

**SUBSTITUTE FOR
SENATE BILL NO. 512**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 303, 526, 607, 609b, 903b, and 1025 (MCL
436.1303, 436.1526, 436.1607, 436.1609b, 436.1903b, and 436.2025),
section 303 as amended by 2018 PA 154, section 526 as amended by
2020 PA 111, section 607 as amended by 2018 PA 417, section 609b as
added by 2016 PA 81, section 903b as added by 2016 PA 434, and
section 1025 as amended by 2019 PA 131, and by adding sections 412,
609k, and 804.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The grape and wine industry council created
2 under Executive Reorganization Order No. 2014-2, MCL 333.26253,
3 shall be housed within the department of agriculture and rural

development. Beginning ~~on the effective date of the 2018 amendatory~~
~~act that amended this section,~~ **October 1, 2018,** the council shall
 be known as the Michigan craft beverage council and shall consist
 of the following members:

(a) As a nonvoting member, the director of the department of
 agriculture and rural development or ~~his or her~~ **the director's**
 designee **and the commission's business manager or the business**
manager's designee.

(b) Subject to subsection (2), the following voting members,
 appointed by the governor:

(i) A representative of retail food establishments that hold a
 specially designated merchant license and sell Michigan wines or
 beer.

(ii) A representative of restaurants that hold a class C
 license and serve Michigan wines, beer, or spirits.

(iii) Two representatives of wine makers.

(iv) A representative of wine makers that primarily manufacture
 cider.

(v) A representative of ~~large brewers~~ **a brewer or micro**
brewer.

(vi) One of the following:

(A) A representative of micro brewers.

(B) A representative of brewpub license holders.

(vii) A representative of small distillers.

(viii) A representative of distillers that manufacture more than
 60,000 gallons of spirits per year.

(2) The following apply to a member of the council appointed
 under subsection (1)(b):

(a) The member's principal place of business must be located

1 in this state.

2 (b) The member must not be a lobbyist or a lobbyist agent as
3 those terms are defined in section 5 of 1978 PA 472, MCL 4.415.

4 (3) Voting members of the council appointed by the governor
5 under subsection (1) shall serve for terms of 3 years or until a
6 successor is appointed, whichever is later, except that of the
7 voting members first appointed, 3 shall serve for 1 year, 3 shall
8 serve for 2 years, and 3 shall serve for 3 years. A voting member
9 shall not serve more than 2 consecutive terms. A vacancy on the
10 board shall be filled in the same manner as the original
11 appointment. The director of the department of agriculture and
12 rural development is the chairperson of the council.

13 (4) The council may employ personnel and incur expenses that
14 are necessary to carry out the responsibilities of the council
15 under this act. A member of the council or an employee or agent of
16 the council is not personally liable on the contracts of the
17 council.

18 (5) A nongovernmental member of the council may receive \$50.00
19 per day for each day spent in actual attendance at meetings of the
20 council and traveling expenses while on council business in
21 accordance with standard travel regulations of the department of
22 technology, management, and budget.

23 (6) The council shall maintain accurate books and records, and
24 all money received by the council shall be used to implement and
25 enforce this section. The council may accept money from any source
26 for the purpose of carrying out this section. All money received by
27 the council shall be forwarded to the state treasurer for deposit
28 into the Michigan craft beverage council fund created in section
29 303a.

1 (7) Subject to an appropriation, the council shall direct the
2 department of agriculture and rural development to award grants for
3 the following:

4 (a) Research into both of the following:

5 (i) Fruits used in winemaking and wines, including, but not
6 limited to, methods of planting, growing, controlling insects and
7 diseases, charting microclimates and locations for growing
8 desirable varieties of fruits used in winemaking and wines,
9 marketing, processing, distribution, advertising, sales production,
10 and product development.

11 (ii) Hops, barley, beer, and spirits, including, but not
12 limited to, methods of planting, growing, controlling insects and
13 diseases, marketing, processing, distribution, advertising, sales
14 production, and product development.

15 (b) Projects that do 1 or more of the following:

16 (i) Provide the wine industry, including growers, wineries,
17 distributors, and retailers, with information relative to proper
18 methods of handling and selling fruits used in winemaking and
19 wines.

20 (ii) Provide the brewing and distilling industries, including
21 growers, brewers, distillers, distributors, and retailers, with
22 information relative to proper methods of handling and selling
23 hops, barley, beer, spirits, and mixed spirit drinks.

24 (iii) Provide for market surveys and analyses for purposes of
25 expanding existing markets and creating new and larger markets for
26 Michigan agricultural products such as fruits, hops, and barley,
27 that are used in the production of wine, cider, beer, spirits, and
28 mixed spirit drinks.

29 (iv) Provide for the promotion of the sale of Michigan

1 agricultural products such as fruits, hops, and barley, that are
2 used in the production of wine, cider, beer, spirits, and mixed
3 spirit drinks for the purpose of maintaining or expanding present
4 markets and creating new and larger domestic and foreign markets.

5 (v) Develop and administer financial aid programs to growers
6 of fruits used in winemaking to encourage the increased planting in
7 this state of desirable fruit varieties in microclimates determined
8 to provide the best conditions for producing quality wines.

9 (vi) Develop and administer financial aid programs to hops
10 growers to encourage increased planting in this state of desirable
11 hops varieties in microclimates determined to provide the best
12 conditions for producing quality beer.

13 (vii) Develop and administer financial aid programs to barley
14 growers to encourage increased planting in this state of desirable
15 barley varieties in microclimates determined to provide the best
16 conditions for producing quality beer.

17 (viii) Establish educational partnerships to benefit the beer,
18 wine, cider, spirits, and mixed spirit drink industries.

19 (8) The department of agriculture and rural development shall
20 administer the grants awarded under subsection (7).

21 (9) The council shall do all of the following:

22 (a) Apply for and accept grants or contributions from the
23 federal government or any of its agencies, the state, or other
24 public or private agencies to be used for any of the purposes of
25 this section and to do any and all things within its express or
26 implied powers necessary or desirable to secure that financial or
27 other aid or cooperation in the carrying out of any of the purposes
28 of this section.

29 (b) Invite the chief executive officer of the Michigan

1 economic development corporation or his or her designee to attend
2 at least 1 council meeting annually to inform the council about
3 partnership activities and opportunities related to the marketing
4 and promotion of Michigan agricultural products such as fruits,
5 hops, and barley, that are used in the production of wine, cider,
6 beer, spirits, and mixed spirit drinks.

7 (c) Invite the director of the department of licensing and
8 regulatory affairs to attend at least 1 council meeting annually to
9 inform the council about funding activities affecting the council.

10 (d) Prepare and adopt an annual budget.

11 (10) Based on the information provided to the council under
12 subsection (9)(b) and (c), the council may do either or both of the
13 following:

14 (a) Take actions that will enhance the marketing and promotion
15 of Michigan agricultural products, such as fruits, hops, and
16 barley, that are used in the production of wine, cider, beer,
17 spirits, and mixed spirit drinks.

18 (b) Annually review and adopt strategies for marketing and
19 promotion of Michigan agricultural products, such as fruits, hops,
20 and barley, that are used in the production of wine, cider, beer,
21 spirits, and mixed spirit drinks.

22 (11) The council may promulgate rules ~~pursuant to~~ **in**
23 **accordance with** the administrative procedures act of 1969, 1969 PA
24 306, MCL 24.201 to 24.328, for the purposes of implementing and
25 enforcing this section. However, the council shall not promulgate a
26 rule that conflicts with a rule promulgated by the commission under
27 section 215.

28 (12) Except as otherwise provided in this subsection, the
29 council shall not engage in lobbying. This subsection does not

1 prohibit the council or a council member or council employee from
2 providing technical information to the legislature or to the
3 department of agriculture and rural development, regardless of
4 whether the council, council member, or council employee is
5 appearing before an officially convened legislative committee or
6 department of agriculture and rural development hearing panel, if
7 the technical information is related to the council's duties under
8 this section.

9 (13) This section does not prevent the council from
10 establishing a commodity committee under the agriculture
11 commodities marketing act, 1965 PA 232, MCL 290.651 to 290.674.

12 (14) As used in this section:

13 (a) "Cider" means an alcoholic beverage made from the
14 fermentation of juice from primarily apples or pears, or both,
15 which contains not less than 1/2 of 1% and not more than 8.5% of
16 alcohol by volume. Cider may be still or carbonated and may contain
17 other fruits, spices, botanicals, or other flavors.

18 (b) "Council" means the Michigan craft beverage council
19 described in subsection (1).

20 ~~(c) "Large brewer" means a brewer that produces in total at~~
21 ~~least 60,000 barrels of beer and not more than 1,000,000 barrels of~~
22 ~~beer per year. In determining the barrel threshold under this~~
23 ~~subdivision, all brands and labels of a brewer, whether brewed in~~
24 ~~this state or outside this state, must be combined and all~~
25 ~~facilities for the production of beer that are owned or controlled~~
26 ~~by the same person are treated as a single facility.~~

27 (c) ~~(d)~~ "Lobbying" means that term as defined in section 5 of
28 1978 PA 472, MCL 4.415.

29 (d) ~~(e)~~ "Technical information" means that term as defined in

1 section 5 of 1978 PA 472, MCL 4.415.

2 **Sec. 412. (1) The legislature finds that the availability of**
3 **nonalcoholic beverages, including nonalcoholic beer at tasting**
4 **rooms, promotes public health and safety when done through a**
5 **regulated structure that minimizes minor access to nonalcoholic**
6 **beer.**

7 **(2) The legislature further finds that the 3-tier distribution**
8 **system remains the most effective balance of increasing competition**
9 **and variety and access to market against public health and safety.**
10 **The ability of a wholesaler to sell nonalcoholic products to a**
11 **brewer operating a tasting room under this section must not be used**
12 **to undermine the 3-tier distribution system.**

13 **(3) Notwithstanding anything in this act to the contrary, a**
14 **wholesaler may sell beer as defined in section 105(8) (b) to a**
15 **brewer or micro brewer to sell at the brewer's or micro brewer's**
16 **approved tasting room for consumption on or off the licensed**
17 **premises.**

18 **(4) A brewer or micro brewer that purchases beer as defined in**
19 **section 105(8) (b) under subsection (3) shall not do either of the**
20 **following:**

21 **(a) Sell or transfer the beer to another licensee.**

22 **(b) If the micro brewer or the brewer has multiple licensed**
23 **locations with approved tasting rooms, transfer the beer to any of**
24 **the brewer's or micro brewer's licensed locations.**

25 **Sec. 526. (1) The commission may issue a special license under**
26 **this section to an organization conducting a beer festival. The**
27 **application must conform to the following:**

28 **(a) Be submitted by a nonprofit entity composed primarily of**
29 **brewers, micro brewers, and brewpubs, as determined by the**

1 commission.

2 (b) Involve an event having for its primary purpose the
3 showcasing of beer and its production.

4 (c) Be accompanied by a fee of \$25.00 per day of the event.

5 (2) The special license must not allow more than 6 events per
6 calendar year conforming to the requirements of subsection (1). For
7 purposes of this subsection, a beer festival that spans 2 or more
8 consecutive days is considered 1 event.

9 (3) A holder of a special license issued under this section
10 may buy a quantity of beer directly from any licensed brewpub or
11 wholesaler or directly from a micro brewer eligible to self-
12 distribute to the beer festival for consumption only at the
13 licensed event.

14 (4) ~~Beer~~ **Notwithstanding anything in this act to the contrary,**
15 **beer** that is dispensed to consumers for showcasing beer at a beer
16 festival is considered a sample. A holder of a special license
17 issued under this section may offer beer described in this
18 subsection without consideration.

19 (5) A member, who is 18 years of age or older, of an
20 organization that holds a special license issued under this section
21 may serve beer at the event.

22 (6) As used in this section and section 413, "beer festival"
23 means an event at which the various types and kinds of beer and the
24 production of that beer are showcased to the general public and at
25 which the general public can purchase and sample the beer being
26 showcased for consumption on the licensed premises.

27 Sec. 607. (1) Except as provided in section 536(7)(h), a
28 warehouser, mixed spirit drink manufacturer, wholesaler, outstate
29 seller of beer, outstate seller of wine, outstate seller of mixed

1 spirit drink, or vendor of spirits ~~shall~~**must** not be licensed as a
 2 specially designated merchant or a specially designated
 3 distributor. A person licensed as a small distiller is not
 4 considered to be a specially designated distributor. Beginning
 5 December 23, 2007 and in addition to the persons described in this
 6 subsection, a wine maker and a small wine maker ~~shall~~**must** also not
 7 be licensed as a specially designated merchant or a specially
 8 designated distributor. Any wine maker or small wine maker holding
 9 a specially designated merchant or specially designated distributor
 10 license on December 23, 2007 may continue to hold a specially
 11 designated merchant or specially designated distributor license.

12 (2) A specially designated distributor or specially designated
 13 merchant or any other retailer shall not hold a mixed spirit drink
 14 manufacturer, wholesale, warehouse, outstate seller of beer,
 15 outstate seller of mixed spirit drink, or outstate seller of wine
 16 license. Beginning December 23, 2007, a specially designated
 17 distributor or specially designated merchant shall not hold a wine
 18 maker or small wine maker license in addition to being prohibited
 19 from holding any other license described in this subsection. Any
 20 specially designated distributor or specially designated merchant
 21 holding a wine maker or small wine maker license on December 23,
 22 2007 may continue to hold a wine maker or small wine maker license.

23 (3) A brewer, warehouser, or wholesaler ~~shall~~**must** not be
 24 licensed as a specially designated merchant. This subsection does
 25 not affect the operation of a brewery hospitality room.

26 (4) A wholesaler may sell or deliver beer, **wine, mixed wine**
 27 **drink**, and ~~alcoholic liquor~~**mixed spirit drink** to hospitals; ~~;~~
 28 military establishments; ~~;~~ governments of federal Indian
 29 reservations; ~~;~~ **a border store or airport store as defined in 19**

1 **USC 1555(b) (8) ; a trade association exempt from taxation under**
2 **section 501(c) (6) of the internal revenue code of 1986, 26 USC 501,**
3 **whose members are licensed under this act and where the beer, wine,**
4 **mixed wine drink, or mixed spirit drink is for on-premises**
5 **consumption and not for resale;** and churches requiring sacramental
6 wines and may sell to the wholesaler's own employees to a limit of
7 2 cases of 24 12-ounce units or its equivalent of malt beverage per
8 week, or 1 case of 12 1-liter units or its equivalent of wine,
9 **mixed wine drink, or mixed spirit drink per week.**

10 Sec. 609b. (1) A vendor representative and salesperson of a
11 vendor of spirits, **a manufacturer of beer, a manufacturer of wine,**
12 **a mixed spirit drink manufacturer, an** outstate seller of beer, **an**
13 outstate seller of wine, **an outstate seller of mixed spirit drink,**
14 or **a** wholesaler shall maintain accurate records of expenditures for
15 each call on a retail licensee. The records must be maintained for
16 4 years and must be made available for commission inspection.

17 (2) A vendor representative or salesperson of spirits or wine,
18 for promotional purposes, may purchase 1 drink for each customer of
19 an on-premises licensee. A drink purchased under this subsection
20 must be of the brand represented by the vendor representative or
21 salesperson.

22 (3) A vendor representative or salesperson of a manufacturer
23 of beer, **a mixed spirit drink manufacturer, a wholesaler of beer or**
24 **mixed wine drink, an outstate seller of mixed spirit drink,** or an
25 outstate seller of beer, for promotional purposes, may purchase 1
26 drink for each customer of an on-premises retail licensee subject
27 to a total spending limit of \$100.00 per day. A drink purchased
28 under this subsection must be of the brand represented by the
29 vendor representative or salesperson.

1 (4) A vendor representative or salesperson of a manufacturer
2 of beer, **a mixed spirit drink manufacturer**, a wholesaler of beer **or**
3 **mixed wine drink, an outstate seller of mixed spirit drink**, or an
4 outstate seller of beer shall not purchase a drink under subsection
5 (3) more than twice per month at the same on-premises retail
6 licensed location.

7 (5) A licensee employed to deliver alcoholic liquor shall not
8 purchase a drink of alcoholic liquor for a retail licensee while on
9 duty or in the course of employment.

10 **Sec. 609k. (1) Notwithstanding section 609, a vendor may**
11 **provide a philanthropic gift or sponsorship payment to a 2- or 4-**
12 **year college or university located in this state that holds a**
13 **retail license if the following conditions are met:**

14 (a) The gift does not include alcoholic liquor.

15 (b) The gift or sponsorship payment is not contingent on the
16 purchase of alcoholic liquor by the governing body of the 2- or 4-
17 year college or university located in this state that is a
18 retailer.

19 (c) The gift or sponsorship payment is not contingent on the
20 sale of alcoholic liquor at the site at which a retail license is
21 held by the governing body of the 2- or 4-year college or
22 university located in this state the governing body of which is
23 issued a retail license.

24 (2) A vendor may provide signs that promote the brands and
25 prices of alcoholic liquor for use on the licensed premises of a
26 retail license issued to the governing body of a 2- or 4-year
27 college or university located in this state. All of the following
28 apply to a sign allowed under this subsection:

29 (a) The sign must not be illuminated.

1 (b) The sign must not have any use beyond the actual
2 advertising of brands and prices related to the alcoholic liquor.

3 (c) For a sign that is located inside the retailer's licensed
4 premises, the sign must not be more than 3,500 square inches in
5 dimension.

6 (d) Notwithstanding anything in this act to the contrary, the
7 signs allowed under this subsection may include the name or logo of
8 the 2- or 4-year college or university located in this state that
9 holds a retail license.

10 (3) Notwithstanding subsection (2), a sports or entertainment
11 venue for which a retail license has been issued to the governing
12 body of a public university under section 531(8) may contain
13 illuminated advertising signs that have a total area of more than
14 3,5000 square inches. Any of the following entities may provide and
15 install illuminated advertising signs and advertising signs that
16 have a total area of more than 3,500 square inches per sign:

17 (a) A brewer.

18 (b) A micro brewer.

19 (c) A wine maker.

20 (d) A small wine maker.

21 (e) An outstate seller of beer.

22 (f) An outstate seller of wine.

23 (g) An outstate seller of mixed spirit drink.

24 (h) A manufacturer of spirits.

25 (i) A manufacturer of mixed spirit drink.

26 (j) A vendor of spirits.

27 (k) An outstate self-distributor.

28 (4) Notwithstanding anything in this act to the contrary, a
29 vendor may sell alcoholic liquor that includes on the container or

1 packaging of the alcoholic liquor the name or logo of a 2- or 4-
2 year college or university located in this state that holds a
3 retailer license.

4 (5) Notwithstanding anything in this act to the contrary, a
5 vendor may provide signs that promote the brands and prices of
6 alcoholic liquor authorized under section 610a and advertising
7 items authorized under section 609 to a retailer if the retailer is
8 a 2- or 4-year college or university located in this state that
9 include the name or logo of a 2- or 4-year college or university
10 located in this state.

11 (6) As used in this section, "sports or entertainment venue"
12 means the public area of a facility on university property
13 described in section 531(8).

14 Sec. 804. The commission shall suspend the license of a
15 retailer for 14 days if the retailer has made 6 or more payments to
16 a wholesaler that have been dishonored by a financial institution
17 in violation of section 903b on different dates in 12 consecutive
18 months.

19 Sec. 903b. (1) A retailer violates this act if the retailer or
20 the retailer's clerk, servant, agent, or employee makes a payment
21 to a wholesaler ~~, the commission, or this state~~ by any means that
22 has been dishonored by a financial institution for ~~lack of~~
23 ~~sufficient funds.~~ any reason.

24 (2) A wholesaler shall require a retailer that has made a
25 payment to the wholesaler that has been dishonored by a financial
26 institution to pay the wholesaler an administrative fee as follows:

27 (a) For the first dishonored payment, \$50.00.

28 (b) For a second dishonored payment within 12 months of the
29 first dishonored payment, \$100.00.

1 (c) For a third dishonored payment within 12 months of the
2 first dishonored payment, \$150.00.

3 (d) For a fourth dishonored payment within 12 months of the
4 first dishonored payment, \$200.00.

5 (e) For a fifth or any subsequent dishonored payment within 12
6 months of the first dishonored payment, \$250.00.

7 Sec. 1025. (1) Except as otherwise provided in subsection (3),
8 and subject to subsection (2), a vendor shall not give away any
9 alcoholic liquor of any kind or description at any time in
10 connection with ~~his or her~~ **the vendor's** business, except a vendor
11 that is a manufacturer for consumption on the premises only.

12 (2) Subsection (1) does not prevent any of the following:

13 (a) A vendor of spirits, brewer, mixed spirit drink
14 manufacturer, wine maker, small wine maker, outstate seller of
15 beer, outstate seller of wine, or outstate seller of mixed spirit
16 drink, or a bona fide market research organization retained by 1 of
17 the persons named in this subdivision, from conducting samplings or
18 tastings of an alcoholic liquor product before it is approved for
19 sale in this state, if the sampling or tasting is conducted
20 pursuant to prior written approval of the commission.

21 (b) A person from conducting any sampling or tasting
22 authorized by rule of the commission.

23 (c) The holder of a farmer's market permit from conducting a
24 tasting authorized under section 415.

25 (d) A person from conducting any sampling or tasting
26 authorized under section 537.

27 (e) A retailer licensed for consumption on the premises from
28 conducting a sampling authorized under section 1027(2).

29 (f) A person from conducting a sampling at a consumer sampling

1 event authorized under section 1027(4) and (5).

2 (g) A class A or B hotel designed to attract and accommodate
3 tourists and visitors in a resort area from giving away alcoholic
4 liquor to an invitee or guest in connection with a business event
5 or as a part of a room special or promotion for overnight
6 accommodations.

7 (3) A wholesaler or manufacturer may give samples of beer or
8 wine to an employee of the wholesaler if all of the following
9 conditions are met:

10 (a) The sampling is for the purpose of educating the employee
11 regarding the beer or wine.

12 (b) The employee is at least 21 years of age.

13 (c) The sampling takes place on the licensed premises of the
14 wholesaler.

15 **(4) A micro brewer or a brewer may give samples of beer to an**
16 **employee of another brewer or micro brewer if all of the following**
17 **conditions are met:**

18 **(a) The sampling is for the purpose of research or of**
19 **educating the employee regarding the beer.**

20 **(b) The employee is at least 21 years of age.**

21 **(c) The sampling takes place on the licensed premises of the**
22 **other micro brewer or the other brewer.**

23 **(5) ~~(4)~~**A vendor shall not sell an alcoholic liquor to an
24 individual in an intoxicated condition.

25 **(6) ~~(5)~~**Evidence of any breathalyzer or blood alcohol test
26 results obtained in a licensed establishment, or on property
27 adjacent to the licensed premises and under the control or
28 ownership of the licensee, is not admissible to prove a violation
29 of this section, section 707(1), (2), (3), or (4), or section

1 801(1). To establish a violation of this section, section 707(1),
2 (2), (3), or (4), or section 801(1), the individual's intoxicated
3 condition at the time of the sale or consumption of alcohol must be
4 proven by direct observation by law enforcement or commission
5 enforcement personnel or through other admissible witness
6 statements or corroborating evidence obtained as part of the
7 standard investigation other than breathalyzer or blood alcohol
8 test results.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No. 513 of the 103rd Legislature is enacted into
11 law.