

HOUSE BILL No. 5067

July 27, 2005, Introduced by Reps. Jones, Pearce, Kahn, Marleau, LaJoy, Ball and Booher and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending the title and section 105 (MCL 436.1105) and by adding section 914.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; **TO PROHIBIT THE USE OF CERTAIN DEVICES FOR THE DISPENSING OF ALCOHOLIC VAPOR;** to provide for the

1 care and treatment of alcoholics; to provide for the incorporation
2 of farmer cooperative wineries and the granting of certain rights
3 and privileges to those cooperatives; to provide for the licensing
4 and taxation of activities regulated under this act and the
5 disposition of the money received under this act; to prescribe
6 liability for retail licensees under certain circumstances and to
7 require security for that liability; to provide procedures,
8 defenses, and remedies regarding violations of this act; to provide
9 for the enforcement and to prescribe penalties for violations of
10 this act; to provide for allocation of certain funds for certain
11 purposes; to provide for the confiscation and disposition of
12 property seized under this act; to provide referenda under certain
13 circumstances; and to repeal acts and parts of acts.

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

19 (2) **"ALCOHOL VAPOR DEVICE" MEANS ANY DEVICE THAT PROVIDES FOR**
20 **THE USE OF AIR OR OXYGEN BUBBLED THROUGH ALCOHOLIC LIQUOR TO**
21 **PRODUCE A VAPOR OR MIST THAT ALLOWS THE USER TO INHALE THIS**
22 **ALCOHOLIC VAPOR THROUGH THE MOUTH OR NOSE.**

23 (3) ~~(2)~~ "Alcoholic liquor" means any spirituous, vinous,
24 malt, or fermented liquor, liquids and compounds, whether or not
25 medicated, proprietary, patented, and by whatever name called,
26 containing 1/2 of 1% or more of alcohol by volume which are fit for
27 use for beverage purposes as defined and classified by the

1 commission according to alcoholic content as belonging to 1 of the
2 varieties defined in this chapter.

3 (4) ~~-(3)-~~ "Authorized distribution agent" means a person
4 approved by the commission to do 1 or more of the following:

5 (a) To store spirits owned by a supplier of spirits or the
6 commission.

7 (b) To deliver spirits sold by the commission to retail
8 licensees.

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

12 (5) ~~-(4)-~~ "Bar" means a barrier or counter at which alcoholic
13 liquor is sold to, served to, or consumed by customers.

14 (6) ~~-(5)-~~ "Beer" means any beverage obtained by alcoholic
15 fermentation of an infusion or decoction of barley, malt, hops, or
16 other cereal in potable water.

17 (7) ~~-(6)-~~ "Brand" means any word, name, group of letters,
18 symbol, trademark, or combination thereof adopted and used by a
19 supplier to identify a specific beer, malt beverage, wine, mixed
20 wine drink, or mixed spirit drink product and to distinguish that
21 product from another beer, malt beverage, wine, mixed wine drink,
22 or mixed spirit drink product that is produced or marketed by that
23 or another supplier. As used in this section and notwithstanding
24 sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an
25 outstate seller of beer, a wine maker, a small wine maker, an
26 outstate seller of wine, a manufacturer of mixed wine drink, an
27 outstate seller of a mixed wine drink, a mixed spirit drink

1 manufacturer, or an outstate seller of mixed spirit drink.

2 (8) ~~-(7)-~~ "Brand extension" means any brand which incorporates
3 all or a substantial part of the unique features of a preexisting
4 brand of the same supplier. As used in this section and
5 notwithstanding sections 305(2)(j) and 403(2)(j), "supplier" means
6 a brewer, an outstate seller of beer, a wine maker, a small wine
7 maker, an outstate seller of wine, a manufacturer of mixed wine
8 drink, an outstate seller of a mixed wine drink, a mixed spirit
9 drink manufacturer, or an outstate seller of mixed spirit drink.

10 (9) ~~-(8)-~~ "Brandy" means an alcoholic liquor as defined in 27
11 ~~C.F.R.~~ **CFR** 5.22(d) (1980).

12 (10) ~~-(9)-~~ "Brandy manufacturer" means a person licensed under
13 this act to engage in the manufacturing, rectifying or blending, or
14 both, of brandy only and no other distilled spirit. Only a licensed
15 wine maker or a small wine maker is eligible to be a brandy
16 manufacturer. The commission may approve a brandy manufacturer to
17 sell at retail brandy which it manufactures, blends or rectifies,
18 or both, at its licensed premises or at other premises authorized
19 in this act.

20 (11) ~~-(10)-~~ "Brewer" means a person located in this state that
21 is licensed to manufacture and sell to licensed wholesalers beer
22 produced by it.

23 (12) ~~-(11)-~~ "Brewpub" means a license issued in conjunction
24 with a class C, tavern, class A hotel, or class B hotel license
25 that authorizes the person licensed with the class C, tavern, class
26 A hotel, or class B hotel to manufacture and brew not more than
27 5,000 barrels of beer per calendar year in Michigan and sell at

1 those licensed premises the beer produced for consumption on or off
2 the licensed brewery premises in the manner provided for in
3 sections 405 and 407.

4 **SEC. 914. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3),**
5 **A PERSON SHALL NOT USE OR OFFER FOR USE, POSSESS, SELL, OR OFFER**
6 **FOR SALE AN ALCOHOL VAPOR DEVICE.**

7 **(2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A**
8 **MISDEMEANOR PUNISHABLE IN THE MANNER PROVIDED FOR IN SECTION**
9 **909(1).**

10 **(3) THE COMMISSION MAY JOINTLY PROMULGATE RULES WITH THE**
11 **DEPARTMENT OF COMMUNITY HEALTH TO ALLOW FOR THE SALE OR USE OF AN**
12 **ALCOHOL VAPOR DEVICE FOR RESEARCH PURPOSES.**