

HOUSE BILL No. 5087

October 18, 2011, Introduced by Rep. O'Brien and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 411, 537, and 603 (MCL 436.1411, 436.1537, and 436.1603), section 411 as added by 2000 PA 395 and sections 537 and 603 as amended by 2010 PA 213.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 411. A brewer that is not licensed as a ~~microbrewer but~~
2 ~~produces under 200,000 barrels of beer per calendar year~~ **MICRO**
3 **BREWER** may sell its beer for on-premises consumption at not more
4 than 1 location in this state that is on any of its licensed
5 brewery premises.

6 Sec. 537. (1) The following classes of vendors may sell
7 alcoholic ~~liquors~~ **LIQUOR** at retail as provided in this section:

8 (a) Taverns where beer and wine may be sold for consumption on

1 the premises only.

2 (b) Class C license where beer, wine, mixed spirit drink, and
3 spirits may be sold for consumption on the premises.

4 (c) Clubs where beer, wine, mixed spirit drink, and spirits
5 may be sold for consumption on the premises only to bona fide
6 members where consumption is limited to these members and their
7 bona fide guests, who ~~have attained the age of~~ **ARE** 21 years **OF AGE**
8 **OR OLDER**.

9 (d) Direct shippers where wine may be sold and shipped
10 directly to the consumer.

11 (e) Hotels of class A where beer and wine may be sold for
12 consumption on the premises and in the rooms of bona fide
13 registered guests. Hotels of class B where beer, wine, mixed spirit
14 drink, and spirits may be sold for consumption on the premises and
15 in the rooms of bona fide registered guests.

16 (f) Specially designated merchants, where beer and wine may be
17 sold for consumption off the premises only.

18 (g) Specially designated distributors where spirits and mixed
19 spirit drink may be sold for consumption off the premises only.

20 (h) Special licenses where beer and wine or beer, wine, mixed
21 spirit drink, and spirits may be sold for consumption on the
22 premises only.

23 (i) Dining cars or other railroad or Pullman cars, watercraft,
24 or aircraft, where alcoholic liquor may be sold for consumption on
25 the premises only, subject to rules promulgated by the commission.

26 (j) Brewpubs where beer manufactured on the premises by the
27 licensee may be sold for consumption on or off the premises by any

1 of the following licensees:

2 (i) Class C.

3 (ii) Tavern.

4 (iii) Class A hotel.

5 (iv) Class B hotel.

6 (k) Micro brewers and brewers ~~selling less than 200,000~~
7 ~~barrels of beer per year~~ where beer produced by the micro brewer or
8 brewer may be sold to a consumer for consumption on or off the
9 brewery premises.

10 (l) Class G-1 license where beer, wine, mixed spirit drink, and
11 spirits may be sold for consumption on the premises only to members
12 required to pay an annual membership fee and consumption is limited
13 to these members and their bona fide guests.

14 (m) Class G-2 license where beer and wine may be sold for
15 consumption on the premises only to members required to pay an
16 annual membership fee and consumption is limited to these members
17 and their bona fide guests.

18 (n) Motorsports event license where beer and wine may be sold
19 for consumption on the premises during sanctioned motorsports
20 events only.

21 (o) Wine maker where wine may be sold by direct shipment, at
22 retail on the licensed premises, and as provided for in subsections
23 (2) and (3).

24 (p) Small distiller selling not more than 60,000 gallons of
25 spirits manufactured by that licensee to the consumer at retail for
26 consumption on or off the licensed premises in the manner provided
27 for in section 534.

1 (q) Nonpublic continuing care retirement center license, where
2 beer, wine, mixed spirit drink, mixed wine drink, and spirits may
3 be sold at retail and served on the licensed premises to residents
4 and bona fide guests accompanying the resident for consumption only
5 on the licensed premises.

6 (2) A wine maker may sell wine made by that wine maker in a
7 restaurant for consumption on or off the premises if the restaurant
8 is owned by the wine maker or operated by another person under an
9 agreement approved by the commission and located on the premises
10 where the wine maker is licensed.

11 (3) A wine maker, with the prior written approval of the
12 commission, may conduct wine tastings of wines made by that wine
13 maker on the premises where the wine maker is licensed to
14 manufacture wine. The wine maker may charge for the samples.

15 (4) A wine maker, with the prior written approval of the
16 commission, may conduct wine tastings of wines made by that wine
17 maker and may sell the wine made by that wine maker for consumption
18 off the premises at a location other than the premises where the
19 wine maker is licensed to manufacture wine, under the following
20 conditions:

21 (a) The premises upon which the wine tasting occurs conforms
22 to local and state sanitation requirements.

23 (b) Payment of a \$100.00 fee per location is made to the
24 commission.

25 (c) The wine tasting locations ~~shall be~~ **ARE** considered
26 licensed premises, and the wine maker may include a charge for the
27 samples.

1 (d) ~~Wine~~**THE WINE** tasting takes place during the legal hours
2 for the sale of alcoholic liquor by the licensee.

3 (e) The premises and the licensee comply with and are subject
4 to all applicable rules promulgated by the commission.

5 (5) Notwithstanding section 1025(1), an outstate seller of
6 beer, an outstate seller of wine, a wine maker, a brewer, a micro
7 brewer, or a specially designated merchant, or an agent of any of
8 those persons, who does not hold a license allowing the consumption
9 of alcoholic liquor on the premises at the same licensed address,
10 may conduct beer and wine tastings on the licensed premises of a
11 specially designated merchant under the following conditions:

12 (a) A customer is not charged for the tasting of beer or wine.

13 (b) The tasting samples provided to a customer do not exceed 3
14 servings at up to 3 ounces per serving of beer or 3 servings at up
15 to 2 ounces of wine. A customer shall not be provided more than a
16 total of 3 samples of beer or wine within a 24-hour period per
17 licensed premises.

18 (c) The specially designated merchant, outstate seller of
19 beer, outstate seller of wine, wine maker, micro brewer, or brewer
20 has first obtained an annual beer and wine tasting permit approved
21 by the commission.

22 (d) The commission is notified, in writing, a minimum of 10
23 working days ~~prior to~~**BEFORE** the event, regarding the date, time,
24 and location of the event.

25 (6) During the time a beer or wine tasting is conducted under
26 subsection (5), **A** specially designated merchant, outstate seller of
27 beer, outstate seller of wine, wine maker, micro brewer, or brewer,

1 or its agent or employee who has successfully completed a server
2 training program as provided for in section 906, shall devote full
3 time to the beer and wine tasting activity and shall perform no
4 other duties, including the sale of alcoholic liquor for
5 consumption off the licensed premises. Beer and wine used for the
6 tasting must come from the specially designated merchant's
7 inventory, and all open bottles must be removed from the premises
8 on the same business day or resealed and stored in a locked,
9 separate storage compartment on the licensed premises when not
10 being used for the activities allowed by the permit.

11 (7) A wholesaler ~~is prohibited from conducting or~~
12 ~~participating~~ **SHALL NOT CONDUCT OR PARTICIPATE** in beer and wine
13 tastings allowed by the ~~UNDER A~~ permit ~~created in~~ **ISSUED UNDER**
14 subsection (5).

15 (8) A beer and wine tasting under subsection (5) may only be
16 conducted during the legal hours for **THE** sale of alcoholic liquor
17 by the licensee.

18 (9) A brandy manufacturer or small distiller, with the prior
19 written approval of the commission, may conduct tastings of brandy
20 and spirits made by that brandy manufacturer or small distiller and
21 may sell the brandy and spirits made by that brandy manufacturer or
22 small distiller for consumption off the licensed premises at a
23 location other than the licensed premises where the brandy
24 manufacturer or small distiller is licensed to manufacture brandy
25 or spirits under the following conditions:

26 (a) The premises upon which the brandy and spirits tastings
27 occur conform to local and state sanitation requirements.

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

3 (c) The brandy and spirits tasting locations ~~shall be~~ **ARE**
4 considered licensed premises.

5 (d) ~~Brandy~~ **THE BRANDY** and spirits tasting ~~shall take~~ **TAKES**
6 place during the legal hours for ~~selling~~ **THE SALE OF** alcoholic
7 liquor by the licensee.

8 (e) The premises and the license comply with and are subject
9 to all applicable rules promulgated by the commission.

10 Sec. 603. (1) Except as provided in subsections (6) to (14)
11 and section 605, a ~~manufacturer, mixed spirit drink manufacturer,~~
12 **SUPPLIER**, warehouse, **OR** wholesaler, ~~, outstate seller of beer,~~
13 ~~outstate seller of wine, outstate seller of mixed spirit drink, or~~
14 ~~vendor of spirits~~ shall not have any **DIRECT OR INDIRECT** financial
15 interest, ~~, directly or indirectly,~~ in the establishment,
16 maintenance, operation, or promotion of the business of any other
17 vendor.

18 (2) Except as provided in subsections (6) to (14) and section
19 605, a ~~manufacturer, mixed spirit drink manufacturer,~~ **SUPPLIER**,
20 warehouse, **OR** wholesaler, ~~, outstate seller of beer, outstate~~
21 ~~seller of wine, outstate seller of mixed spirit drink, or vendor of~~
22 ~~spirits~~ or a stockholder of a ~~manufacturer, mixed spirit drink~~
23 ~~manufacturer,~~ **SUPPLIER**, warehouse, **OR** wholesaler, ~~, outstate seller~~
24 ~~of beer, outstate seller of wine, outstate seller of mixed spirit~~
25 ~~drink, or vendor of spirits~~ shall not have an **ANY DIRECT OR**
26 **INDIRECT** interest by ownership in fee, leasehold, mortgage, or
27 otherwise, ~~, directly or indirectly,~~ in the establishment,

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

3 (3) Except as provided in subsections (6) to (14) and section
4 605, a ~~manufacturer, mixed spirit drink manufacturer, SUPPLIER,~~
5 ~~warehouser, OR wholesaler, outstate seller of beer, outstate~~
6 ~~seller of wine, outstate seller of mixed spirit drink, or vendor of~~
7 ~~spirits~~ shall not have an **ANY DIRECT OR INDIRECT** interest ~~directly~~
8 ~~or indirectly~~ by interlocking directors in a corporation or by
9 interlocking stock ownership in a corporation in the establishment,
10 maintenance, operation, or promotion of the business of any other
11 vendor.

12 (4) Except as provided in subsections (6) to (14) and section
13 605, a person shall not buy the stocks of a ~~manufacturer, mixed~~
14 ~~spirit drink manufacturer, SUPPLIER,~~ warehouser, **OR** wholesaler, ~~outstate~~
15 ~~seller of beer, outstate seller of wine, outstate seller~~
16 ~~of mixed spirit drink, or vendor of spirits~~ and place the stock in
17 any portfolio under an arrangement, written trust agreement, or
18 form of investment trust agreement, ~~and~~ issue participating shares
19 based upon the portfolio, trust agreement, or investment trust
20 agreement, and sell the participating shares within this state.

21 (5) The commission may approve a brandy manufacturer or small
22 distiller to sell brandy and spirits made by that brandy
23 manufacturer or small distiller in a restaurant for consumption on
24 or off the premises if the restaurant is owned by the brandy
25 manufacturer or small distiller or operated by another person under
26 an agreement approved by the commission and is located on premises
27 where the brandy manufacturer or small distiller is licensed.

1 Brandy and spirits sold for consumption off the premises under this
2 subsection shall be sold at the uniform price established by the
3 commission.

4 (6) The commission shall allow a small distiller to sell
5 brands of spirits it manufactures for consumption on the licensed
6 premises at that distillery.

7 (7) A brewpub may have an interest in up to 2 other brewpubs
8 ~~so long as~~ **IF** the combined production of all the locations in which
9 the brewpub has an interest does not exceed 5,000 barrels of beer
10 per calendar year.

11 (8) This section does not prohibit a supplier from having any
12 **DIRECT OR INDIRECT** interest, ~~directly or indirectly,~~ in any other
13 supplier.

14 (9) The commission may approve the following ~~pursuant to~~ **UNDER**
15 R 436.1023(3) of the Michigan administrative code, subject to the
16 written approval of the United States department of treasury,
17 bureau of alcohol and tobacco tax and trade:

18 (a) A wine maker participating with 1 or more wine makers in
19 an alternating proprietor operation in accordance with 27 CFR ~~part~~
20 ~~24, subpart D, section 24.136.~~

21 (b) A brewer participating with 1 or more brewers in an
22 alternating proprietor operation in accordance with 27 CFR ~~part 25,~~
23 ~~subpart F, section 25.52.~~

24 (10) A manufacturer ~~is prohibited from having~~ **SHALL NOT HAVE**
25 any **DIRECT OR INDIRECT** interest, ~~directly or indirectly,~~ in a
26 wholesaler.

27 (11) A wine maker ~~is prohibited from~~ **SHALL NOT** collectively

1 ~~delivering~~ **DELIVER** wine, with any other wine maker, to retail
2 licensees.

3 (12) Except in the case of a licensed warehouser, all
4 licensees in this state shall be separated into 3 distinct and
5 independent tiers composed of the following:

6 (a) Supplier tier, comprising ~~manufacturers and~~ suppliers.

7 (b) Wholesaler tier, comprising wholesalers.

8 (c) Retailer tier, comprising retailers.

9 (13) ~~Beginning~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**
10 **(14)**, **BEGINNING** April 30, 2011, the commission shall not allow any
11 of the following:

12 (a) A retailer to hold, directly or indirectly, a license in
13 the wholesaler or supplier tier.

14 (b) A wholesaler to hold, directly or indirectly, a license in
15 the retailer or supplier tier.

16 (c) A supplier to hold, directly or indirectly, a license in
17 the wholesaler or retailer tier.

18 (14) Subsection (13) shall not be interpreted in a manner that
19 would prohibit a class C, tavern, class A hotel, or class B hotel
20 licensee from receiving a brewpub license or that would prohibit a
21 micro brewer or brewer ~~producing less than 200,000 barrels per year~~
22 from having an on-site restaurant.

23 (15) As used in this section:

24 (a) "Manufacturer" means, notwithstanding section 109(1), a
25 wine maker, small wine maker, brewer, micro brewer, manufacturer of
26 spirits, distiller, small distiller, brandy manufacturer, mixed
27 spirit drink manufacturer, direct shipper, or a person licensed by

1 the commission to perform substantially similar functions.

2 (b) "Supplier" means a manufacturer, mixed spirit drink
3 manufacturer, outstate seller of beer, outstate seller of wine,
4 outstate seller of mixed spirit drink, and vendor of spirits or a
5 person licensed by the commission to perform substantially similar
6 functions but ~~shall~~**DOES** not include a master distributor.