

HOUSE BILL No. 4346

March 13, 2003, Introduced by Reps. Drolet, Acciavatti, Brandenburg and Tobocman and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 203 (MCL 436.1203), as amended by 2000
PA 289.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203. (1) Except as provided in this section and
2 section 301, a sale, delivery, or importation of alcoholic
3 liquor, including alcoholic liquor for personal use, shall not be
4 made in this state ~~unless the~~ **except under either of the**
5 **following circumstances:**

6 **(a)** The sale, delivery, or importation is made by the
7 commission, the commission's authorized agent or distributor, an
8 authorized distribution agent approved by order of the
9 commission, a person licensed by the commission, or by prior
10 written order of the commission.

1 (b) The sale, delivery, or importation is made by a person of
2 legal age who is not a licensee or agent of the commission from a
3 state determined by the commission to allow the reciprocal sale,
4 delivery, or importation of alcoholic liquor containing less than
5 21% alcohol by volume for personal use by a person in Michigan of
6 legal age who is not a licensee or agent of the commission and
7 the shipment involves not more than 24 bottles per month.

8 (2) For purposes of subsection (1), the sale, delivery, or
9 importation of alcoholic liquor includes, but is not limited to,
10 the sale, delivery, or importation of alcoholic liquor transacted
11 or caused to be transacted by means of any mail order, internet,
12 telephone, computer, device, or other electronic means. Subject
13 to subsection (3), if a retail sale, delivery, or importation of
14 alcoholic liquor occurs by any such means, the retailer must
15 comply with all of the following:

16 (a) Be appropriately licensed under the laws of this state.

17 (b) Pay any applicable taxes to the commission.

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

20 (d) Verify the age of the individual placing the order by
21 obtaining from him or her an affirmation that he or she is of
22 legal age to purchase alcoholic liquor. The person receiving and
23 accepting the order shall record the name, address, date of
24 birth, and telephone number of the person placing the order on
25 the order form or other verifiable record of a type and generated
26 in a manner approved by the commission.

27 (e) Upon request of the commission, make available to the

1 commission any document used to verify the age of the individual
2 ordering the alcoholic liquor from the retail seller.

3 (f) Stamp, print, or label on the outside of the shipping
4 container language that clearly establishes in a prominent
5 fashion that the package contains alcoholic liquor and that the
6 recipient at the time of the delivery is required to provide
7 identification verifying his or her age along with a signature.

8 (g) Place a label on the top panel of the shipping container
9 containing the name and address of the individual placing the
10 order and the name of the designated recipient, if any.

11 (3) Notwithstanding subsection (2), in the case of a retail
12 sale, delivery, or importation of alcoholic liquor occurring by
13 any means described in subsection (2), a person taking the order
14 on behalf of the retailer must comply with subsection (2)(c)
15 through (g).

16 (4) The person who delivers the alcoholic liquor shall verify
17 that the individual accepting delivery is of legal age and is
18 either the individual who placed the order or the designated
19 recipient residing at the same address or is otherwise authorized
20 through a rule promulgated under this act by the commission to
21 receive alcoholic liquor under this section. If the delivery
22 person, after a diligent inquiry, determines that the purchaser
23 or designated recipient is not of legal age, the delivery person
24 shall return the alcoholic liquor to the retailer. A delivery
25 person who returns alcoholic liquor to the retailer due to
26 inability to obtain the purchaser's or designated recipient's
27 legal age is not liable for any damages suffered by the purchaser

1 or retailer.

2 (5) All spirits for sale, use, storage, or distribution in
3 this state, shall originally be purchased by and imported into
4 the state by the commission, or by prior written authority of the
5 commission.

6 (6) This section does not apply in the case of an alcoholic
7 liquor brought into this state for personal or household use in
8 an amount permitted by federal law by a person of legal age to
9 purchase alcoholic liquor at the time of reentry into this state
10 from without the territorial limits of the United States if the
11 person has been outside the territorial limits of the United
12 States for more than 48 hours and has not brought alcoholic
13 liquor into the United States during the preceding 30 days.

14 (7) A person who is of legal age to purchase alcoholic liquor
15 may do either of the following in relation to alcoholic liquor
16 that contains less than 21% alcohol by volume:

17 (a) Personally transport from another state, once in a
18 24-hour period, not more than 312 ounces of alcoholic liquor for
19 that person's personal use, notwithstanding subsection (1).

20 (b) Ship or import from another state alcoholic liquor for
21 that person's personal use so long as that personal importation
22 is done in compliance with subsection (1).

23 (8) As used in this section:

24 (a) "Computer" means any connected, directly interoperable or
25 interactive device, equipment, or facility that uses a computer
26 program or other instructions to perform specific operations
27 including logical, arithmetic, or memory functions with or on

1 computer data or a computer program and that can store, retrieve,
2 alter, or communicate the results of the operations to a person,
3 computer program, computer, computer system, or computer
4 network.

5 (b) "Computer network" means the interconnection of hardwire
6 or wireless communication lines with a computer through remote
7 terminals, or a complex consisting of 2 or more interconnected
8 computers.

9 (c) "Computer program" means a series of internal or external
10 instructions communicated in a form acceptable to a computer that
11 directs the functioning of a computer, computer system, or
12 computer network in a manner designed to provide or produce
13 products or results from the computer, computer system, or
14 computer network.

15 (d) "Computer system" means a set of related, connected or
16 unconnected, computer equipment, devices, software, or hardware.

17 (e) "Device" includes, but is not limited to, an electronic,
18 magnetic, electrochemical, biochemical, hydraulic, optical, or
19 organic object that performs input, output, or storage functions
20 by the manipulation of electronic, magnetic, or other impulses.

21 (f) "Diligent inquiry" means a diligent good faith effort to
22 determine the age of a person, which includes at least an
23 examination of an official Michigan operator's or chauffeur's
24 license, an official Michigan personal identification card, or
25 any other bona fide picture identification which establishes the
26 identity and age of the person.