALCOHOL DRINK, or mixed
18 spirit drink.

19 (e) The size of bottles or containers.

20 (f) The number of bottles or containers.

21 (g) The total amount of wine, beer, LOW ALCOHOL DRINK, or
22 mixed spirit drink that was sold or damaged. The amount shall be
23 stated in liters for wine, LOW ALCOHOL DRINK, and mixed spirit
24 drink and barrels for beer, or portions thereof.

25 (h) A statement that other claims for a refund or credit of
26 the amount claimed, or for any part of the amount claimed, has
27 not been and will not be made.

1 (i) A statement that the vendor has not been indemnified by
2 a valid claim of insurance or otherwise for the tax on the wine,
3 beer, LOW ALCOHOL DRINK, or mixed spirit drink covered by the
4 claim.

5 (j) Evidence that the tax on the wine, beer, LOW ALCOHOL
6 DRINK, or mixed spirit drink has been paid.

7 (k) Evidence that the wine, beer, LOW ALCOHOL DRINK, or
8 mixed spirit drink was lost, made unmarketable, or condemned by
9 reason of damage sustained as the result of a fire, flood, casu-
10 alty, or other occurrence.

11 (l) A statement as to the type and date of the occurrence.

12 (m) A statement that the occurrence was not caused by an
13 intentional act of the vendor or an agent of the vendor claiming
14 the refund or credit.

15 (5) The vendor claiming the refund or credit for damaged
16 wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink shall sup-
17 port a claim with any evidence, such as an inventory, statement,
18 invoice, bill, record, or label, relating to the quantity of
19 wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink on hand at
20 the time of the fire, flood, casualty, or other disaster and
21 alleged to have been lost, made unmarketable, or condemned as a
22 result of the damage.

23 (6) Before or after a tax refund or credit has been made for
24 damaged wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink, the
25 wine, beer, LOW ALCOHOL DRINK, or mixed spirit drink upon which
26 the refund or credit is based shall be removed from this state or
27 destroyed under the supervision of the commission.

1 (7) This section applies to wine, beer, LOW ALCOHOL DRINK,
2 or mixed spirit drink that was damaged as the result of a fire,
3 flood, casualty, or other occurrence which occurred after
4 December 31, 1979.

5 (8) In addition to the provisions of this section, the tax
6 paid on wine, LOW ALCOHOL DRINK, or mixed spirit drink pursuant
7 to section 16a shall be rebated to the person who paid the tax
8 upon satisfactory proof being furnished to the commission that
9 the wine, LOW ALCOHOL DRINK, or mixed spirit drink was shipped
10 outside of this state for sale and consumption outside this
11 state.

12 Sec. 56. Spirits and mixed spirit drink for consumption on
13 the premises, in addition to LOW ALCOHOL DRINK, beer, and wine,
14 may be sold by restaurants, hotels, and establishments, approved
15 by the commission under this act, in the following cities, vil-
16 lages, or townships, when the legislative body of such a city,
17 village, or township shall, by resolution of a majority vote of
18 the members elect, vote in favor thereof. A petition may be
19 filed with the city, village, or township clerk requesting the
20 submission of the question of sale of spirits and mixed spirit
21 drink for consumption on the premises, in addition to LOW ALCOHOL
22 DRINK, beer, and wine. In case of a city or township the peti-
23 tion shall be signed by a number of the registered and qualified
24 electors which shall be not less than 35% of the total number of
25 votes cast for all candidates for the office of secretary of
26 state in that city or township at the last general election held
27 for that purpose. In case of a village the petition shall be

1 signed by a number of the registered and qualified electors which
2 shall not be less than 35% of the total number of votes cast for
3 all candidates for the office of president of the village at the
4 last village election held for that purpose. The question shall
5 not be submitted to the electors of a city, village, or township
6 more often than once in every 2 years. The city, village, or
7 township clerk shall within 10 days after the filing with the
8 clerk of the petition, give notice of the filing by publication
9 of notice setting forth the essential facts of the petition in a
10 newspaper published or in general circulation in the city, vil-
11 lage, or township. The city, village, or township clerk shall
12 submit the question at the next regular state election held in
13 the city, village or township if the petitions are filed at least
14 60 days before the election. With respect to newly incorporated
15 cities or villages, class C licensees in any such a city or vil-
16 lage shall continue to be licensed by the commission until the
17 question of the sale of spirits and mixed spirit drink for con-
18 sumption on the premises, in addition to LOW ALCOHOL DRINK, beer,
19 and wine, is submitted to the electors of the city or village as
20 herein provided. The question of the sale of spirits and mixed
21 spirit drink for consumption on the premises, in addition to LOW
22 ALCOHOL DRINK, beer, and wine, shall be submitted by ballot in
23 substantially the following form:

24 "Shall the sale of spirits and mixed spirit drink in addi-
25 tion to LOW ALCOHOL DRINK, beer, and wine be permitted for con-
26 sumption on the premises within the city, village, or township of
27 under the provisions of the law governing same?

1 Yes

2 No"

3 All votes on the question shall be taken, counted, and can-
4 vassed in the same manner as votes cast in city, village, or
5 township elections as the case may be, are taken, counted, and
6 canvassed. Ballots shall be furnished by the election commission
7 or similar body of the respective cities, villages, or
8 townships. In case a majority of the electors voting at such an
9 election shall vote in favor thereof, spirits and mixed spirit
10 drink may be sold in that city, village, or township, pursuant to
11 this act, for consumption on the premises, in addition to LOW
12 ALCOHOL DRINK, beer, and wine.

13 At any time within 18 months after such an election has
14 resulted in a tie vote, the question shall be resubmitted to the
15 electors upon the filing of a petition with the legislative body
16 of the city, village, or township. The petition shall be signed
17 by a number of electors not less than that required by this sec-
18 tion for the calling of an election on an original petition. The
19 question shall be resubmitted to the electors by the city, vil-
20 lage, or township clerk at the next regular election if that
21 election occurs not less than 30 days, nor more than 60 days,
22 after the filing of the petition, or at a special election called
23 for that purpose and to be held within not less than 30 nor more
24 than 60 days after the filing of the petition.

25 This section shall not be used by the legislative body of a
26 city, village or township to nullify the results of a referendum
27 vote of the electors of the city, village, or township.

1 Sec. 56a. Whenever spirits and mixed spirit drink for
2 consumption on the premises, in addition to LOW ALCOHOL DRINK,
3 beer, and wine, may be sold by restaurants, hotels and establish-
4 ments, approved by the commission, in any city, village or town-
5 ship, and a part of or the whole of such city, village or town-
6 ship shall become annexed to and a part of any city or village
7 which does not, at the time of annexation, permit such sales,
8 class C licensees in any such annexed area shall continue to be
9 licensed by the commission until the next regular or city or vil-
10 lage election subsequent to the effective date of this amendatory
11 act, at which election, without the necessity of the filing of a
12 petition, the question of the sale of spirits and mixed spirit
13 drink for consumption on the premises, in addition to LOW ALCOHOL
14 DRINK, beer, and wine, shall be submitted to the electors of the
15 city or village to which the territory has been annexed. The
16 form of the ballot, the voting and canvassing of votes and the
17 effect thereof shall be as provided in section 56 of this act.
18 The fact that a vote has been taken upon such question either in
19 the annexing municipality or the annexed area, or in both, within
20 4 years preceding the annexation shall not be a bar to submission
21 of the question as herein provided.

22 Sec. 56b. (1) When the question of the sale of spirits and
23 mixed spirit drink for consumption on the premises is submitted
24 to and approved by the electors of a city, village, or township,
25 and immediately after certification of the results of the elec-
26 tion, all currently approved licensed establishments for
27 consumption of LOW ALCOHOL DRINK, beer, and wine on the premises,

1 in the city, village, or township, shall be licensed to serve
2 spirits and mixed spirit drink in addition to LOW ALCOHOL DRINK,
3 beer, and wine for consumption on the premises upon application
4 to and approval by the ~~Michigan liquor control~~ commission and
5 payment of the applicable license fee as specified in section
6 19.

7 (2) A township having incorporated villages within its
8 boundaries may submit to the voters in the unincorporated portion
9 of the township the question of sale of spirits and mixed spirit
10 drink for consumption on the premises and the will of the elec-
11 tors outside of the incorporated villages shall decide the ques-
12 tion for the unincorporated portion of the township.

13 Section 2. This amendatory act shall not take effect unless
14 Senate Bill No. _____ or House Bill No. _____ (request
15 no. 02309'95 a) of the 88th Legislature is enacted into law.