

HOUSE BILL NO. 6093

November 13, 2024, Introduced by Reps. Glanville, Fitzgerald, Skaggs, Rheingans, Steckloff, Weiss, McFall, Hill, O'Neal and Brenda Carter 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 105 and 603 (MCL 436.1105 and 436.1603), as amended by 2022 PA 226.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 (2) "Alcohol vapor device" means any device that provides for
2 the use of air or oxygen bubbled through alcoholic liquor to
3 produce a vapor or mist that allows the user to inhale this
4 alcoholic vapor through the mouth or nose.

5 (3) "Alcoholic liquor" means any spirituous, vinous, malt, or
6 fermented liquor, powder, liquids, and compounds, whether or not
7 medicated, proprietary, **or** patented, and by whatever name called,
8 containing 1/2 of 1% or more of alcohol by volume that are fit for
9 use for food purposes or beverage purposes as defined and
10 classified by the commission according to alcoholic content as
11 belonging to 1 of the varieties defined in this chapter.

12 (4) "Alternating proprietorship" means 1 of the following:

13 (a) An arrangement in which 2 or more wine makers or small
14 wine makers take turns using the same space and equipment to
15 manufacture wine under section 603(9)(a) and in accordance with 27
16 CFR 24.136.

17 (b) An arrangement in which 2 or more brewers or micro brewers
18 take turns using the same space and equipment to manufacture beer
19 under section 603(9)(b) and in accordance with 27 CFR 25.52.

20 **(c) An arrangement in which 2 or more distillers or small**
21 **distillers take turns using the same space and equipment to**
22 **manufacture spirits under section 603(9)(c) and in accordance with**
23 **27 CFR 19.141.**

24 **(d) An arrangement in which 2 or more mixed spirit**
25 **manufacturers take turns using the same space and equipment to**
26 **manufacture mixed spirit drinks under section 603(9)(d) and in**
27 **accordance with 27 CFR 19.141.**

28 (5) "Approved tasting room" means a tasting room that is
29 approved by the commission. A licensee with an approved tasting

1 room is not a retail licensee as that term is used in this act and
2 the rules promulgated under this act except for sections 701, 801,
3 803, 815, 905, and 906.

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

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

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

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

13 (7) "Bar" means a barrier or counter at which alcoholic liquor
14 is sold to, served to, or consumed by customers.

15 (8) "Beer" means a beverage obtained by alcoholic fermentation
16 of an infusion or decoction of barley, malt, hops, sugar, or other
17 cereal in potable water.

18 (9) "Bottle" or "bottling" means a process, separate from
19 manufacturing, using owned or leased equipment to fill and seal a
20 container, including a keg, with alcoholic liquor for sale at
21 wholesale or retail in accordance with this act. Bottle or bottling
22 does not include filling a growler for sale at retail.

23 (10) "Brand" means any word, name, group of letters, symbol,
24 trademark, or combination, ~~thereof~~ **or any word, name, group of**
25 **letters, symbol, trademark** adopted and used by a supplier to
26 identify a specific beer, malt beverage, wine, mixed wine drink, or
27 mixed spirit drink product and to distinguish that product from
28 another beer, malt beverage, wine, mixed wine drink, or mixed
29 spirit drink product that is produced or marketed by that or

1 another supplier. As used in this subsection, "supplier" means a
2 brewer, micro brewer, an outstate seller of beer, a wine maker, a
3 small wine maker, an outstate seller of wine, a manufacturer of
4 mixed wine drink, an outstate seller of a mixed wine drink, a mixed
5 spirit drink manufacturer, or an outstate seller of mixed spirit
6 drink.

7 (11) "Brand extension" means any brand that incorporates all
8 or a substantial part of the unique features of a preexisting
9 brand, regardless of whether the extension is beer, wine, mixed
10 wine drink, or mixed spirit drink.

11 (12) "Brandy" means an alcoholic liquor as defined in 27 CFR
12 5.22(d).

13 (13) "Brandy manufacturer" means a wine maker or a small wine
14 maker licensed under this act to manufacture brandy. A wine maker
15 or small wine maker authorized to manufacture brandy shall not
16 manufacture any other spirits. The commission may approve a brandy
17 manufacturer to sell brandy that it manufactures at retail in
18 accordance with section 537.

19 (14) "Brewer" means a person located in this state that is
20 licensed to manufacture beer and sell at retail in accordance with
21 section 537 and to licensed wholesalers beer manufactured by the
22 person.

23 (15) "Brewpub" means a license issued in conjunction with a
24 class C, tavern, class A hotel, or class B hotel license that
25 authorizes the person licensed with the class C, tavern, class A
26 hotel, or class B hotel **license** to manufacture and brew not more
27 than 18,000 barrels of beer per calendar year in this state and
28 sell at its licensed premises the beer produced for consumption on
29 or off the licensed brewery premises in the manner provided for in

1 sections 405, 407, and 537.

2 Sec. 603. (1) Except as provided in subsections (5) to (9),
3 subsections (14) to (16), and section 605, a supplier, warehouser,
4 or wholesaler shall not have any direct or indirect financial
5 interest in the establishment, maintenance, operation, or promotion
6 of the business of any other vendor.

7 (2) Except as provided in subsections (5) to (9), subsections
8 (14) to (16), and section 605, a supplier, warehouser, or
9 wholesaler or a stockholder of a supplier, warehouser, or
10 wholesaler shall not have any direct or indirect interest by
11 ownership in fee, leasehold, mortgage, or otherwise in the
12 establishment, maintenance, operation, or promotion of the business
13 of any other vendor.

14 (3) Except as provided in subsections (5) to (9), subsections
15 (14) to (16), and section 605, a supplier, warehouser, or
16 wholesaler shall not have any direct or indirect interest by
17 interlocking directors in a corporation or by interlocking stock
18 ownership in a corporation in the establishment, maintenance,
19 operation, or promotion of the business of any other vendor.

20 (4) Except as provided in subsections (5) to (9), subsections
21 (14) to (16), and section 605, a person shall not buy the stocks of
22 a supplier, warehouser, or wholesaler and place the stock in any
23 portfolio under an arrangement, written trust agreement, or form of
24 investment trust agreement, issue participating shares based on the
25 portfolio, trust agreement, or investment trust agreement, and sell
26 the participating shares within this state.

27 (5) The commission may approve a brandy manufacturer or small
28 distiller to sell brandy and spirits made by that brandy
29 manufacturer or small distiller in a restaurant for consumption on

1 or off the premises if the restaurant is owned by the brandy
2 manufacturer or small distiller or operated by another person under
3 an agreement approved by the commission and is located on premises
4 where the brandy manufacturer or small distiller is licensed.
5 Brandy and spirits sold for consumption off the premises under this
6 subsection must be sold at the uniform price established by the
7 commission.

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

11 (7) A brewpub may have an interest in up to 5 other brewpubs
12 if the combined production of all the locations in which the
13 brewpub has an interest does not exceed 18,000 barrels of beer per
14 calendar year.

15 (8) This section does not prohibit a supplier from having any
16 direct or indirect interest in any other supplier.

17 (9) The commission may approve the following under R
18 436.1023(3) of the Michigan Administrative Code, subject to the
19 written approval of the United States Department of Treasury
20 Alcohol and Tobacco Tax and Trade Bureau:

21 (a) A wine maker participating with 1 or more wine makers in
22 an alternating proprietor operation in accordance with 27 CFR
23 24.136.

24 (b) A brewer participating with 1 or more brewers in an
25 alternating proprietor operation in accordance with 27 CFR 25.52.

26 **(c) A distiller or small distiller participating with 1 or**
27 **more distillers or small distillers in an alternating proprietor**
28 **operation in accordance with 27 CFR 19.141.**

29 **(d) A mixed spirit manufacturer participating with 1 or more**

1 mixed spirit manufacturers in an alternating proprietor operation
2 in accordance with 27 CFR 19.141.

3 (10) A manufacturer shall not have any direct or indirect
4 interest in a wholesaler.

5 (11) A wine maker shall not collectively deliver wine, with
6 any other wine maker, to retailers.

7 (12) Except for a warehouser, all licensees in this state must
8 be separated into 3 distinct and independent tiers composed of the
9 following:

10 (a) Supplier tier, comprising suppliers.

11 (b) Wholesaler tier, comprising wholesalers.

12 (c) Retailer tier, comprising retailers.

13 (13) Except as otherwise provided in subsection (14), the
14 commission shall not allow any of the following:

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

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

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

21 (14) Subsection (13) does not prohibit a class C, tavern,
22 class A hotel, or class B hotel licensee from receiving a brewpub
23 license or a micro brewer or brewer from having an on-site
24 restaurant.

25 (15) A person licensed in the supplier tier may manufacture a
26 private label of beer, wine, or mixed spirit drink for a retailer
27 if the commission determines that all the following requirements
28 are met:

29 (a) The supplier registers the private label with the

1 commission as required under R 436.1611, R 436.1719, and R 436.1829
2 of the Michigan Administrative Code.

3 (b) The supplier, independent of the retailer's involvement,
4 appoints 1 or more wholesalers to distribute the private label as
5 required under section 307 or 401, as applicable. However, if the
6 supplier is a micro brewer, the supplier may distribute the private
7 label in accordance with section 203a.

8 (c) The supplier complies with and does not violate section
9 305 or 403, as applicable.

10 (d) The wholesaler engages in commercially reasonable efforts
11 to make the private label available to a retailer that places an
12 order for the private label beer, wine, or mixed spirit drink.

13 (e) An appointed wholesaler remains the wholesaler for the
14 private label and any brand extensions of the private label
15 regardless of whether the retailer switches the supplier that
16 manufactures the private label, unless the wholesaler is terminated
17 under section 305 or 403, as applicable.

18 (16) The commission shall not issue a wholesaler license to a
19 producer of nonalcoholic beverages or an entity that the producer
20 of nonalcoholic beverages has a direct or indirect ownership or
21 financial interest in, if the producer of nonalcoholic beverages or
22 the entity the producer of nonalcoholic beverages has a direct or
23 indirect ownership or financial interest in has a direct or
24 indirect ownership or financial interest in a person licensed in
25 the supplier tier.

26 (17) As used in this section:

27 (a) "Manufacturer" means, notwithstanding section 109(2), a
28 wine maker, small wine maker, brewer, micro brewer, manufacturer of
29 spirits, distiller, small distiller, brandy manufacturer, mixed

1 spirit drink manufacturer, direct shipper, ~~a~~-licensee with an
2 approved tasting room, or ~~a~~-person licensed by the commission to
3 perform substantially similar functions.

4 (b) "Private label" means a brand of beer, wine, or mixed
5 spirit drink that is manufactured by a supplier on behalf of a
6 retailer using the retailer's recipe or intellectual property.

7 (c) "Supplier" means a manufacturer, mixed spirit drink
8 manufacturer, outstate seller of beer, outstate seller of wine,
9 outstate seller of mixed spirit drink, ~~and~~**or** vendor of spirits or
10 a person licensed by the commission to perform substantially
11 similar functions, but does not include a master distributor.