

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4454**

A bill 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 provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to

provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER 1

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Sec. 101. This act shall be known and may be cited as the

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"Michigan liquor control code of 1998".

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Sec. 103. For the purposes of this act, the words and

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phrases defined in this chapter have the meanings ascribed to

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them in this chapter, unless the context requires otherwise.

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Sec. 105. (1) "Alcohol" means the product of distillation

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of fermented liquid, whether or not rectified or diluted with

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water, but does not mean ethyl or industrial alcohol, diluted or

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not, that has been denatured or otherwise rendered unfit for bev-

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erage purposes.

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(2) "Alcoholic liquor" means any spirituous, vinous, malt,

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or fermented liquor, liquids and compounds, whether or not medi-

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cated, proprietary, patented, and by whatever name called, con-

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taining 1/2 of 1% or more of alcohol by volume which are fit for

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use for beverage purposes as defined and classified by the com-

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mission according to alcoholic content as belonging to 1 of the

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varieties defined in this chapter.

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

3 (a) To store spirits owned by a supplier of spirits or the
4 commission.

5 (b) To deliver spirits sold by the commission to retail
6 licensees.

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

10 (4) "Bar" means a barrier or counter at which alcoholic
11 liquor is sold to, served to, or consumed by customers.

12 (5) "Beer" means any beverage obtained by alcoholic fermen-
13 tation of an infusion or decoction of barley, malt, hops, or
14 other cereal in potable water.

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

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

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

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

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

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

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1 on or off the licensed brewery premises in the manner provided
2 for in sections 405 and 407.

3 Sec. 107. (1) "Cash" means money in hand, bank notes,
4 demand deposits at a bank, or legal tender, which a creditor must
5 accept according to law. Cash does not include call loans, post-
6 dated checks, or promissory notes.

7 (2) "Class C license" means a place licensed to sell at
8 retail beer, wine, mixed spirit drink, and spirits for consump-
9 tion on the premises.

10 (3) "Club" means an association, whether incorporated or
11 unincorporated, the majority of whose members are citizens for
12 the promotion of some common object not including associations
13 organized for a commercial or business purpose, the object of
14 which is money profit, owning, hiring, or leasing a building, or
15 space in a building, of an extent and character as in the judg-
16 ment of the commission may be suitable and adequate for the rea-
17 sonable and comfortable use and accommodation of its members and
18 their guests, and which shall have been in existence for a period
19 of not less than 2 years before application for license under
20 this act. A club that is a chapter of a national organization
21 which has had a license for 10 years may apply for a license
22 without a waiting period. Public notice of the intent of the
23 commission to issue the club license shall be given by publica-
24 tion in some newspaper published or in general circulation within
25 the municipality at least 10 days before the license shall
26 issue. Public notice of the commission's intent to renew the
27 license of a club is not required. The club shall file with the

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1 commission annually, within 10 days after February 1, a list of
2 the names and residences of its members, and similarly file,
3 within 10 days after the election of an additional member, his or
4 her name and address, and that its aggregate annual membership
5 fees or dues and other income, exclusive of the proceeds from the
6 sale of alcoholic liquor, are sufficient to defray the annual
7 rental of its leased or rented premises or, if the premises are
8 owned by the club, are sufficient to meet the taxes, insurance,
9 repairs, and the interest on a mortgage on the premises. The
10 list of members and additional members is not required of a club
11 paying the maximum fee. The affairs and management of the club
12 shall be conducted by a board of directors, executive committee,
13 or similar body chosen by the members. A member, officer, agent,
14 or employee of the club shall not be paid, or directly or indi-
15 rectly receive in the form of salary or other compensation, prof-
16 its from the disposition or sale of alcoholic liquor to the club
17 or to the members of the club, beyond the amount of salary fixed
18 and voted at meetings by the members or by its directors or other
19 governing body and as reported by the club to the commission,
20 within 3 months after the meeting.

21 (4) "Commission" means the liquor control commission pro-
22 vided for and created in section 209.

23 (5) "Church" means an entire house or structure set apart
24 primarily for use for purposes of public worship, and which is
25 tax exempt under the laws of this state, and in which religious
26 services are held and with which a clergyman is associated, and

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1 the entire structure of which is kept for that use and not put to
2 any other use inconsistent with that use.

3 (6) "Distiller" means any person licensed to manufacture and
4 sell spirits or alcohol, or both, of any kind.

5 (7) "Hotel" means a building or group of buildings located
6 on the same or adjoining pieces of real property, which provide
7 lodging to travelers and temporary residents and which may also
8 provide food service and other goods and services to registered
9 guests and to the public.

10 (8) "Class A hotel" means a hotel licensed by the commission
11 to sell beer and wine for consumption on the premises only, which
12 provides for the rental of, and maintains the availability for
13 rental of, not less than 25 bedrooms if located in a local gov-
14 ernmental unit with a population of less than 175,000 or not less
15 than 50 bedrooms if located in a local governmental unit with a
16 population of 175,000 or more.

17 (9) "Class B hotel" means a hotel licensed by the commission
18 to sell beer, wine, mixed spirit drink, and spirits for consump-
19 tion on the premises only, which provides for the rental of, and
20 maintains the availability for rental of, not less than 25 bed-
21 rooms if located in a local governmental unit with a population
22 of less than 175,000 or not less than 50 bedrooms if located in a
23 local governmental unit with a population of 175,000 or more.

24 (10) "License" means a contract between the commission and
25 the licensee granting authority to that licensee to manufacture
26 and sell, or sell, or warehouse alcoholic liquor in the manner
27 provided by this act.

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1 Sec. 109. (1) "Manufacturer" means a person engaged in the
2 manufacture of alcoholic liquor, including, but not limited to, a
3 distiller, a rectifier, a wine maker, and a brewer.

4 (2) "Micro brewer" means a brewer that produces in total
5 less than 30,000 barrels of beer per year and that may sell the
6 beer produced to consumers at the licensed brewery premises for
7 consumption on or off the licensed brewery premises. In deter-
8 mining the 30,000-barrel threshold, all brands and labels of a
9 brewer, whether brewed in this state or outside this state, shall
10 be combined and all facilities for the production of beer that
11 are owned or controlled by the same person shall be treated as a
12 single facility.

13 (3) "Minor" means a person less than 21 years of age.

14 (4) "Mixed spirit drink" means a drink produced and packaged
15 or sold by a mixed spirit drink manufacturer or an outstate
16 seller of mixed spirit drink which contains 10% or less alcohol
17 by volume consisting of distilled spirits mixed with nonalcoholic
18 beverages or flavoring or coloring materials and which may also
19 contain 1 or more of the following:

20 (a) Water.

21 (b) Fruit juices.

22 (c) Fruit adjuncts.

23 (d) Sugar.

24 (e) Carbon dioxide.

25 (f) Preservatives.

26 (5) "Mixed spirit drink manufacturer" means any person
27 licensed under this act to manufacture mixed spirit drink in this

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1 state and to sell mixed spirit drink to a wholesaler. For
2 purposes of rules promulgated by the commission, a mixed spirit
3 drink manufacturer shall be treated as a wine manufacturer but is
4 subject to the rules applicable to spirits for purposes of manu-
5 facturing and labeling.

6 (6) "Mixed wine drink" means a drink or similar product
7 marketed as a wine cooler and containing less than 7% alcohol by
8 volume, consisting of wine and plain, sparkling, or carbonated
9 water, and containing any 1 or more of the following:

10 (a) Nonalcoholic beverages.

11 (b) Flavoring.

12 (c) Coloring materials.

13 (d) Fruit juices.

14 (e) Fruit adjuncts.

15 (f) Sugar.

16 (g) Carbon dioxide.

17 (h) Preservatives.

18 (7) "Outstate seller of beer" means a person licensed by the
19 commission to sell beer which has not been manufactured in this
20 state to a wholesaler in this state in accordance with rules
21 promulgated by the commission.

22 (8) "Outstate seller of mixed spirit drink" means a person
23 licensed by the commission to sell mixed spirit drink which has
24 not been manufactured in this state to a wholesaler in this state
25 in accordance with rules promulgated by the commission. For pur-
26 poses of rules promulgated by the commission, an outstate seller
27 of mixed spirit drink shall be treated as an outstate seller of

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1 wine but is subject to the rules applicable to spirits for
2 purposes of manufacturing and labeling.

3 (9) "Outstate seller of wine" means a person licensed by the
4 commission to sell wine which has not been manufactured in this
5 state to a wholesaler in this state in accordance with rules
6 promulgated by the commission and to sell sacramental wine as
7 provided in section 301.

8 Sec. 111. (1) "Person" means an individual, firm, partner-
9 ship, limited partnership, association, limited liability com-
10 pany, or corporation.

11 (2) "Primary source of supply" means, in the case of domes-
12 tic spirits, the distiller, producer, owner of the commodity at
13 the time it becomes a marketable product, or bottler, or the
14 exclusive agent of any such person and, in the case of spirits
15 imported into the United States, either the foreign distiller,
16 producer, owner of the bottler, or the prime importer for, or the
17 exclusive agent in the United States of, the foreign distiller,
18 producer, owner, or the bottler.

19 (3) "Professional account" means an account established for
20 a person by a class C licensee or tavern licensee whose major
21 business is the sale of food, by which the licensee extends
22 credit to the person for not more than 30 days.

23 (4) "Residence" means the premises in which a person resides
24 permanently.

25 (5) "Retailer" means a person licensed by the commission who
26 sells to the consumer in accordance with rules promulgated by the
27 commission.

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1 (6) "Sacramental wine" means wine containing not more than
2 24% of alcohol by volume which is used for sacramental purposes.

3 (7) "Sale" includes the exchange, barter, traffic, furnish-
4 ing, or giving away of alcoholic liquor. In the case of a sale
5 in which a shipment or delivery of alcoholic liquor is made by a
6 common or other carrier, the sale of the alcoholic liquor is con-
7 sidered to be made in the county within which the delivery of the
8 alcoholic liquor is made by that carrier to the consignee or his
9 or her agent or employee, and venue for the prosecution for that
10 sale may be in the county or city where the seller resides or
11 from which the shipment is made or at the place of delivery.

12 (8) "School" includes buildings used for school purposes to
13 provide instruction to children in grades kindergarten through
14 12, when that instruction is provided by a public, private,
15 denominational, or parochial school, except those buildings used
16 primarily for adult education or college extension courses.
17 School does not include a proprietary trade or occupational
18 school.

19 (9) "Small wine maker" means a wine maker manufacturing or
20 bottling not more than 50,000 gallons of wine in 1 calendar
21 year.

22 (10) "Special license" means a contract between the commis-
23 sion and the special licensee granting authority to that licensee
24 to sell beer, wine, mixed spirit drink, or spirits. The license
25 shall be granted only to such persons and such organization and
26 for such period of time as the commission shall determine so long
27 as the person or organization is able to demonstrate an existence

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1 separate from an affiliated umbrella organization. If such an
2 existence is demonstrated, the commission shall not deny a spe-
3 cial license solely by the applicant's affiliation with an organ-
4 ization that is also eligible for a special license.

5 (11) "Specially designated distributor" means a person
6 engaged in an established business licensed by the commission to
7 distribute spirits and mixed spirit drink in the original package
8 for the commission for consumption off the premises.

9 (12) "Specially designated merchant" means a person to whom
10 the commission grants a license to sell beer or wine, or both, at
11 retail for consumption off the licensed premises.

12 (13) "Spirits" means a beverage that contains alcohol
13 obtained by distillation, mixed with potable water or other sub-
14 stances, or both, in solution, and includes wine containing an
15 alcoholic content of more than 21% by volume, except sacramental
16 wine and mixed spirit drink.

17 (14) "State liquor store" means a store established by the
18 commission under this act for the sale of spirits in the original
19 package for consumption off the premises.

20 (15) "Supplier of spirits" means a vendor of spirits, a man-
21 ufacturer of spirits, or a primary source of supply.

22 Sec. 113. (1) "Tavern" means any place licensed to sell at
23 retail beer and wine for consumption on the premises only.

24 (2) "Vehicle" means any means of transportation by land, by
25 water, or by air.

26 (3) "Vendor" means a person licensed by the commission to
27 sell alcoholic liquor.

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1 (4) "Vendor of spirits" means a person selling spirits to
2 the commission.

3 (5) "Warehouse" means a premises or place primarily con-
4 structed, used, or provided with facilities for the storage in
5 transit or other temporary storage of perishable goods or for the
6 conduct of a warehousing business, or for both.

7 (6) "Warehouser" means a licensee authorized by the commis-
8 sion to store alcoholic beverages, but prohibited from making
9 sales or deliveries to retailers unless the licensee is also the
10 holder of a wholesaler or manufacturer license issued by the
11 commission.

12 (7) "Wholesaler" means a person who sells beer, wine, or
13 mixed spirit drink only to retailers or other licensees, and who
14 sells sacramental wine as provided in section 301.

15 (8) "Wine" means the product made by the normal alcoholic
16 fermentation of the juice of sound, ripe grapes, or any other
17 fruit with the usual cellar treatment, and containing not more
18 than 21% of alcohol by volume, including fermented fruit juices
19 other than grapes and mixed wine drinks.

20 (9) "Wine maker" means any person licensed by the commission
21 to manufacture wine and sell, at wholesale or retail, wine manu-
22 factured by that person.

23 CHAPTER 2

24 Sec. 201. (1) On and after December 15, 1933, it shall be
25 lawful to manufacture for sale, sell, offer for sale, keep for
26 sale, possess, or transport alcoholic liquor, as defined in this
27 act, including alcoholic liquor used for medicinal, mechanical,

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1 chemical, or scientific purposes and wine used for sacramental
2 purposes, subject to the terms, conditions, limitations, and
3 restrictions contained in this act, and only as provided for in
4 this act.

5 (2) Except as otherwise provided in this act, the commission
6 shall have the sole right, power, and duty to control the alco-
7 holic beverage traffic and traffic in other alcoholic liquor
8 within this state, including the manufacture, importation, pos-
9 session, transportation and sale thereof.

10 (3) A rule, regulation, or order made by the commission
11 shall not unreasonably discriminate against Michigan manufactur-
12 ers of alcoholic liquor.

13 (4) County sheriffs and their deputies; village or township
14 marshals; constables, officers, or members of the village, city,
15 or township police; members of the department of state police;
16 and inspectors of the commission are empowered, and it is their
17 duty, to see that the provisions of this act and the rules and
18 regulations made or authorized by the commission are enforced
19 within their respective jurisdictions. It is their special duty
20 to use their utmost efforts to repress and prevent crime and the
21 violation of any of the provisions of this act. An officer enu-
22 merated in this section who willfully neglects or refuses to per-
23 form the duties imposed upon him or her by this section is guilty
24 of a misdemeanor and upon conviction shall be fined not more than
25 \$500.00 or imprisoned for not more than 90 days, or both.

26 Sec. 203. (1) Except as provided in this section and
27 section 301, a sale, delivery, or importation of alcoholic

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1 liquor, including alcoholic liquor for personal use, shall not be
2 made in this state unless the sale, delivery, or importation is
3 made by the commission, the commission's authorized agent or dis-
4 tributor, an authorized distribution agent approved by order of
5 the commission, a person licensed by the commission, or by prior
6 written order of the commission. All spirits for sale, use,
7 storage, or distribution in this state, shall originally be pur-
8 chased by and imported into the state by the commission, or by
9 prior written authority of the commission. This section shall
10 not apply in the case of an alcoholic liquor brought into this
11 state for personal or household use in an amount permitted by
12 federal law by a person of legal age to purchase alcoholic liquor
13 at the time of reentry into this state from without the territo-
14 rial limits of the United States if the person has been outside
15 the territorial limits of the United States for more than 48
16 hours and has not brought alcoholic liquor into the United States
17 during the preceding 30 days.

18 (2) Notwithstanding subsection (1), a person who is of legal
19 age to purchase alcoholic liquor may import from another state
20 for that person's personal use not more than 312 ounces of alco-
21 holic liquor that contains less than 21% alcohol by volume.

22 Sec. 205. (1) If the commission privatizes any portion of
23 the system existing on the effective date of the amendatory act
24 that added this section under which spirits are warehoused or
25 distributed, the commission shall, as provided in section 203(1),
26 by order appoint authorized distribution agents to engage in the
27 warehousing and delivery of spirits in this state so as to ensure

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1 that all retail licensees continue to be properly serviced with
2 spirits. An authorized distribution agent is subject to uniform
3 requirements, including business operating procedures, which the
4 commission may prescribe by rule, subject to this section.

5 (2) A person is eligible for appointment by the commission
6 as an authorized distribution agent if the following circum-
7 stances exist:

8 (a) The person satisfies all applicable commission rules
9 prescribing qualifications for licensure promulgated under sec-
10 tion 215.

11 (b) The person has entered into a written agreement or con-
12 tract with a supplier of spirits for the purposes of warehousing
13 and delivering a brand or brands of spirits of that supplier of
14 spirits.

15 (c) The person has an adequate warehousing facility located
16 in this state for the storing of spirits from which all delivery
17 of spirits to retail licensees shall be made.

18 (3) An authorized distribution agent shall not have a direct
19 or indirect interest in a supplier of spirits or in a retailer.
20 A supplier of spirits or a retailer shall not have a direct or
21 indirect interest in an authorized distribution agent. An autho-
22 rized distribution agent shall not hold title to spirits. After
23 September 24, 1996, an authorized distribution agent or an appli-
24 cant to become an authorized distribution agent who directly or
25 indirectly becomes licensed subsequently as a wholesaler shall
26 not be appointed or authorized to sell or distribute a brand of
27 wine in an area for which a wholesaler has been assigned or

1 authorized to sell or distribute that brand under an agreement
2 required by this act. A wholesaler who directly or indirectly
3 becomes an authorized distribution agent shall not be appointed
4 or authorized to sell or distribute a brand of wine to a retailer
5 in an area for which another wholesaler has been assigned or
6 authorized to sell or distribute that brand under an agreement
7 required by this act, if the wholesaler was not selling or dis-
8 tributing that brand to retailers in that area on or before
9 September 24, 1996.

10 (4) An authorized distribution agent shall deliver to each
11 retailer located in its assigned distribution area on at least a
12 weekly basis if the order meets the minimum requirements. The
13 authorized distribution agent shall provide retailers access to a
14 computer application that includes the capability to determine
15 whether certain spirits are currently available for delivery.
16 The minimum requirements shall be set by the commission and shall
17 be a sufficient number of bottles to comprise not more than 2
18 cases. A retailer may pick up the product at the authorized dis-
19 tribution agent's warehouse. To avoid occasional emergency out-
20 ages of spirits, a retail licensee may make up to 12 special
21 emergency orders to an authorized distribution agent per calendar
22 year which order shall be made available to the retail licensee
23 within 18 hours of the placing of the order. A special emergency
24 order placed on Saturday or Sunday shall be made available to the
25 retail licensee before noon on the following Monday. An autho-
26 rized distribution agent may impose a fee of up to \$20.00 to
27 deliver a special emergency order to a retail licensee.

(5) In locations inaccessible to a motor vehicle as that term is defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, the authorized distribution agent shall arrange that a delivery of spirits to a retailer be in compliance with the following procedures:

(a) After processing an order from a retailer, an authorized distribution agent shall contact a retailer to confirm the quantity

of cases or bottles, or both, and the exact dollar total of the order.

(b) The authorized distribution agent shall have the responsibility to coordinate with the retailer the date and time a driver is scheduled to deliver the order to a ferry transport dock, shall arrange any ferry, drayage, or other appropriate service, and shall pick up the retailer's payment at that time.

(c) The ferry transport company or company representing any other form of conveyance shall take the retailer's payment to the mainland dock and give that payment to the authorized distribution agent's driver.

(d) The ferry transport company or company representing any other form of conveyance shall transport the order to the drayage or other appropriate company at the island dock for immediate delivery to the retailer.

(e) The drayage or other appropriate company shall deliver the order to the retailer.

(6) The authorized distribution agent is responsible for the payment of all transportation and delivery charges imposed by the ferry, drayage, or other conveyance company and is responsible for all breakage and any shortages, whether attributable to the ferry, drayage, or other conveyance company or any combination of those companies, until the order is delivered to the retailer's establishment. This subsection does not in any way prevent the authorized distribution agent from seeking reimbursement or damages from any company conveying the authorized distribution agent's product.



1 by the on-premises licensee and be available to the commission
2 upon request.

3 (11) An authorized distribution agent shall demonstrate that
4 it has made a good faith effort to provide employment to those
5 former state employees who were terminated due to the privatiza-
6 tion of the liquor distribution system. A good faith effort is
7 demonstrated by the authorized distribution agent performing at
8 least the following actions:

9 (a) Seeking from the commission a list of names and resumes
10 of all such former state employees who have indicated a desire
11 for continued employment in the distribution of liquor in
12 Michigan.

13 (b) Providing a list of employment opportunities created by
14 the authorized distribution agent in the distribution of liquor
15 in Michigan to each individual whose name and resume is transmit-
16 ted from the commission.

17 (c) Providing an opportunity for application and interview
18 to any terminated state worker who indicates an interest in pur-
19 suing a job opportunity with the authorized distribution agent.

20 (d) Providing a priority in hiring for those individuals who
21 apply and interview under this process.

22 (12) Any former state employees terminated due to privatiza-
23 tion who have reason to believe that an authorized distribution
24 agent has not made a good faith effort to provide him or her with
25 employment opportunities as described in subsection (9) may file
26 a complaint with the commission who shall hear the complaint and
27 make a determination on its validity. If the commission

1 determines that the complaint is valid, the violation may be
2 treated as a violation of this act and the authorized distribu-
3 tion agent may be subject to the suspension, revocation, forfei-
4 ture, and penalty provisions of sections 903(1) and 907.

5 (13) In addition to paying a vendor of spirits the acquisi-
6 tion price for purchasing spirits, the commission may pay a
7 vendor of spirits an additional amount of not less than \$4.50 and
8 not more than \$7.50 for each case of spirits purchased as an
9 offset to the costs being incurred by that vendor of spirits in
10 contracting with an authorized distribution agent for the ware-
11 housing and delivery of spirits to retailers. The payment
12 described in this subsection shall not be included in the cost of
13 purchasing spirits by the commission and shall not be subject to
14 the commission's markup, special taxes, or state sales tax. The
15 per-case offset established by this subsection may be increased
16 by the state administrative board each January to reflect reason-
17 able increases in the authorized distribution agent's cost of
18 warehousing and delivery. As used in this subsection, "case"
19 means a container holding twelve 750 ml bottles of spirits or
20 other containers containing spirits which are standard to the
21 industry.

22 Sec. 207. This act does not apply to the following:

23 (a) The manufacture of cider from fruit for the purpose of
24 making vinegar and non-intoxicating cider and fruit juice for use
25 and sale, and cider and fruit juice when used or sold, or both,
26 within 30 days after manufacture.

27 (b) Beer, wine, mead, honey-based beer, or cider of any

1 alcoholic content made on the premises by the owner or lessee of
2 those premises provided those premises are used and occupied by that
3 owner or lessee as a dwelling and the beer, wine, mead, honey-based
4 beer, or cider is made for family use and home consumption.

5 (c) The gift to an individual for noncommercial use or
6 consumption of up to 20 gallons of beer, wine, mead, honey-based
7 beer, or cider produced under the circumstances described in
8 subdivision (b). This subdivision does not allow a person less than
9 21 years of age to possess, receive as a gift, or give beer, wine,
10 mead, honey-based beer, or cider produced under the circumstances
11 described in subdivision (b).

12 (d) The sale, gift, or keeping and storing for sale by
13 druggists and general merchants and others of medicinal preparations
14 manufactured in accordance with the formulas prescribed by the
15 United States pharmacopoeia and national formulary, patent or
16 proprietary preparations, and other bona fide medicinal and
17 technical preparations, that contain no more alcohol than is
18 necessary to extract the medicinal properties of the drugs contained
19 in those preparations and no more alcohol than is necessary to hold
20 the medicinal agents in solution and to preserve them, that are
21 manufactured and sold as medicine and not as beverages, that are
22 unfit for use for beverage purposes, and the sale of which does not
23 require the payment of a United States liquor dealer's tax.

24 (e) The manufacture and sale of tinctures or of toilet,
25 medicinal, and antiseptic preparations and solutions that are not
26 intended for internal human use or that are not intended to be sold
27 as beverages, that are unfit for beverage purposes, and upon the

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1 violation cases and to perform such other functions and duties as
2 are assigned to them by the chairperson. The remaining 3 commis-
3 sioners shall be designated as administrative commissioners and
4 shall have the responsibility for administering the provisions of
5 this act relating to licensing, purchasing, enforcement, merchan-
6 dising, and distribution. The administrative commissioners shall
7 also act as an appeal board to the decisions rendered by the
8 hearing commissioners.

9 (3) The responsibilities of the 5-member commission shall be
10 the administration of the provisions of this act that have not
11 been specifically delegated to either the hearing commissioners
12 or the administrative commissioners in this section.

13 (4) Each member of the commission shall devote that member's
14 entire time to the performance of the duties of that office.

15 (5) The terms of the commissioners shall be 4 years each.
16 Each member of the commission shall qualify by taking and filing
17 the constitutional oath of office and shall hold office until the
18 appointment and qualification of a successor. The members of the
19 commission shall not be removed from office by the governor
20 except for malfeasance, misfeasance, or neglect in office.

21 (6) In the event of a vacancy or vacancies in the membership
22 of the commission the governor shall appoint in like manner a
23 successor or successors to fill the unexpired term.

24 (7) A quorum for the transaction of business of the adminis-
25 trative commissioners shall consist of 2 administrative
26 commissioners. A quorum for the transaction of business of the
27 5-member commission shall be 3 members.

1 (8) Each member of the commission shall receive an annual
2 salary as appropriated by the legislature, shall be entitled to
3 actual and necessary expenses while on the business of the com-
4 mission, and shall have a work station designated by the
5 chairperson. If an administrative commissioner's permanent or
temporary residence is within 100 miles of an office in which the
commission regularly conducts business, the chairperson shall
designate an office as the member's work station.

6 Sec. 211. (1) The powers of the commission, enumerated in
7 this act, which are not specifically and exclusively reserved to
8 the commission by the act, shall be vested in, and exercised and
9 administered by a liquor control business manager, who shall be
10 selected by and responsible to the commission, and whose position
11 shall be in the state classified civil service. The powers of
12 the commission enumerated in, and provided for by this act, shall
13 be exercised in conformity with the provisions of the act per-
14 taining to the duties of the liquor control manager, except that
15 the commission shall exclusively exercise the power to make rules
16 and regulations under the act to regulate the control of the
17 alcoholic beverage traffic within the state; to hear and decide
18 all cases of violation of the provisions of the act and regula-
19 tions thereunder; to employ a liquor control business manager as
20 provided for by the act; and to hear and decide all public
21 appeals from the administrative decisions of the liquor control
22 business manager.

23 (2) The liquor control business manager shall be and shall
24 serve as the business manager of the commission, and, as such, it
25 shall be his or her duty and responsibility to manage the busi-
26 ness affairs of the commission relative to purchasing,
27 merchandising, warehousing, rationing, distributing, inspecting,

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1 investigating, licensing, and accounting, in accordance with
2 policies established by the commission and in compliance with the
3 provisions of this act and with the rules and regulations adopted
4 thereunder. In addition to the foregoing, the business manager
5 shall be exclusively responsible for the assigning, training, and
6 supervision of all commission classified employees.

7 Sec. 213. The commission may employ assistants, clerks,
8 stenographers, employees, and experts as it considers necessary,
9 and fix their compensation, and incur such other expenses as are
10 necessary to carry out the provisions of this act, subject to
11 appropriations provided by the legislature. Assistants and
12 employees of the commission are entitled to actual and necessary
13 travel and other expenses while on the business of the commis-
14 sion, if those expenses are authorized and approved by the
15 commission.

16 Sec. 215. (1) The commission shall adopt rules and regula-
17 tions governing the carrying out of this act and the duties and
18 responsibilities of licensees in the proper conduct and manage-
19 ment of their licensed places. Rules shall be promulgated under
20 the administrative procedures act of 1969, 1969 PA 306, MCL
21 24.201 to 24.328.

22 (2) The commission shall hold public hearings twice each
23 calendar year for the purpose of hearing complaints and receiving
24 the views of the public with respect to the administration of
25 this act.

26 (3) The hearings shall be kept and transcribed as a part of
27 the records of the commission.

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1 Sec. 217. (1) The commission may make investigations that
2 it considers proper in the administration of this act and the
3 rules promulgated under this act concerning alcoholic liquor, or
4 the manufacture, distribution, or sale of alcoholic liquor, or
5 the collection of taxes on alcoholic liquor.

6 (2) A licensee shall make the licensed premises available
7 for inspection and search by a commission investigator or law
8 enforcement officer empowered to enforce the commission's rules
9 and this act during regular business hours or when the licensed
10 premises are occupied by the licensee or a clerk, servant, agent,
11 or employee of the licensee. Evidence of a violation of this act
12 or rules promulgated under this act discovered under this subsec-
13 tion may be seized and used in an administrative or court
14 proceeding.

15 (3) The commission or a duly authorized agent of the commis-
16 sion may examine or copy the books, records, or papers of a
17 person relative to a requirement pertaining to this act access to
18 which has been obtained pursuant to this section.

19 (4) A member of the commission or a duly authorized agent of
20 the commission may issue a subpoena requiring a person to appear
21 before the commission or its duly authorized agent at any reason-
22 able time and place, to be examined with reference to any matter
23 within the scope of the inquiry or investigation being conducted
24 by the commission, and to produce any books, records, or papers
25 pertaining to the question involved.

26 (5) A member of the commission or a duly authorized agent of
27 the commission may administer an oath or affirmation to a witness

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1 in any matter before the commission, certify to official acts,
2 and take depositions.

3 (6) In case of disobedience of a subpoena, the commission or
4 its duly authorized agent may invoke the aid of any circuit court
5 of the state to compel the attendance and testimony of witnesses
6 and the production of books, records, and papers pertaining to
7 the question involved. A circuit court of this state within the
8 jurisdiction of which the inquiry is conducted may, in case of
9 contumacy or refusal to obey a subpoena, issue an order requiring
10 the person to appear before the commission or its duly authorized
11 agent, to produce books, records, and papers if so ordered, and
12 to give evidence regarding the matter in question. Failure to
13 obey the order of the court may be punished by the court as a
14 contempt of court.

15 (7) The fees of witnesses required to appear before the com-
16 mission shall be the same as those allowed to witnesses in the
17 circuit courts and shall be paid by the commission.

18 (8) A sheriff's department or police department shall, upon
19 request of the commission, cause to be served a subpoena that is
20 directed to a person located within the jurisdiction of the
21 sheriff's department or police department. A fee shall not be
22 charged for this service by the sheriff's department or police
23 department. Subpoenas may also be served by an investigator of
24 the commission.

25 (9) The commission shall adopt a suitable seal, of which all
26 courts of the state shall take judicial notice, and all
27 proceedings, orders, licenses, and official acts of the

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1 commission shall be authenticated by that seal. Certified copies
2 of the orders and records of the commission shall be prima facie
3 evidence of the acts of the commission in any court of this
4 state.

5 Sec. 219. The commission shall be authorized to establish
6 throughout the state of Michigan 4 branch offices. The expense
7 of the branch offices shall be paid by the commission in the
8 manner provided in this act.

9 Sec. 221. (1) The commission is authorized to maintain a
10 revolving fund that is to be derived from the money deposited to the
11 credit of the commission with the state treasurer. From time to
12 time, amounts shall be transferred from the revolving fund to the
13 general fund in accordance with the management and budget act, 1984
14 PA 431, MCL 18.1101 to 18.1594. The fund provided for in this
15 section shall be used for replenishing, maintaining, warehousing,
16 and distributing liquor stock throughout the state and for
17 administration of this act. The commission shall make a monthly
18 report of the fund to the state treasurer and to the budget
19 director. The report shall contain an itemized account of all money
20 received and all expenditures made by the commission during the
21 month covered in the report.

22 (2) Interest earnings on common cash attributable to the
23 revolving fund shall be credited to the revolving fund and shall be
24 available to the commission for administration of this act.

25 (3) All money received by the commission under this act shall
26 be turned over to the state treasurer according to department of
27 treasury procedures.

1 (4) All money deposited by the commission with the state
2 treasurer shall be either credited to the revolving fund for
3 expenditures authorized under subsection (1) or credited to the
4 general fund to be available for the purposes for which the general
5 fund is available.

6 Sec. 223. A member or employee of the commission shall not
7 be pecuniarily interested, directly or indirectly, in the manu-
8 facture, warehousing, sale, distribution or transportation, or
9 selling or furnishing of any equipment, furnishings, or refriger-
10 ation used in the manufacture or sale of alcoholic liquor within
11 this state.

12 Sec. 225. The commission or a member of the commission
13 shall not be personally liable for any action at law for damages
14 sustained by a person because of an action performed or done by
15 the commission or a member of the commission in the performance
16 of their respective duties in the administration and implementa-
17 tion of this act.

18 Sec. 227. The commission may establish state liquor stores
19 throughout this state. In counties with a population of less
20 than 40,000 according to the most recent federal census, there
21 shall not be more than 1 store in that county, and in counties
22 with a population of 40,000 or more according to the most recent
23 federal census, there shall not be more than 1 store located in
24 that county for each 40,000 population or major fraction thereof
25 according to the most recent federal census. However, the com-
26 mission may in its discretion establish a state liquor store in
27 any village or city with a population of 3,000 or more according
28 to the most recent federal census.

29 Sec. 229. The commission may license a hotel or merchant,
30 in places that the commission may designate, to sell spirits for

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1 consumption off the premises. If alcoholic liquor is sold by a
2 specially designated distributor pursuant to a license issued
3 under this section it shall be sold at a price fixed by the com-
4 mission and pursuant to rules promulgated by the commission.

5 Sec. 231. The commission may buy, possess, and sell in its
6 own name all alcoholic liquor for distribution as provided in
7 sections 227 and 229. The commission shall supply such types of
8 alcoholic liquor as are demanded by the public. However, if a
9 brand so demanded is not manufactured within the United States or
10 is not readily obtainable within the United States, then an order
11 for that brand shall be filled by the commission at the entire
12 expense of the person placing that order subject to any gross
13 profit or discounts, or both, provided for in section 233. The
14 commission may lease or occupy any building or land required for
15 its operation, and may purchase any warehouse required for its
16 operation, subject to the approval of the state administrative
17 board.

18 Sec. 233. (1) The commission shall establish uniform prices
19 for the sale of alcoholic liquor in state liquor stores and by
20 specially designated distributors. The prices shall return a
21 gross profit to the commission of not less than 51% and not
22 greater than 65%. If alcoholic liquor purchased by the commis-
23 sion has not met sales standards established by the commission
24 for a period of 6 months, the commission may sell the alcoholic
25 liquor at a price to be approved by the state administrative
26 board.

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1 (2) Notwithstanding subsection (1), the commission may
2 establish by rule prices for the sale of alcoholic liquor to
3 hospitals, charitable institutions, and military establishments
4 located in this state.

5 (3) There shall be allowed a discount of 17% deducted from
6 the sale price established by the commission on the sale of alco-
7 holic liquor made by the state liquor stores to specially desig-
8 nated distributors and establishments licensed to sell for con-
9 sumption on the premises.

10 Sec. 235. A search warrant may be issued in accordance with
11 the code of criminal procedure, 1927 PA 175, MCL 760.1 to
12 776.21. Under such a search warrant the officer may seize any
13 alcoholic liquor, containers, implements, or conveyances used in
14 connection with the violation of this act or any rule promulgated
15 under this act. A property right does not exist in any alcoholic
16 liquor had, kept, transported, or possessed contrary to law or in
17 any receptacle or container of any kind in which the alcoholic
18 liquor is found, and all such are hereby declared contraband and
19 forfeited to the state and shall be seized. All alcoholic
20 liquor, containers, implements, or conveyances seized under any
21 such search warrant shall be turned over to the commission by
22 direction of the court or magistrate and shall be disposed of in
23 accordance with the rules promulgated under this act, which shall
24 guarantee the return of such property, or payment of money
25 received for the sale of that property, to the owner unless the
26 owner is charged and convicted of the alleged offense or offenses
27 in connection with which the search and seizure was made.

CHAPTER 3

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2 Sec. 301. (1) The commission shall levy and collect on all
3 wines containing 16% or less of alcohol by volume sold in this
4 state a tax at the rate of 13.5 cents per liter if sold in bulk
5 and in a like ratio if sold in smaller quantities.

6 (2) The commission shall levy and collect on all wines con-
7 taining more than 16% of alcohol by volume sold in this state a
8 tax at the rate of 20 cents per liter if sold in bulk and in a
9 like ratio if sold in smaller quantities.

10 (3) All sacramental wines are nontaxable when used by
11 churches. Sacramental wines may be imported. The commission
12 shall not impose restrictions on importations of wine for sacra-
13 mental purposes but may promulgate rules as will prevent any
14 abuses which result from the importations. A wholesaler or an
15 outstate seller of wine may sell sacramental wine directly to a
16 church for sacramental purposes.

17 (4) The commission shall levy and collect on all mixed
18 spirit drink sold in this state a tax at the rate of 48 cents per
19 liter if sold in bulk or a like ratio if sold in smaller
20 quantities.

21 (5) On approval by the commission, the corporation and
22 securities bureau shall incorporate a limited number of farm
23 mutual cooperative wineries as the commission determines to be
24 beneficial to the Michigan grape and fruit industry. These win-
25 eries shall be licensed under this act and the payment of 1
26 license fee annually by the corporation shall authorize wine
27 making on the premises of the corporation and also on the

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1 premises of the grape and fruit growing farmers who are members
2 of or stockholders in the corporation. Upon incorporation of a
3 farmers' cooperative corporation as provided for in this section,
4 the members of or the stockholders in the corporation shall be
5 certified to be Michigan grape and fruit growing farmers. Wine
6 making by cooperative corporations on farm premises is allowed,
7 but all sales of the wine shall be made by the corporation and
8 from the corporation premises.

9 Sec. 303. (1) The grape and wine industry council is cre-
10 ated in the department of agriculture. The council shall consist
11 of all of the following:

12 (a) Three wine makers.

13 (b) A wine grape grower.

14 (c) The director of consumer and industry services or his or
15 her designee.

16 (d) The director of the department of agriculture or his or
17 her designee.

18 (e) A staff member of Michigan state university appointed
19 by, and serving at the pleasure of, the dean of the college of
20 agriculture and natural resources of Michigan state university.

21 (f) The chairperson of the commission or his or her desig-
22 nee, as an ex officio member.

23 (g) A person who operates a retail food establishment that
24 holds a specially designated merchant license and sells Michigan
25 wines or a person who operates a restaurant that holds a class C
26 license and serves Michigan wines.

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1 (h) A beer and wine wholesaler who markets Michigan wine.

2 (i) Not more than 2 additional members appointed as
3 prescribed in subsection (3).

4 (2) The members of the council described in subsection
5 (1)(a), (b), (g), and (h) shall be appointed by the governor.
6 The council members appointed under subsection (1)(g) and (h)
7 shall be appointed for 2-year terms beginning on October 1,
8 1991. Of the council members appointed for terms beginning
9 October 1, 1991, 1 shall be appointed for a 1-year term, and 3
10 shall be appointed for terms of 2 years each. All appointments
11 for terms beginning on or after October 1, 1992 shall be for 2
12 years each. A member shall continue to serve until a qualified
13 successor has been appointed. A member shall not serve more than
14 2 consecutive terms. A vacancy on the board shall be filled in
15 the same manner as the original appointment. The director of the
16 department of agriculture shall act as chairperson of the
17 council.

18 (3) The governor may appoint not more than 2 additional mem-
19 bers to the council who shall assist the council in performing
20 its duties, but who shall not have the power to vote. The per-
21 sons appointed under this subsection shall not be members of the
22 classified state civil service, shall serve at the pleasure of
23 the governor, and shall receive salaries and benefits determined
24 and paid by the department of agriculture.

25 (4) The council may employ personnel and incur such expenses
26 as are necessary to carry out the purposes of the council under
27 this act. All such expenses shall be paid from fees credited to

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1 the wine industry council under section 543(2). A member of the
2 council or an employee or agent of the council shall not be per-
3 sonally liable on the contracts of the council.

4 (5) A nongovernmental member of the council shall receive
5 \$50.00 per day for each day spent in actual attendance at meet-
6 ings of the council and traveling expenses while on council busi-
7 ness in accordance with standard travel regulations of the
8 department of management and budget.

9 (6) The council shall maintain accurate books and records,
10 and all funds received by the council shall be used to implement
11 and enforce this section.

12 (7) The council shall do all of the following:

13 (a) Provide for research on wine grapes and wines, includ-
14 ing, but not limited to, methods of planting, growing, control-
15 ling insects and diseases, charting microclimates and locations
16 for growing desirable varieties of wine grapes, marketing, pro-
17 cessing, distribution, advertising, sales production, and product
18 development.

19 (b) Provide the wine industry, including growers, wineries,
20 distributors, and retailers, with information relative to proper
21 methods of handling and selling wine grapes and wines.

22 (c) Provide for market surveys and analyses for purposes of
23 expanding existing markets and creating new and larger markets
24 for wine grapes and wines.

25 (d) Provide for the promotion of the sale of Michigan wine
26 grapes and wines for the purpose of maintaining or expanding

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1 present markets and creating new and larger domestic and foreign
2 markets.

3 (e) Develop and administer financial aid programs to wine
4 grape growers to encourage the increased planting in this state
5 of desirable grape varieties in microclimates determined to pro-
6 vide the best conditions for producing quality wines.

7 (8) The council may promulgate rules pursuant to the admin-
8 istrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
9 24.328, for the purposes of implementing and enforcing this
10 section. However, a rule shall not be promulgated that conflicts
11 with a rule promulgated by the commission pursuant to
12 section 215.

13 (9) As used in this section, "council" means the grape and
14 wine industry council created in subsection (1).

15 Sec. 305. (1) The purpose of this section is to provide a
16 structure for the business relations between a wholesaler of wine
17 and a supplier of wine. Regulation in this area is considered
18 necessary for the following reasons:

19 (a) To maintain stability and healthy competition in the
20 wine industry in this state.

21 (b) To promote and maintain a sound, stable, and viable
22 3-tier distribution system of wine to the public.

23 (c) To recognize the marketing distinctions between beer and
24 wine.

25 (d) To promote the public health, safety, and welfare.

26 (2) As used in this section, unless the context requires
27 otherwise:

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1 (a) "Agreement" means any agreement between a wholesaler and
2 a supplier, whether oral or written, whereby a wholesaler is
3 granted the right to offer and sell a brand or brands of wine
4 sold by a supplier.

5 (b) "Ancillary business" means a business owned by a whole-
6 saler, a stockholder of a wholesaler, or a partner of a whole-
7 saler the primary purpose of which is directly related to the
8 transporting, storing, or marketing of the brand or brands of
9 wine of a supplier with whom the wholesaler has an agreement; or
10 a business owned by a wholesaler, a stockholder of a wholesaler,
11 or a partner of a wholesaler which recycles empty returnable bev-
12 erage containers.

13 (c) "Designated member" means the spouse, child, grandchild,
14 parent, brother, or sister of a deceased individual who owned an
15 interest in a wholesaler, who is entitled to inherit the deceased
16 individual's ownership interest in the wholesaler under the terms
17 of the deceased individual's will, or who has otherwise been des-
18 igned in writing by the deceased individual to succeed the
19 deceased individual in the wholesaler's business, or is entitled
20 to inherit such ownership interest under the laws of intestate
21 succession of this state. With respect to an incapacitated indi-
22 vidual owning an ownership interest in a wholesaler, the term
23 means the person appointed by a court as the conservator of such
24 individual's property. The term also includes the appointed and
25 qualified personal representative and the testamentary trustee of
26 a deceased individual owning an ownership interest in a
27 wholesaler.

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1 (d) "Good faith" means honesty in fact and the observance of
2 reasonable commercial standards of fair dealing in the trade, as
3 defined and interpreted under section 2103 of the uniform commer-
4 cial code, 1962 PA 174, MCL 440.2103.

5 (e) "Master distributor" means a wholesaler who acts in the
6 same or similar capacity as a wine maker or an outstate seller of
7 wine for a brand or brands of wine to other wholesalers on a reg-
8 ular basis in the normal course of business.

9 (f) "Reasonable qualifications" means the average standard
10 of the criteria used by the respective supplier for wholesalers
11 that entered into or renewed an agreement with the suppliers
12 during a period of 24 months prior to the proposed transfer of
13 the wholesaler's business.

14 (g) "Retaliatory action" means action which includes, but is
15 not limited to, the refusal to continue an agreement, or a mate-
16 rial reduction in the quality of service or quantity of products
17 available to a wholesaler under an agreement, which refusal or
18 reduction is not made in good faith.

19 (h) "Sales territory" means an area of sales responsibility
20 for the brand or brands of wine sold by a supplier as designated
21 by an agreement.

22 (i) "Successor" means a supplier who obtains, in any manner
23 from any person, including a person who is not a supplier, the
24 distribution rights of 1 or more brands of wine which a licensed
25 Michigan wholesaler has distributed in this state pursuant to an
26 agreement with another supplier, who previously had the
27 distribution rights for the brand or brands.

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1 (j) "Supplier" means a wine maker or an outstate seller of
2 wine, or a master distributor.

3 (k) "Transfer of a wholesaler's business" means the volun-
4 tary sale, assignment, or other transfer of the business or con-
5 trol of the business of the wholesaler, including the sale or
6 other transfer of stock or assets by merger, consolidation, or
7 dissolution.

8 (3) A supplier shall not do any of the following:

9 (a) Coerce, or attempt to coerce, any wholesaler to accept
10 delivery of any wine or other commodity which has not been
11 ordered by the wholesaler. However, a supplier may impose rea-
12 sonable inventory requirements upon a wholesaler if the require-
13 ments are made in good faith and are generally applied to other
14 wholesalers having an agreement with the supplier.

15 (b) Coerce, or attempt to coerce, any wholesaler to accept
16 delivery of any wine or other commodity ordered by a wholesaler
17 if the order was properly canceled by the wholesaler in accord-
18 ance with the procedures agreed upon by the supplier and
19 wholesaler.

20 (c) Coerce, or attempt to coerce, any wholesaler to do any
21 illegal act by threatening to amend, cancel, terminate, or refuse
22 to renew any agreement existing between the supplier and
23 wholesaler.

24 (d) Require a wholesaler to assent to any condition, stipu-
25 lation, or provision limiting the wholesaler's right to sell the
26 brand or brands of wine of any other supplier anywhere in this
27 state unless the acquisition of the brand or brands of another

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1 supplier would materially impair the quality of service of the
2 brand or brands of the supplier presently being sold by the
3 wholesaler.

4 (e) Require a wholesaler to purchase 1 or more brands of
5 wine in order for the wholesaler to purchase another brand or
6 brands of wine for any reason. However, a wholesaler that has
7 agreed to distribute a brand or brands before June 26, 1984 shall
8 continue to distribute the brand or brands in conformance with
9 this section.

10 (f) Request a wholesaler to submit profit and loss state-
11 ments, balance sheets, or financial records as a requirement for
12 renewing or retaining an agreement.

13 (g) Withhold delivery of wine ordered by a wholesaler, or
14 change a wholesaler's quota of a brand or brands if the withhold-
15 ing or change is not made in good faith.

16 (h) Require a wholesaler by any means to participate in or
17 contribute to any local or national advertising fund controlled
18 directly or indirectly by a supplier.

19 (i) Fail to provide each wholesaler of the supplier's brand
20 or brands with a written agreement which contains in total the
21 supplier's agreement with each wholesaler, and designates a spe-
22 cific sales territory.

23 (j) Fix, maintain, or establish the price at which a whole-
24 saler shall sell any wine.

25 (k) Take any retaliatory action against a wholesaler that
26 files a complaint regarding an alleged violation by the supplier
27 of state or federal law or an administrative rule.

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1 (1) Require or prohibit any change in the manager or
2 successor manager of any wholesaler who has been approved by the
3 supplier as of June 26, 1984. Should, after June 26, 1984, a
4 supplier require that a manager or successor manager be appoint-
5 ed, or should a wholesaler change an approved manager or succes-
6 sor manager, a supplier shall not interfere with or prohibit the
7 appointment unless the person fails to meet the reasonable writ-
8 ten standards for Michigan wholesalers of the supplier which
9 standards have been provided to the wholesaler.

10 (m) Require by a provision of any agreement or other instru-
11 ment in connection with the agreement that any dispute arising
12 out of or in connection with that agreement be determined through
13 the application of any other state's laws. Any supplier or
14 wholesaler aggrieved by any dispute arising out of or in connec-
15 tion with an agreement governed by this act shall have the right
16 to file an appropriate action consistent with this act in any
17 court in this state having venue.

18 (4) A wholesaler shall not sell or deliver wine to a retail
19 licensee located outside the sales territory designated by the
20 supplier of a particular brand or brands of wine. However,
21 during periods of temporary service interruptions impacting a
22 particular sales territory, a wholesaler who normally services
23 the impacted sales territory shall file with the commission a
24 written notice designating the specific wholesaler or wholesalers
25 who will service the sales territory during the period of tempo-
26 rary service interruption and the approximate length of time of
27 the service interruption. When the temporary service

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1 interruption is over, the wholesaler who normally services the
2 sales territory shall notify in writing the commission and the
3 wholesaler, or wholesalers, which is servicing the sales terri-
4 tory on a temporary basis of this fact and any wholesaler servic-
5 ing the sales territory on a temporary basis shall cease servic-
6 ing the sales territory upon receipt of the notice.

7 A wholesaler who is designated to service the impacted sales
8 territory during the period of temporary service shall not be in
9 violation of this subsection.

10 A wholesaler who has been designated to service the impacted
11 sales territory during the period of temporary service interrup-
12 tion shall not have any of the rights provided under subsections
13 (6) to (12).

14 (5) A supplier or wholesaler shall not restrict or inhibit,
15 directly or indirectly, the right of free association among sup-
16 pliers or wholesalers for any lawful purpose.

17 (6) Notwithstanding the terms, provisions, or conditions of
18 any agreement, a supplier shall not amend any agreement unless
19 the supplier is acting in good faith in making the amendment.

20 (7) Notwithstanding any agreement and except as otherwise
21 provided for in this section, a supplier shall not cause a whole-
22 saler to resign from an agreement; or cancel, terminate, fail to
23 renew, or refuse to continue under an agreement unless the sup-
24 plier has complied with all of the following:

25 (a) Has satisfied the applicable notice requirements of
26 subsection (10).

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1 (b) Has acted in good faith.

2 (c) Has good cause for the cancellation, termination,
3 nonrenewal, discontinuance, or forced resignation.

4 (8) Notwithstanding any agreement, good cause shall exist
5 for the purposes of a termination, cancellation, nonrenewal, or
6 discontinuance under subsection (7)(c) when all of the following
7 occur:

8 (a) There is a failure by the wholesaler to comply with a
9 provision of the agreement which is both reasonable and of mate-
10 rial significance to the business relationship between the whole-
11 saler and the supplier.

12 (b) The supplier first acquired knowledge of the failure
13 described in subdivision (a) not more than 2 years before the
14 date notification was given pursuant to subsection (7).

15 (c) The wholesaler was given written notice by the supplier
16 of failure to comply with the agreement.

17 (d) The wholesaler was afforded a reasonable opportunity to
18 assert good faith efforts to comply with the agreement within the
19 time limits as provided for in subdivision (e).

20 (e) The wholesaler has been afforded 25 days in which to
21 submit a plan of corrective action to comply with the agreement
22 and an additional 75 days to cure such noncompliance in accord-
23 ance with the plan.

24 (9) A supplier or wholesaler who terminates, cancels, nonre-
25 news, or discontinues an agreement shall have the burden of show-
26 ing that it has acted in good faith, complied with the applicable
27 notice requirements under this section, and that there was good

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1 cause for the termination, cancellation, nonrenewal, or
2 discontinuance.

3 (10) Notwithstanding any agreement and except as otherwise
4 provided in this section, the supplier shall furnish written
5 notice of the termination, cancellation, nonrenewal, or discon-
6 tinuance of an agreement to the wholesaler not less than 15 days
7 before the effective date of the termination, cancellation, non-
8 renewal, or discontinuance. The notice shall be by certified
9 mail and shall contain all of the following:

10 (a) A statement of intention to terminate, cancel, not
11 renew, or discontinue the agreement.

12 (b) A statement of the reason for the termination, cancella-
13 tion, nonrenewal, or discontinuance.

14 (c) The date on which the termination, cancellation, nonre-
15 newal, or discontinuance takes effect.

16 (11) Notwithstanding subsections (7) and (10), a supplier
17 may immediately terminate, cancel, fail to renew, or discontinue
18 an agreement upon written notice given in the manner and contain-
19 ing the information required by subsection (10) if any of the
20 following occur:

21 (a) Insolvency of the wholesaler, the filing of any petition
22 by or against the wholesaler under any bankruptcy or receivership
23 law, or the dissolution or liquidation of the wholesaler which
24 materially affects the wholesaler's ability to remain in
25 business.

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1 (b) Revocation of the wholesaler's license by the commission
2 whereby the wholesaler cannot service the wholesaler's sales
3 territory for more than 60 days.

4 (c) The wholesaler, or an individual who owns more than 10%
5 of the stock of a corporate wholesaler, has been convicted of a
6 felony. As used in this subdivision, "felony" means a felony
7 under the United States code or the Michigan Compiled Laws.
8 However, an existing approved stockholder or stockholders shall
9 have the right to purchase the stock of the offending stockholder
10 prior to the conviction of the offending stockholder, and if the
11 sale is completed prior to conviction, the provisions of this
12 subdivision shall not apply.

13 (12) Notwithstanding subsections (7), (10), and (11), upon
14 not less than 15 days' prior written notice given in the manner
15 and containing the information required by subsection (10), a
16 supplier may terminate, cancel, fail to renew, or discontinue an
17 agreement if any of the following events occur:

18 (a) There was fraudulent conduct on the part of the whole-
19 saler in dealings with the supplier.

20 (b) The wholesaler failed to confine its sales of a brand or
21 brands to the assigned sales territory. This subdivision does
22 not apply if there is a dispute between 2 or more wholesalers as
23 to the boundaries of the assigned territory, and the boundaries
24 cannot be determined by a reading of the description contained in
25 the agreements between the supplier and the wholesalers.

26 (c) The sale by the wholesaler of any brand or brands sold
27 by the supplier to the wholesaler and known by the wholesaler to

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1 be ineligible for sale prior to the actual sale to the retailer.
2 The supplier shall repurchase the ineligible product from the
3 wholesaler when the ineligibility is caused by the supplier. The
4 supplier must give the wholesaler written notice specifying the
5 ineligible product.

6 (13) Notwithstanding subsections (7), (10), (11), and (12),
7 a supplier may terminate, cancel, not renew, or discontinue an
8 agreement upon not less than 30 days' prior written notice if the
9 supplier discontinues production or discontinues distribution in
10 this state of all the brands sold by the supplier to the
11 wholesaler. Nothing in this section shall prohibit a supplier
12 upon not less than 30 days' notice to discontinue the distribu-
13 tion of any particular brand or package of wine. This subsection
14 does not prohibit a supplier from conducting test marketing of a
15 new brand of wine or from conducting the test marketing of a
16 brand of wine which is not currently being sold in this state
17 provided that the supplier has notified the commission in writing
18 of its plans to test market. The notice shall describe the
19 market area in which the test shall be conducted; the name or
20 names of the wholesaler or wholesalers who will be selling the
21 wine; the name or names of the brand of wine being tested; and
22 the period of time during which the testing will take place. A
23 market testing period shall not exceed 18 months.

24 (14) The wholesaler shall devote reasonable efforts and
25 resources to sales and distribution of all the supplier's pro-
26 ducts which the wholesaler has been granted the right to sell and
27 distribute and shall maintain reasonable sales levels.

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1 (15) A supplier shall not withhold consent to any transfer
2 of a wholesaler's business if the proposed transferee meets the
3 material and reasonable qualifications and standards required by
4 the supplier. A wholesaler shall give the supplier written
5 notice of intent to transfer the wholesaler's business. A sup-
6 plier shall not unreasonably delay a response to a request for a
7 proposed transfer of a wholesaler's business. However, a trans-
8 fer of a wholesaler's business which is not approved by the sup-
9 plier shall be null and void. A supplier shall not interfere
10 with, or prevent, the transfer of the wholesaler's business if
11 the proposed transferee is a designated member.

12 (16) A supplier as part of the written agreement required by
13 this section may, subject to the provisions of subsection (3)(1),
14 require a wholesaler to designate a successor manager who shall
15 be subject to prior approval by the supplier. In the event the
16 designated successor manager fails to assume the role of approved
17 manager or for any reason does not continue to manage the
18 wholesaler's business, after assuming that responsibility, then
19 any successor shall be subject to the prior approval of the sup-
20 plier, subject to the provisions of subsection (3)(1), notwith-
21 standing the transferee's interest as a designated member.

22 (17) A supplier that has amended, canceled, terminated, or
23 refused to renew any agreement; has caused a wholesaler to resign
24 from an agreement; or has withheld consent to any assignment or
25 transfer of a wholesaler's business, except as provided for in
26 this section, shall pay the wholesaler reasonable compensation
27 for the diminished value of the wholesaler's business or of any

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1 ancillary business which has been negatively affected by the act
2 of the supplier, or both. The value of the wholesaler's business
3 or ancillary business shall include, but not be limited to, its
4 goodwill.

5 (18) Either party may, at any time, determine that mutual
6 agreement on the amount of reasonable compensation cannot be
7 reached. Should such a determination be made, the supplier or
8 the wholesaler shall send written notice to the other party
9 declaring their intention to proceed with arbitration.

10 Arbitration shall proceed only by mutual agreement of both
11 parties.

12 (19) The matter of determining the amount of compensation
13 under arbitration may, by agreement of the parties, be submitted
14 to a 5-member arbitration panel consisting of 2 representatives
15 selected by the supplier but unassociated with the affected sup-
16 plier, 2 wholesaler representatives selected by the wholesaler
17 but unassociated with the wholesaler, and an impartial
18 arbitrator.

19 (20) Not more than 10 days after the notice to enter into
20 arbitration has been sent, each party shall request, in writing,
21 a list of 5 arbitrators from the American arbitration
22 association. Not more than 10 days after the receipt of the list
23 of 5 choices, the wholesaler arbitrators and the supplier arbi-
24 trators may strike and disqualify up to 2 names each from the
25 list. Should either party fail to respond within the 10 days or
26 should more than 1 name remain, the American arbitration

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1 association shall make the selection of the impartial
2 arbitrator.

3 (21) Not more than 30 days after the list of arbitrators is
4 received, the wholesaler and supplier shall exchange in writing
5 the names of their respective arbitration panel representatives.

6 (22) Not more than 30 days after the final selection of the
7 arbitration panel is made, the arbitration panel shall convene to
8 decide the dispute. The panel shall render a decision by major-
9 ity vote of the participants within 20 days from the conclusion
10 of the arbitration.

11 (23) The cost of the impartial arbitrator, the stenographer,
12 and the meeting site shall be equally divided between the whole-
13 saler and the supplier. All other costs shall be paid by the
14 party incurring them. The award of the arbitration panel shall
15 be final and binding on the parties.

16 (24) Should either party fail to abide by the time limita-
17 tions as prescribed in subsections (20), (21), and (22), or fail
18 or refuse to make the selection of any arbitrators, or fail to
19 participate in the arbitration hearings, the other party shall
20 make the selection of their arbitrators and proceed to
21 arbitration. The party who has failed or refused to comply as
22 prescribed in this subsection shall be considered to be in
23 default. Any party considered to be in default pursuant to this
24 subsection shall have waived any and all rights the party would
25 have had in the arbitration and shall be considered to have con-
26 sented to the determination of the arbitration panel.

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1 (25) A wholesaler shall not waive any of the rights granted
2 in any provision of this section. Nothing in this section shall
3 be construed to limit or prohibit good faith dispute settlements
4 voluntarily entered into by the parties.

5 (26) A successor to a supplier that continues in business as
6 a wine maker, an outstate seller of wine, or master distributor
7 shall be bound by all terms and conditions of each agreement of
8 the supplier with a wholesaler licensed in this state that were
9 in effect on the date on which the successor received the distri-
10 bution rights of the previous supplier.

11 (27) This section shall apply to agreements in existence on
12 June 26, 1984, as well as agreements entered into or renewed
13 after that date.

14 (28) If a supplier engages in conduct prohibited under this
15 section, a wholesaler with which the supplier has an agreement
16 may maintain a civil action against the supplier to recover
17 actual damages reasonably incurred as the result of the prohib-
18 ited conduct. If a wholesaler engages in conduct prohibited
19 under this section, a supplier with which the wholesaler has an
20 agreement may maintain a civil action against the wholesaler to
21 recover actual damages reasonably incurred as the result of the
22 prohibited conduct.

23 (29) A supplier that violates any provision of this section
24 is liable for all actual damages and all court costs and reason-
25 able attorney fees incurred by a wholesaler as a result of that
26 violation. A wholesaler that violates any provision of this
27 section is liable for all actual damages and all court costs and

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1 reasonable attorney fees incurred by the supplier as a result of
2 that violation.

3 (30) A supplier or wholesaler may bring an action for
4 declaratory judgment for determination of any controversy arising
5 pursuant to this section.

6 (31) Except as otherwise provided in this section, if a
7 court finds that a supplier has not acted in good faith in
8 effecting the amendment, termination, cancellation, or nonrenewal
9 of any agreement; or has unreasonably withheld its consent to any
10 assignment, transfer, or sale of a wholesaler's business, it may
11 award exemplary damages, as well as actual damages, court costs,
12 and reasonable attorney fees to the wholesaler who has been dam-
13 aged by the action of the supplier.

14 (32) Upon proper application to the court, a supplier or
15 wholesaler may obtain injunctive relief against any violation of
16 this section. If the court grants injunctive relief or issues a
17 temporary restraining order, bond shall not be required to be
18 posted.

19 (33) The procedure for resolving any violation of subsection
20 (3)(a), (b), (c), (e), (f), (h), (i), (j), (k), (l), or (4) shall
21 be the procedure prescribed by this act and the administrative
22 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Any
23 other violation of or dispute regarding this section, unless the
24 dispute is resolved pursuant to subsections (18) to (24), shall
25 only be resolved by a civil action in court as provided in this
26 section and not by the commission.

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1 Sec. 307. (1) A manufacturer and outstate seller of wine
2 shall grant to each of its wholesalers a sales territory within
3 which the wholesaler shall be a distributor of the specified
4 brand or brands of the manufacturer or outstate seller of wine.
5 The territory shall be the territory agreed upon between the
6 wholesaler and manufacturer or outstate seller of wine. A manu-
7 facturer or outstate seller of wine may grant the right to sell a
8 specified brand or brands in a sales territory to more than 1
9 wholesaler.

10 (2) Notwithstanding subsection (1), a brand extension is not
11 considered a new or different brand. A manufacturer or outstate
12 seller of wine shall assign a brand extension to the wholesaler
13 that was granted the sales territory for the brand from which the
14 brand extension resulted.

15 (3) Subsection (2) does not apply where, before January 1,
16 1994, a manufacturer or outstate seller of wine had assigned a
17 brand extension to a wholesaler that was not the appointed whole-
18 saler for the brand from which the brand extension was made.

19 (4) Until July 1, 1995, a manufacturer or outstate seller of
20 wine who acquired or otherwise obtained the right to assign
21 brands of another manufacturer or outstate seller of wine between
22 January 1, 1994 and July 1, 1995 shall assign a brand extension
23 to the wholesaler that was granted the sales territory for the
24 brand from which the brand extension resulted. Beginning July 1,
25 1995, a manufacturer or outstate seller of wine who acquires or
26 otherwise obtains the right to assign brands of another
27 manufacturer or outstate seller of wine is not required to assign

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1 a new brand extension to the wholesaler that is granted the
2 exclusive sales territory to the brand from which the new brand
3 extension results. Any brand extension assigned between
4 January 1, 1994 and July 1, 1995 shall remain assigned to the
5 assigned wholesaler.

6 (5) A manufacturer of a mixed wine drink, mixed spirit drink
7 manufacturer, outstate seller of a mixed wine drink, or outstate
8 seller of mixed spirit drink shall grant to each of its wholesal-
9 ers an exclusive sales territory in which the wholesaler shall be
10 a distributor of the specified brand or brands of the manufac-
11 turer or outstate seller. The territory shall be the territory
12 agreed upon between the wholesaler and the manufacturer of a
13 mixed wine drink, mixed spirit drink manufacturer, outstate
14 seller of mixed wine drinks, or outstate seller of mixed spirit
15 drink.

16 (6) Notwithstanding subsection (5), a brand extension is not
17 considered a new or different brand. A manufacturer of a mixed
18 wine drink, mixed spirit drink manufacturer, outstate seller of a
19 mixed wine drink, or outstate seller of mixed spirit drink shall
20 assign a brand extension to the wholesaler that was granted the
21 exclusive sales territory for the brand from which the brand
22 extension resulted.

23 (7) Subsection (6) does not apply where, before January 1,
24 1994, a manufacturer of a mixed wine drink, mixed spirit drink
25 manufacturer, outstate seller of a mixed wine drink, or outstate
26 seller of mixed spirit drink had assigned a brand extension to a

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1 and manufacturer or outstate seller of beer, within which the
2 wholesaler shall be the exclusive distributor of the specified
3 brand or brands of the manufacturer or outstate seller of beer.

4 (2) If the manufacturer or outstate seller manufactures or
5 supplies more than 1 brand of beer or malt beverage, the manufac-
6 turer or outstate seller may grant exclusive sales territories to
7 different wholesalers for the sale of the different brand or
8 brands.

9 (3) Notwithstanding subsection (2), a brand extension is not
10 considered a new or different brand. A manufacturer or outstate
11 seller of beer or malt beverages shall assign a brand extension
12 to the wholesaler that was granted the exclusive sales territory
13 to the brand from which the brand extension resulted.

14 (4) Subsection (3) does not apply where, before January 1,
15 1994, a manufacturer or outstate seller of beer or malt beverages
16 had assigned a brand extension to a wholesaler that was not the
17 appointed wholesaler for the brand from which the brand extension
18 was made.

19 (5) Until July 1, 1995, a manufacturer or outstate seller of
20 beer or malt beverages who acquired or otherwise obtained the
21 right to assign brands of another manufacturer or outstate seller
22 of beer or malt beverages between January 1, 1994 and July 1,
23 1995 shall assign a brand extension to the wholesaler that was
24 granted the exclusive sales territory to the brand from which the
25 brand extension resulted. Beginning July 1, 1995, a manufacturer
26 or outstate seller of beer or malt beverages who acquires or
27 otherwise obtains the right to assign brands of another

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1 manufacturer or outstate seller of beer or malt beverages is not
2 required to assign a new brand extension to the wholesaler that
3 is granted the exclusive sales territory to the brand from which
4 the new brand extension results. Any brand extension assigned
5 between January 1, 1994 and July 1, 1995 shall remain assigned to
6 the assigned wholesaler.

7 (6) The sales territory shall be the territory agreed upon
8 between the wholesaler and manufacturer or outstate seller.

9 Sec. 403. (1) The purpose of this section is to provide a
10 structure for the business relations between a wholesaler of beer
11 and a supplier of beer. Regulation in this area is considered
12 necessary for the following reasons:

13 (a) To maintain stability and healthy competition in the
14 beer industry in this state.

15 (b) To promote and maintain a sound, stable, and viable
16 3-tier system of distribution of beer to the public.

17 (c) To promote the public health, safety, and welfare.

18 (2) As used in this section, unless the context requires
19 otherwise:

20 (a) "Agreement" means any agreement between a wholesaler and
21 a supplier, whether oral or written, whereby a wholesaler is
22 granted the right to offer and sell a brand or brands of beer
23 sold by a supplier.

24 (b) "Ancillary business" means a business owned by a whole-
25 saler, a stockholder of a wholesaler, or a partner of a whole-
26 saler the primary purpose of which is directly related to the
27 transporting, storing, or marketing of the brand or brands of

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1 beer of a supplier with whom the wholesaler has an agreement; or
2 a business owned by a wholesaler, a stockholder of a wholesaler,
3 or a partner of a wholesaler which recycles empty returnable bev-
4 erage containers.

5 (c) "Designated member" means the spouse, child, grandchild,
6 parent, brother, or sister of a deceased individual who owned an
7 interest in a wholesaler, who is entitled to inherit the deceased
8 individual's ownership interest in the wholesaler under the terms
9 of the deceased individual's will, or who has otherwise been des-
10 igned in writing by the deceased individual to succeed the
11 deceased individual in the wholesaler's business, or is entitled
12 to inherit such ownership interest under the laws of intestate
13 succession of this state. With respect to an incapacitated indi-
14 vidual owning an ownership interest in a wholesaler, the term
15 means the person appointed by a court as the conservator of such
16 individual's property. The term also includes the appointed and
17 qualified personal representative and the testamentary trustee of
18 a deceased individual owning an ownership interest in a
19 wholesaler.

20 (d) "Good faith" means honesty in fact and the observance of
21 reasonable commercial standards of fair dealing in the trade, as
22 defined and interpreted under section 2103 of the uniform commer-
23 cial code, 1962 PA 174, MCL 440.2103.

24 (e) "Master distributor" means a wholesaler who acts in the
25 same or similar capacity as a brewer or outstate seller of beer
26 for a brand or brands of beer to other wholesalers on a regular
27 basis in the normal course of business.

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1 (f) "Reasonable qualifications" means the average standard
2 of the criteria used by the respective supplier for wholesalers
3 that entered into or renewed an agreement with the supplier
4 during a period of 24 months prior to the proposed transfer of
5 the wholesaler's business.

6 (g) "Retaliatory action" means action which includes, but is
7 not limited to, the refusal to continue an agreement, or a mate-
8 rial reduction in the quality of service or quantity of products
9 available to a wholesaler under an agreement, which refusal or
10 reduction is not made in good faith.

11 (h) "Sales territory" means an area of exclusive sales
12 responsibility for the brand or brands of beer sold by a supplier
13 as designated by an agreement.

14 (i) "Successor" means a supplier who obtains, in any manner
15 from any person, including a person who is not a supplier, the
16 distribution rights of 1 or more brands of beer which a licensed
17 Michigan wholesaler has distributed in this state pursuant to an
18 agreement with another supplier who previously had the distribu-
19 tion rights for the brand or brands.

20 (j) "Supplier" means a brewer, an outstate seller of beer,
21 or a master distributor.

22 (k) "Transfer of a wholesaler's business" means the volun-
23 tary sale, assignment, or other transfer of the business or con-
24 trol of the business of the wholesaler, including the sale or
25 other transfer of stock or assets by merger, consolidation, or
26 dissolution.

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1 (3) A supplier shall not do any of the following:

2 (a) Coerce, or attempt to coerce, any wholesaler to accept
3 delivery of any beer or other commodity which has not been
4 ordered by the wholesaler. However, a supplier may impose rea-
5 sonable inventory requirements upon a wholesaler if the require-
6 ments are made in good faith and are generally applied to other
7 wholesalers having an agreement with the supplier.

8 (b) Coerce, or attempt to coerce, any wholesaler to accept
9 delivery of any beer or other commodity ordered by a wholesaler
10 if the order was properly canceled by the wholesaler in accord-
11 ance with the procedures agreed upon by the supplier and
12 wholesaler.

13 (c) Coerce, or attempt to coerce, any wholesaler to do any
14 illegal act by threatening to amend, cancel, terminate, or refuse
15 to renew any agreement existing between the supplier and
16 wholesaler.

17 (d) Require a wholesaler to assent to any condition, stipu-
18 lation, or provision limiting the wholesaler's right to sell the
19 brand or brands of beer of any other supplier anywhere in this
20 state unless the acquisition of the brand or brands of another
21 supplier would materially impair the quality of service of the
22 brand or brands of the supplier presently being sold by the
23 wholesaler.

24 (e) Require a wholesaler to purchase 1 or more brands of
25 beer in order for the wholesaler to purchase another brand or
26 brands of beer for any reason. However, a wholesaler that has
27 agreed to distribute a brand or brands before June 26, 1984 shall

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1 continue to distribute the brand or brands in conformance with
2 this section.

3 (f) Request a wholesaler to submit profit and loss state-
4 ments, balance sheets, or financial records as a requirement for
5 renewing or retaining an agreement.

6 (g) Withhold delivery of beer ordered by a wholesaler, or
7 change a wholesaler's quota of a brand or brands if the withhold-
8 ing or change is not made in good faith.

9 (h) Require a wholesaler by any means to participate in or
10 contribute to any local or national advertising fund controlled
11 directly or indirectly by a supplier.

12 (i) Fail to provide each wholesaler of the supplier's brand
13 or brands with a written agreement which contains, in total, the
14 supplier's agreement with each wholesaler and which designates a
15 specific sales territory. Any agreement which is in existence on
16 June 26, 1984 shall be renewed consistent with this section,
17 except that this section may be incorporated by reference in the
18 agreement.

19 (j) Fix, maintain, or establish the price at which a whole-
20 saler shall sell any beer.

21 (k) Take any retaliatory action against a wholesaler that
22 files a complaint regarding an alleged violation by the supplier
23 of state or federal law or an administrative rule.

24 (l) Require or prohibit any change in the manager or succes-
25 sor manager of any wholesaler who has been approved by the sup-
26 plier as of June 26, 1984. Should a wholesaler change an
27 approved manager or successor manager, a supplier shall not

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1 require or prohibit the change unless the person fails to meet
2 the reasonable written standards for Michigan wholesalers of the
3 supplier which standards have been provided to the wholesaler.

4 (m) Require by a provision of any agreement or other instru-
5 ment in connection with the agreement that any dispute arising
6 out of or in connection with that agreement be determined through
7 the application of any other state's laws, be determined in fed-
8 eral court sitting in a state other than Michigan, or be deter-
9 mined in a state court of a state other than the state of
10 Michigan. A provision contained in any agreement or other
11 instrument in connection with the agreement which contravenes
12 this subdivision shall be null and void.

13 (4) A wholesaler shall not sell or deliver beer to a retail
14 licensee located outside the sales territory designated by the
15 supplier of a particular brand or brands of beer. However,
16 during periods of temporary service interruptions impacting a
17 particular sales territory, a wholesaler who normally services
18 the impacted sales territory shall file with the commission a
19 written notice designating the specific wholesaler or wholesalers
20 who will service the sales territory during the period of tempo-
21 rary service interruption and the approximate length of time of
22 the service interruption. When the temporary service interrup-
23 tion is over, the wholesaler who normally services the sales ter-
24 ritory shall notify in writing the commission and the wholesaler,
25 or wholesalers, which is servicing the sales territory on a tem-
26 porary basis of this fact and any wholesaler servicing the sales

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1 territory on a temporary basis shall cease servicing the sales
2 territory upon receipt of the notice.

3 A wholesaler who is designated to service the impacted sales
4 territory during the period of temporary service shall not be in
5 violation of this subsection.

6 A wholesaler who has been designated to service the impacted
7 sales territory during the period of temporary service interrup-
8 tion shall not have any of the rights provided under subsections
9 (6) to (12).

10 (5) A supplier or wholesaler shall not restrict or inhibit,
11 directly or indirectly, the right of free association among sup-
12 pliers or wholesalers for any lawful purpose.

13 (6) Notwithstanding the terms, provisions, or conditions of
14 any agreement, a supplier shall not amend any agreement unless
15 the supplier is acting in good faith in making the amendment.

16 (7) Notwithstanding any agreement and except as otherwise
17 provided for in this section, a supplier shall not cause a whole-
18 saler to resign from an agreement; or cancel, terminate, fail to
19 renew, or refuse to continue under an agreement unless the sup-
20 plier has complied with all of the following:

21 (a) Has satisfied the applicable notice requirements of
22 subsection (10).

23 (b) Has acted in good faith.

24 (c) Has good cause for the cancellation, termination, nonre-
25 newal, discontinuance, or forced resignation.

26 (8) Notwithstanding any agreement, good cause shall exist
27 for the purposes of a termination, cancellation, nonrenewal, or

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1 discontinuance under subsection (7)(c) when all of the following
2 occur:

3 (a) There is a failure by the wholesaler to comply with a
4 provision of the agreement which is both reasonable and of mate-
5 rial significance to the business relationship between the whole-
6 saler and the supplier.

7 (b) The supplier first acquired knowledge of the failure
8 described in subdivision (a) not more than 2 years before the
9 date notification was given pursuant to subsection (7).

10 (c) The wholesaler was given written notice by the supplier
11 of failure to comply with the agreement.

12 (d) The wholesaler was afforded a reasonable opportunity to
13 assert good faith efforts to comply with the agreement within the
14 time limits as provided for in subdivision (e).

15 (e) The wholesaler has been afforded 30 days in which to
16 submit a plan of corrective action to comply with the agreement
17 and an additional 90 days to cure such noncompliance in accord-
18 ance with the plan.

19 (9) For each termination, cancellation, nonrenewal, or dis-
20 continuance, the supplier shall have the burden of showing that
21 it has acted in good faith, that the notice requirements under
22 this section have been complied with, and that there was good
23 cause for the termination, cancellation, nonrenewal, or
24 discontinuance.

25 (10) Notwithstanding any agreement and except as otherwise
26 provided in this section, the supplier shall furnish written
27 notice of the termination, cancellation, nonrenewal, or

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1 discontinuance of an agreement to the wholesaler not less than
2 15 days before the effective date of the termination, cancella-
3 tion, nonrenewal, or discontinuance. The notice shall be by cer-
4 tified mail and shall contain all of the following:

5 (a) A statement of intention to terminate, cancel, not
6 renew, or discontinue the agreement.

7 (b) A statement of the reason for the termination, cancella-
8 tion, nonrenewal, or discontinuance.

9 (c) The date on which the termination, cancellation, nonre-
10 newal, or discontinuance takes effect.

11 (11) Notwithstanding subsections (7) and (10), a supplier
12 may terminate, cancel, fail to renew, or discontinue an agreement
13 upon written notice given in the manner and containing the infor-
14 mation required by subsection (10) if any of the following
15 occur:

16 (a) Insolvency of the wholesaler, the filing of any petition
17 by or against the wholesaler under any bankruptcy or receivership
18 law, or the dissolution or liquidation of the wholesaler which
19 materially affects the wholesaler's ability to remain in
20 business.

21 (b) Revocation of the wholesaler's license by the commission
22 whereby the wholesaler cannot service the wholesaler's sales ter-
23 ritory for more than 60 days.

24 (c) The wholesaler, or an individual who owns more than 10%
25 of the stock of a corporate wholesaler, has been convicted of a
26 felony. As used in this subdivision, "felony" means a felony
27 under the United States code or the Michigan Compiled Laws.

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1 However, an existing approved stockholder or stockholders shall
2 have the right to purchase the stock of the offending stockholder
3 prior to the conviction of the offending stockholder and, if the
4 sale is completed prior to conviction, the provisions of this
5 subdivision shall not apply.

6 (12) Notwithstanding subsections (7), (10), and (11), upon
7 not less than 15 days' prior written notice given in the manner
8 and containing the information required by subsection (10), a
9 supplier may terminate, cancel, fail to renew, or discontinue an
10 agreement if any of the following events occur:

11 (a) There was fraudulent conduct on the part of the whole-
12 saler in dealings with the supplier.

13 (b) The wholesaler failed to confine its sales of a brand or
14 brands to the assigned sales territory. This subdivision does
15 not apply if there is a dispute between 2 or more wholesalers as
16 to the boundaries of the assigned territory, and the boundaries
17 cannot be determined by a reading of the description contained in
18 the agreements between the supplier and the wholesalers.

19 (c) The sale by the wholesaler of any brand or brands sold
20 by the supplier to the wholesaler and known by the wholesaler to
21 be ineligible for sale prior to the actual sale to the retailer.
22 The supplier shall repurchase the ineligible product from the
23 wholesaler when the ineligibility is caused by the supplier. The
24 supplier must give the wholesaler written notice specifying the
25 ineligible product. This subdivision does not apply when a sup-
26 plier ships a brand or brands to a wholesaler that must be
27 removed within 60 days of the deadline for retail sale of the

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1 product. This 60-day period shall commence upon receipt of the
2 product by the wholesaler.

3 (13) Notwithstanding subsections (7), (10), (11), and (12),
4 a supplier may terminate, cancel, not renew, or discontinue an
5 agreement upon not less than 30 days' prior written notice if the
6 supplier discontinues production or discontinues distribution in
7 this state of all the brands sold by the supplier to the
8 wholesaler. Nothing in this section shall prohibit a supplier
9 upon not less than 30 days' notice to discontinue the distribu-
10 tion of any particular brand or package of beer. This subsection
11 does not prohibit a supplier from conducting test marketing of a
12 new brand of beer or from conducting the test marketing of a
13 brand of beer which is not currently being sold in this state
14 provided that the supplier has notified the commission in writing
15 of its plans to test market. The notice shall describe the
16 market area in which the test shall be conducted; the name or
17 names of the wholesaler or wholesalers who will be selling the
18 beer; the name or names of the brand of beer being tested; and
19 the period of time during which the testing will take place. A
20 market testing period shall not exceed 18 months.

21 (14) The wholesaler shall devote reasonable efforts and
22 resources to sales and distribution of all the supplier's pro-
23 ducts which the wholesaler has been granted the right to sell and
24 distribute and shall maintain reasonable sales levels.

25 (15) A brewer, an outstate seller of beer, or a master dis-
26 tributor that has designated a sales territory for a wholesaler
27 shall not enter into an additional agreement with any other

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1 wholesaler for the same brand or brands of beer in the same
2 territory or any portion of that territory.

3 (16) A supplier shall not withhold consent to any transfer
4 of a wholesaler's business if the proposed transferee meets the
5 material and reasonable qualifications and standards required by
6 the supplier. A wholesaler shall give the supplier written
7 notice of intent to transfer the wholesaler's business. A sup-
8 plier shall not unreasonably delay a response to a request for a
9 proposed transfer of a wholesaler's business. However, a trans-
10 fer of a wholesaler's business which is not approved by the sup-
11 plier shall be null and void. A supplier shall not interfere
12 with, or prevent, the transfer of the wholesaler's business if
13 the proposed transferee is a designated member.

14 (17) A supplier that has amended, canceled, terminated, or
15 refused to renew any agreement; has caused a wholesaler to resign
16 from an agreement; or has withheld consent to any assignment or
17 transfer of a wholesaler's business, except as provided for in
18 this section, shall pay the wholesaler reasonable compensation
19 for the diminished value of the wholesaler's business or of any
20 ancillary business which has been negatively affected by the act
21 of the supplier, or both. The value of the wholesaler's business
22 or ancillary business shall include, but not be limited to, its
23 good will.

24 (18) Either party may, at any time, determine that mutual
25 agreement on the amount of reasonable compensation cannot be
26 reached. Should such a determination be made, the supplier or
27 the wholesaler shall send written notice to the other party

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1 declaring their intention to proceed with arbitration.

2 Arbitration shall proceed only by mutual agreement of both
3 parties.

4 (19) The matter of determining the amount of compensation
5 under arbitration may, by agreement of the parties, be submitted
6 to a 5-member arbitration panel consisting of 2 representatives
7 selected by the supplier but unassociated with the affected sup-
8 plier, 2 wholesaler representatives selected by the wholesaler
9 but unassociated with the wholesaler, and an impartial
10 arbitrator.

11 (20) Not more than 10 days after the notice to enter into
12 arbitration has been sent, each party shall request, in writing,
13 a list of 5 arbitrators from the American arbitration
14 association. Not more than 10 days after the receipt of the list
15 of 5 choices, the wholesaler arbitrators and the supplier arbi-
16 trators may strike and disqualify up to 2 names each from the
17 list. Should either party fail to respond within the 10 days or
18 should more than 1 name remain, the American arbitration associa-
19 tion shall make the selection of the impartial arbitrator.

20 (21) Not more than 30 days after the list of arbitrators is
21 received, the wholesaler and supplier shall exchange in writing
22 the names of their respective arbitration panel representatives.

23 (22) Not more than 30 days after the final selection of the
24 arbitration panel is made, the arbitration panel shall convene to
25 decide the dispute. The panel shall render a decision by major-
26 ity vote of the participants within 20 days from the conclusion
27 of the arbitration.

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1 (23) The cost of the impartial arbitrator, the stenographer,
2 and the meeting site shall be equally divided between the whole-
3 saler and the supplier. All other costs shall be paid by the
4 party incurring them. The award of the arbitration panel shall
5 be final and binding on the parties.

6 (24) After both parties have agreed to arbitrate should
7 either party fail to abide by the time limitations as prescribed
8 in subsections (20), (21), and (22), or fail or refuse to make
9 the selection of any arbitrators, or fail to participate in the
10 arbitration hearings, the other party shall make the selection of
11 their arbitrators and proceed to arbitration. The party who has
12 failed or refused to comply as prescribed in this subsection
13 shall be considered to be in default. Any party considered to be
14 in default pursuant to this subsection shall have waived any and
15 all rights the party would have had in the arbitration and shall
16 be considered to have consented to the determination of the arbi-
17 tration panel.

18 (25) A wholesaler shall not waive any of the rights granted
19 in any provision of this section. Nothing in this section shall
20 be construed to limit or prohibit good faith dispute settlements
21 voluntarily entered into by the parties.

22 (26) A successor to a supplier that continues in business as
23 a brewer, an outstate seller of beer, or a master distributor
24 shall be bound by all terms and conditions of each agreement of
25 the supplier with a wholesaler licensed in this state that were
26 in effect on the date on which the successor received the
27 distribution rights of the previous supplier.

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1 (27) This section shall apply to agreements in existence on
2 June 26, 1984, as well as agreements entered into or renewed
3 after that date.

4 (28) If a supplier engages in conduct prohibited under this
5 section, a wholesaler with which the supplier has an agreement
6 may maintain a civil action against the supplier to recover
7 actual damages reasonably incurred as the result of the prohib-
8 ited conduct. If a wholesaler engages in conduct prohibited
9 under this section, a supplier with which the wholesaler has an
10 agreement may maintain a civil action against the wholesaler to
11 recover actual damages reasonably incurred as the result of the
12 prohibited conduct.

13 (29) A supplier that violates any provision of this section
14 is liable for all actual damages and all court costs and reason-
15 able attorney fees incurred by a wholesaler as a result of that
16 violation. A wholesaler that violates any provision of this sec-
17 tion is liable for all actual damages and all court costs and
18 reasonable attorney fees incurred by the supplier as a result of
19 that violation.

20 (30) A supplier or wholesaler may bring an action for
21 declaratory judgment for determination of any controversy arising
22 pursuant to this section.

23 (31) Except as otherwise provided in this section, if a
24 court finds that a supplier has not acted in good faith in
25 effecting an amendment, termination, cancellation, or nonrenewal
26 of any agreement; or has unreasonably withheld its consent to any
27 assignment, transfer, or sale of a wholesaler's business, it may

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1 award exemplary damages, as well as actual damages, court costs,
2 and reasonable attorney fees to the wholesaler who has been dam-
3 aged by the action of the supplier.

4 (32) Upon proper application to the court, a supplier or
5 wholesaler may obtain injunctive relief against any violation of
6 this section. If the court grants injunctive relief or issues a
7 temporary restraining order, bond shall not be required to be
8 posted.

9 (33) The procedure for resolving any violation of subsection
10 (3)(a), (b), (c), (e), (f), (h), (i), (j), (k), (l), or (4) shall
11 be the procedure prescribed by this act and the administrative
12 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Any
13 other violation of or dispute regarding this section, unless the
14 dispute is resolved pursuant to subsections (18) to (24), shall
15 only be resolved by a civil action in court as provided in this
16 section and not by the commission.

17 Sec. 405. (1) Subject to section 407, the commission shall
18 issue a brewpub license to a person who is licensed as a food
19 service establishment under part 129 of the public health code,
20 1978 PA 368, MCL 333.12901 to 333.12922, and who at the time of
21 application for the brewpub license is licensed and continues to
22 be licensed as 1 or more of the following:

23 (a) Class "C".

24 (b) Tavern.

25 (c) Class "A" hotel.

26 (d) Class "B" hotel.

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1 (2) A brewpub shall possess the necessary equipment for a
2 satisfactory operation which shall be maintained in good working
3 order and in a sanitary condition.

4 (3) Agricultural products processed by a manufacturer shall
5 comply with state law and with rules of the department of
6 agriculture.

7 (4) A brewpub shall not sell beer in this state unless it
8 provides for each brand or type of beer sold a label that truth-
9 fully describes the content of each container and provides proof
10 that a valid "application for and certification/exemption of
11 label/bottle approval" has been obtained and is unrevoked under
12 the federal malt beverage labeling requirements as published in
13 title 27, part 7, subpart C, C.F.R. 1935, which are hereby
14 adopted by reference.

15 (5) Each location of a brewpub shall have a manufacturing
16 operation on the licensed premises that complies with subsection
17 (6). A brewpub shall apply for and obtain a license for each
18 location of that brewpub. In determining the 5,000-barrel
19 threshold, all brands and labels of the brewpub produced in this
20 state shall be combined.

21 (6) Beer shall be manufactured pursuant to federal malt bev-
22 erage regulations published in title 27, part 25, C.F.R. 1935,
23 which are hereby adopted by reference.

24 (7) Each brewpub shall submit to the commission, on forms
25 acceptable to the commission and postmarked not later than
26 January 15, April 15, July 15, and October 15 of each year, a
27 beer tax report of all beer sold under their brewpub license

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1 during the preceding quarter. Each brewpub shall also submit,
2 with the beer tax report, the payment of the required beer excise
3 tax due pursuant to section 409.

4 (8) A brewpub shall be the holder of a "brewers notice" as
5 issued by the United States department of treasury, bureau of
6 alcohol, tobacco and firearms in accordance with title 27,
7 part 25, subpart G, C.F.R. 1935.

8 Sec. 407. (1) The commission shall grant a brewpub license
9 to a person who, in addition to complying with section 405, does
10 all of the following:

11 (a) Pays the fee as prescribed in section 525.

12 (b) Provides evidence to the commission that not less than
13 25% of the gross sales of the restaurant during the 1-year licen-
14 sure period are derived from the sale of food and nonalcoholic
15 beverages prepared for consumption on the premises.

16 (c) Complies with section 405(3) through (8).

17 (2) The commission shall renew a brewpub license of a person
18 who does all of the following:

19 (a) Pays the fee as prescribed in section 525.

20 (b) Provides evidence to the commission that not less than
21 25% of the gross sales of the restaurant during the 1-year licen-
22 sure period are derived from the sale of food and nonalcoholic
23 beverages prepared for consumption on the premises.

24 (c) Complies with section 405(3) through (8).

25 (3) The commission shall revoke a brewpub license if, during
26 the 1-year licensure period, less than 25% of the gross sales of

1 the restaurant are derived from the sale of food and nonalcoholic
2 beverages prepared for consumption on the premises.

3 Sec. 409. (1) Except as provided in this section, the
4 commission shall levy and collect a tax on all beer manufactured or
5 sold in this state at the rate of \$6.30 per barrel if the beer is
6 sold in bulk or in different quantities. The tax shall be paid by
7 the brewer or brewpub if manufactured in this state or by the
8 wholesaler or the person from whom purchased if manufactured outside
9 this state, whichever is designated by the commission. The
10 commission shall establish by rule a method for the collection of
11 the tax levied in this subsection. The rules shall be promulgated
12 pursuant to the administrative procedures act of 1969, 1969 PA 306,
13 MCL 24.201 to 24.328.

14 (2) The tax levied in subsection (1) shall not be collected
15 with respect to beer that is consumed on the premises of the
16 manufacturer or is damaged in the process of brewing, packaging, and
17 storage and is not offered for sale, except that beer sold by a
18 brewpub for consumption on the premises or beer produced and
19 consumed on the premises of a micro brewer is subject to the tax
20 levied under subsection (1).

21 (3) The tax levied under subsection (1) shall be rebated to the
22 person who paid the tax if that person provides satisfactory proof
23 to the commission that the beer was shipped outside of this state
24 for sale and consumption outside this state.

25 (4) For the purposes of the tax levied under subsection (1), a
26 barrel of beer contains 31 gallons.

1 (5) The commission may promulgate a rule that designates the
2 states or the laws or the rules of other states that require a
3 licensed wholesaler of beer to pay an additional fee for the right
4 to purchase, import, or sell beer manufactured in this state; that
5 denies the issuance of a license authorizing the importation of beer
6 to any licensed wholesaler of beer in that state who may make
7 application for the license; that prohibits licensed wholesalers of
8 beer in that state from possessing or selling beer purchased in this
9 state, unless the person from whom purchased has secured a license
10 and paid a fee in that state, if the seller does not transport the
beer into the state and does not sell the beer in the state; or that
imposes any higher taxes or inspection fees upon beer manufactured
in this state when transporting the beer into or selling the beer in
that state than taxes or fees imposed upon beer manufactured and
sold within that state. A rule promulgated under this subsection
shall prohibit all licensees from purchasing, receiving, possessing,
or selling any beer manufactured in any state designated in the
rule. A rule promulgated under this subsection becomes effective as
provided in section 47 of the administrative procedures act of 1969,
1969 PA 306, MCL 24.247. Any licensee or person adversely affected
by a rule promulgated under this subsection is entitled to review by
leave to a court of competent jurisdiction regarding the question as
to whether the commission acted illegally or in excess of its
authority in making its finding under this subsection with respect
to any state.

(6) An eligible brewer may claim a credit against the tax
levied under subsection (1) in the amount of \$2.00 per barrel. As
used in this subsection, "eligible brewer" means a brewer, whether
or not located in this state, or brewpub that manufactures not more
than 30,000 barrels of beer during the tax year for which the credit
is claimed. In determining the number of barrels for purposes of
the credit, all brands and labels of a brewer shall be combined and
all facilities for the production of beer that are owned or
controlled by the same person shall be treated as a single facility.

11

CHAPTER 5

12 Sec. 501. (1) The commission may issue licenses as provided
13 in this act upon the payment of the fees provided in section 525
14 and the filing of the bonds required in section 801 or liability
15 insurance as provided in section 803.

16 (2) A full-year license issued by the commission shall
17 expire on April 30 following the date of issuance or the date
18 fixed by the commission. A license issued under this act shall
19 be construed as a contract between the commission and the

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20 licensee and shall be signed by both parties. If a licensee
21 dies, the commission may approve the operation of the establish-
22 ment by a personal representative or independent personal repre-
23 sentative duly appointed by a court of competent jurisdiction,
24 pending the settlement of the estate of the deceased licensee.
25 The commission may approve a receiver or trustee appointed by a
26 court of competent jurisdiction to operate the licensed
27 establishment of a licensee. The commission may grant a

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1 part-year license for a proportionate part of the license fee
2 specified in section 525. In a resort area the commission shall
3 grant a license for a period of time as short as 3 months. A
4 license may be transferred with the consent of the commission. A
5 class C or specially designated distributor license obtained in a
6 manner other than by transfer shall not be transferred within
7 3 years after its issuance except under circumstances where the
8 licensee clearly and convincingly demonstrates that unusual hard-
9 ship will result if the transfer does not receive the consent of
10 the commission. An application for a license to sell alcoholic
11 liquor for consumption on the premises, except in a city having a
12 population of 1,000,000 or more, shall be approved by the local
13 legislative body in which the applicant's place of business is
14 located before the license is granted by the commission, except
15 that in the case of an application for renewal of an existing
16 license, if an objection to a renewal has not been filed with the
17 commission by the local legislative body not less than 30 days
18 before the date of expiration of the license, the approval of the
19 local legislative body shall not be required. The commission
20 shall provide the local legislative body and the local chief of
21 police with the name, home and business addresses, and home and
22 business phone numbers to accomplish the local legislative
23 reviews of new and transferred license applications required by
24 this subsection. Upon request of the local legislative body
25 after due notice and proper hearing by the local legislative body
26 and the commission, the commission shall revoke the license of a
27 licensee granted a license to sell alcoholic liquor for

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1 consumption on the premises or any permit held in conjunction
2 with that license.

3 (3) A local legislative body, by resolution, may request
4 that the commission revoke the license of a licensee granted a
5 license to sell alcoholic liquor for consumption off the premises
6 whose place of business is located within the local legislative
7 body's jurisdiction and who has been determined pursuant to com-
8 mission violation hearings to have sold or furnished alcoholic
9 liquor, on at least 3 separate occasions in a single calendar
10 year, to a person who is less than 21 years of age if those vio-
11 lations did not involve the use of falsified or fraudulent iden-
12 tification by the person who is less than 21 years of age. If
13 the commission verifies that the licensee who is the subject of
14 the resolution has been found to have committed the violations as
15 prescribed in this subsection, the commission may suspend or
16 revoke the licensee's license and any permit held in conjunction
17 with that license.

18 (4) This act does not prohibit a hotel which is or was the
19 holder of a license authorizing the retail sale of alcoholic
20 liquor for consumption on the premises from applying for and
21 receiving under this act any other and different type of license
22 authorizing the retail sale of alcoholic liquor for consumption
23 on the premises, and the application for the license shall not be
24 considered a new application for a license so long as the total
25 number of public licenses for consumption on the premises does
26 not exceed the authorized total established in this act and the
27 sale of alcoholic liquor is approved by the electors. The

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1 (2) This section does not apply to specially designated
2 merchants not in conjunction with on the premise licenses.

3 (3) This section does not apply to an outstanding license
4 issued before March 1, 1949, for a location within the aforesaid
5 distance or to the renewal or transfer of the outstanding license
6 at that location, or to a resort license in effect during the
7 1948-1949 licensing year, or to the renewal or transfer of the
8 resort at that location or to an application for a license at
9 that location which has been approved by the commission before
10 March 1, 1949, and licenses so issued, renewed, transferred, or
11 approved shall be conclusively presumed to be valid for purposes
12 of this section only.

13 (4) The commission may waive this section in the case of
14 other classes of licenses. If an objection is not filed by the
15 church or school, the commission may issue the license pursuant
16 to this act. If an objection is filed, the commission shall hold
17 a hearing pursuant to rules established by the commission before
18 making a decision on the issuance of the license.

19 (5) This section shall not be construed to prevent the
20 transfer of a license to a location farther from a church or
21 school, if the license to be transferred is within the 500-foot
22 radius.

23 Sec. 505. Notwithstanding section 501, the commission, with
24 the approval of the bureau of aeronautics, may issue without
25 regard to the quota provision of section 531, not more than 1
26 class "C" or class "B" hotel license for each state-owned airport

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1 serviced by scheduled commercial passenger airlines. Such
2 license shall not be transferable.

3 Sec. 507. The commission may issue, without regard to the
4 quota provisions of section 531, licenses to the owner or lessee,
5 or both, to sell alcoholic beverages for consumption on the
6 premises of buildings in the passenger terminal complex of each
7 publicly owned airport that is served by scheduled commercial
8 passenger airlines certificated to enplane and deplane passengers
9 on a scheduled basis by the federal aviation agency or the civil
10 aeronautics board. A license issued under this section is not
11 transferable.

12 Sec. 509. The commission may issue, without regard to the
13 quota provisions of section 531, licenses to a commission, board,
14 or authority, governing or operating any municipal civic center
15 or civic auditorium or to 1 or more of its concessionaires, or to
16 both, if the center or auditorium is within a city or township
17 having a population of not less than 9,500, if the center or
18 auditorium is owned and operated as a municipal enterprise and if
19 the legislative body of the municipality first authorizes the
20 operating authority of the civic center or civic auditorium or
21 its concessionaire to apply to the commission for a license.
22 Licenses issued under this section shall not be transferable,
23 shall not be issued to an educational institution or for a facil-
24 ity operated in connection with an educational institution, and
25 shall authorize the sale of alcoholic liquor only in connection
26 with a scheduled event at the licensed premises.

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1 Sec. 511. (1) Notwithstanding section 501, the commission
2 may issue the following licenses without regard to the quota
3 provisions of section 531:

4 (a) With the approval of the Mackinac Island state park com-
5 mission, not more than 1 class "C" or class "B" hotel license for
6 each hotel which is located within the Mackinac Island state park
7 and is owned by the Mackinac Island state park commission and not
8 more than 1 class "C" license to a concessionaire of the Mackinac
9 Island state park commission who operates a restaurant located
10 within Fort Mackinac.

11 (b) A license for the sale of alcoholic liquor for consump-
12 tion on or off the premises at the Presque Isle harbor marina.

13 (2) A license issued under this section is not transferable
14 as to ownership or location.

15 Sec. 513. (1) The commission may issue to the governing
16 board of a college or university, without regard to the quota
17 provisions of section 531, a license to sell alcoholic liquor for
18 consumption on the premises of a conference center operated by
19 the governing board. Licenses granted under this subsection may
20 be used only for the sale of alcoholic liquor at regularly sched-
21 uled conference center activities. The sale of alcoholic liquor
22 to unscheduled patrons or at unscheduled events is prohibited
23 under this subsection.

24 (2) Subject to the provisions of section 531, the commission
25 may issue a license to a private entity for the sale of alcoholic
26 liquor for consumption on the premises of a hotel located on land

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1 owned by central Michigan university if both of the following
2 circumstances exist:

3 (a) The land is leased or subleased at fair market value to
4 a private entity that owns, leases, or subleases the hotel build-
5 ing and its fixtures.

6 (b) The hotel and land are located within an industrial,
7 research, or commercial development park established by the gov-
8 erning board of central Michigan university.

9 (3) Licenses issued pursuant to this section are nontrans-
10 ferable, and the licensee shall pay the fee required under sec-
11 tion 525.

12 (4) As used in this section:

13 (a) "College" or "university" means a 2-year or 4-year state
14 supported institution of higher education.

15 (b) "Conference center" means a building or portion of a
16 building, other than a student residence hall or student center,
17 which has meeting rooms, banquet areas, social halls, overnight
18 accommodations, and related facilities for special activities
19 scheduled by the college or university, which in the judgment of
20 the commission, has been regularly used for conferences and lodg-
21 ing of guests. The Hoyt conference center and the corporate edu-
22 cation center at eastern Michigan university, the Kirkhof and
23 Eberhard centers at Grand Valley state university, the Bernhard
24 center at western Michigan university, the Wadsworth center at
25 Michigan technological university, the West complex at Saginaw
26 valley state university, the conference center at Big Rapids and
27 the applied technology center at Grand Rapids of Ferris state

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1 university, Grand Rapids junior college, the Waterman campus
2 center at Schoolcraft college, the Mendel center at Lake Michigan
3 community college, the McGregor memorial conference center at
4 Wayne state university, the Michigan state university management
5 educational center, the Superior dome at northern Michigan uni-
6 versity, Walker Cisler center at Lake Superior state university,
7 and the Marie Prahl college center at Mott community college are
8 considered conference centers for the purposes of this act.

9 Sec. 515. (1) The commission may issue in a county with a
10 population of 1,000,000 or more, without regard to the quota pro-
11 visions of section 531, a class "C" license for a golf course
12 that is owned by a county, city, village, or township and is open
13 to the public.

14 (2) The commission shall not transfer a license issued under
15 this section to another location. If a licensee who receives a
16 license under this section goes out of business, the license
17 issued under this section shall be surrendered to the
18 commission.

19 Sec. 517. (1) The commission may issue national or interna-
20 tional sporting event licenses for the sale of alcoholic liquor
21 for consumption on the premises if all of the following circum-
22 stances are found by the commission to exist:

23 (a) The premises to be licensed are located in the central
24 business district of a city having a population of 70,000 or more
25 and the city is an official host of a national or international
26 sporting event.

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1 (b) The premises to be licensed are located in a theme area
2 or theme areas designated by the governing body of the city in
3 connection with the national or international sporting event.

4 (c) It is reasonably expected that the national or interna-
5 tional sporting event will attract a substantial number of tour-
6 ists from outside this state to the city.

7 (d) The applicant holds a valid Michigan license for the
8 sale of alcoholic liquor for consumption on the premises or is
9 the promoter of the event.

10 (2) Licenses issued under this section shall be for a period
11 of not more than 30 consecutive days and are not transferable as
12 to ownership or location. The license shall be for specific des-
13 igned time periods that include the sporting event and activi-
14 ties associated with the sporting event.

15 (3) Not more than 40 licenses shall be issued under this
16 section for use at the same time in a theme area or theme areas.

17 (4) The governing body of a city described in subsection (1)
18 shall supply to the commission for the commission's review a list
19 containing the names of applicants and the locations of the
20 premises to be licensed under this section. The governing body
21 of the city shall recommend the number of licenses to be issued
22 pursuant to this section in the theme area or theme areas. The
23 commission shall not issue any licenses pursuant to this section
24 that are not recommended by the governing body of the city.

25 (5) The governing body of the city shall provide, in con-
26 junction with the list described in subsection (4), written
27 certification to the commission that all premises to be licensed

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1 under this section comply with applicable state and local
2 building, safety, and health laws, rules, and regulations.

3 (6) An applicant for a license under this section shall pay
4 to the commission a license fee of \$100.00 at the time of
5 application.

6 Sec. 519. (1) Except as otherwise provided in this act, the
7 commission shall not issue a license to sell alcoholic liquor,
8 either on or off the premises, if the property or establishment
9 to be covered by the license is situated in or on state owned
10 land.

11 (2) Subsection (1) does not apply to a special license which
12 has been approved by the governing authority of that state owned
13 land.

14 (3) Subsection (1) does not apply to the following land:

15 (a) The Michigan state fairgrounds.

16 (b) The Upper Peninsula state fairgrounds.

17 (c) Armories, air bases, and naval installations owned or
18 leased by the state or provided by the federal government by
19 either lease, license, or use permit and used by outside parties
20 of a nonmilitary or nonstate governmental nature.

21 (d) Land which was under lease to a person licensed in the
22 calendar year 1954 and on which a licensed establishment is pres-
23 ently located.

24 (e) Land located in the Upper Peninsula which was owned or
25 leased by the federal government, used as a military installa-
26 tion, and transferred to this state before December 31, 2000
27 pursuant to 1978 PA 151, MCL 3.551 to 3.561, or 1993 PA 159, MCL

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1 3.571 to 3.580. The commission may issue 2 additional licenses
2 pursuant to this subdivision for establishments located on this
3 state land without regard to or without the effect upon the quota
4 provisions of section 531 in the local governmental unit in which
5 the license will be issued subject to the recommendation of the
6 authority established pursuant to those acts. A person issued a
7 license pursuant to this subdivision may renew the license and
8 transfer ownership of the license, without regard to or without
9 the effect upon the quota provisions of section 531, if title to
10 the property covered by the license is transferred from the state
11 to another person or to another governmental unit. The commis-
12 sion shall not transfer a license issued under this subdivision
13 to another location. Before the issuance of a license, and annu-
14 ally thereafter before the issuance of a license for a new
15 licensing period, the applicant for a license shall submit to the
16 commission a certificate from the department or agency charged
17 with control of the land setting forth that the issuance of a
18 license is not incompatible with the objects and purposes
19 entrusted to that department or agency under the law establishing
20 control of the land in the department or agency. This subsection
21 does not prohibit the issuance of a license pursuant to
22 section 513.

23 (f) Property owned by the Michigan state waterways commis-
24 sion and leased to persons under part 791 (harbor development) of
25 the natural resources and environmental protection act, 1994 PA
26 451, MCL 324.79101 to 324.79118. A license may be issued under
27 this subdivision to a lessee without regard to the quota

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1 provisions of section 531, but the license shall not be issued
2 without the written approval of the Michigan state waterways com-
3 mission or its designee. A license issued under this subdivision
4 shall not be transferable as to ownership or location, and, if
5 the licensee goes out of business, the license shall be surren-
6 dered to the commission.

7 (g) Property owned by the state treasurer of this state when
8 acting in the capacity of custodian of the assets of the state
9 retirement systems created by the public school employees retire-
10 ment act of 1979, 1979 PA 300, MCL 38.1301 to 38.1437; the state
11 employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69; the
12 state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to
13 38.1648; and the judges retirement act of 1992, 1992 PA 234, MCL
14 38.2101 to 38.2670.

15 Sec. 521. (1) In addition to any licenses for the sale of
16 alcoholic liquor for consumption on the premises that may be
17 available in the local governmental unit under section 531(1),
18 and the resort licenses authorized in section 531(2), (3), and
19 (4), the commission may issue not more than 50 tavern or class
20 "C" licenses to persons who operate businesses that meet all of
21 the following conditions:

22 (a) The business is a full service restaurant, is open to
23 the public, and prepares food on the premises.

24 (b) The business is open for food service not less than 10
25 hours per day, 5 days a week.

26 (c) At least 50% of the gross receipts of the business are
27 derived from the sale of food for consumption on the premises.

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1 For purposes of this subdivision, food does not include beer and
2 wine.

3 (d) The business has dining facilities to seat not less than
4 25 persons.

5 (e) The business is located in a development district with a
6 population of not more than 50,000, in which the authority, after
7 a public hearing, has found that the issuance of the license
8 would prevent further deterioration within the development dis-
9 trict and promote economic growth within the development
10 district. The commission shall not issue the license unless the
11 local unit of government within which the authority is located,
12 after holding a public hearing, passes a resolution concurring in
13 the findings of the authority.

14 (f) The business demonstrates to the commission that an
15 escrowed license is not readily available in any local unit of
16 government in which the development district is located.

17 (2) If in any licensing year the sale of food for consump-
18 tion on the premises of the business represents less than 50% of
19 the gross receipts for the business, the commission, after due
20 notice and proper hearing, shall revoke the license issued under
21 subsection (1).

22 (3) Not more than 1 license shall be issued under subsection
23 (1) to any individual, partnership, limited partnership, limited
24 liability company, corporation, or any combination of any of the
25 above, including stockholders, general partners, or limited
26 partners.

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1 (4) The commission shall not issue a specially designated
2 merchant license, specially designated distributor license, or
3 any other license that allows the sale of alcoholic liquor for
4 consumption off the premises in conjunction with a license issued
5 under subsection (1) or at the premises for which a license has
6 been issued under subsection (1).

7 (5) The commission may issue the licenses under this section
8 without regard to the order in which the applications for the
9 licenses are received.

10 (6) As used in this section:

11 (a) "Development district" means any of the following:

12 (i) An authority district established under the tax incre-
13 ment finance authority act, 1980 PA 450, MCL 125.1801 to
14 125.1830.

15 (ii) An authority district established under the local
16 development financing act, 1986 PA 281, MCL 125.2151 to
17 125.2174.

18 (iii) A downtown district established under 1975 PA 197, MCL
19 125.1651 to 125.1681.

20 (iv) A principal shopping district established under 1961 PA
21 120, MCL 125.981 to 125.987, before January 1, 1996.

22 (b) "Escrowed license" means a license in which the rights
23 of the licensee in the license or to the renewal of the license
24 are still in existence and are subject to renewal and activation
25 in the manner provided for in R 436.1107 of the Michigan adminis-
26 trative code.

1 (c) "Readily available" means available under a standard of
2 economic feasibility, as applied to the specific circumstances of
3 the applicant, that includes but is not limited to the
4 following:

5 (i) The fair market value of the license, if determinable.

6 (ii) The size and scope of the proposed operation.

7 (iii) The existence of mandatory contractual restrictions or
8 inclusions attached to the sale of the license.

9 Sec. 523. (1) A person who holds or whose spouse holds, either
10 by appointment or election, a public office which involves the duty
11 to enforce any of the penal laws of the United States, or the penal
12 laws of this state, or a penal ordinance or resolution of any
13 municipal subdivision of the state, except civil defense volunteer
14 police, mayors or council members of cities, or village presidents,
15 or mayors of home rule cities whose law enforcement authority under
16 the city charter is restricted to emergency situations, or the state
17 treasurer of this state when acting in the capacity of custodian of
18 the assets of the state retirement systems created by the public
19 school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to
20 38.1408; the state employees' retirement act, 1943 PA 240, MCL 38.1
21 to 38.69; the state police retirement act of 1986, 1986 PA 182, MCL
22 38.1601 to 38.1648; and the judges retirement act of 1992, 1992 PA
23 234, MCL 38.2101 to 38.2670, and members of these state retirement
24 systems only if the state treasurer makes an investment in the name
25 of the respective retirement system to which such members belong,
26 shall not be issued a license, or have an interest, directly or
27 indirectly, in a license if the activity regulated by the license

1 occurs in the same local unit of government within which the person
2 enforces those state or local penal laws unless the official is
3 contractually prohibited from enforcing this act. This subsection
4 does not apply to a spouse of an appointed or elected official
5 holding an office which involves the duty to enforce a penal law
6 described in this subsection if the spouse held a license or an
7 interest in a license for not less than 3 years before marrying the
8 appointed or elected official or if the spouse has voting rights in
9 a public or private club holding the license, which voting rights
10 are derived from ownership of shares to the club, and the spouse
11 participates as a member in good standing of the public or private
12 club or of an advisory board but does not participate in the
13 day-to-day operation of the club. In the case of any licensee
14 excepted from the general prohibition contained in this section, the
15 commission may periodically review all circumstances of the licensee
16 and his or her spouse regarding the exception. The commission has
17 the authority to review and monitor any complaints it receives
18 regarding inappropriate enforcement of this act by or against a
19 person excepted from this section. However, a nonprofit fraternal
20 organization incorporated under the laws of this state, whose
21 membership is not totally composed of law enforcement personnel or
22 public officeholders charged with the duty of enforcing any penal
23 laws or ordinances of a governmental body, may be issued a club
24 liquor license if the organization is otherwise qualified.

(2) As used in this section, "law enforcement personnel" does not include the mayor of a city or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648, and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong.

19 Sec. 525. (1) The following license fees shall be paid at
20 the time of filing applications or as otherwise provided in this
21 act:

22 (a) Manufacturers of spirits, but not including makers,
23 blenders, and rectifiers of wines containing 21% or less alcohol

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24 by volume, \$10,000.00.

25 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
26 fraction of a barrel, production annually with a maximum fee of
27 \$1,000.00, and in addition \$50.00 for each motor vehicle used in

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1 delivery to retail licensees. A fee increase shall not apply to
2 a manufacturer of less than 15,000 barrels production per year.

3 (c) Outstate seller of beer, delivering or selling beer in
4 this state, \$1,000.00.

5 (d) Wine makers, blenders, and rectifiers of wine, including
6 makers, blenders, and rectifiers of wines containing 21% or less
7 alcohol by volume, \$100.00. The small wine maker license fee
8 shall be \$25.00.

9 (e) Outstate seller of wine, delivering or selling wine in
10 this state, \$300.00.

11 (f) Outstate seller of mixed spirit drink, delivering or
12 selling mixed spirit drink in this state, \$300.00.

13 (g) Dining cars or other railroad or Pullman cars selling
14 alcoholic liquor, \$100.00 per train.

15 (h) Wholesale vendors other than manufacturers of beer,
16 \$300.00 for the first motor vehicle used in delivery to retail
17 licensees and \$50.00 for each additional motor vehicle used in
18 delivery to retail licensees.

19 (i) Watercraft, licensed to carry passengers, selling alco-
20 holic liquor, a minimum fee of \$100.00 and a maximum fee of
21 \$500.00 per year computed on the basis of \$1.00 per person per
22 passenger capacity.

23 (j) Specially designated merchants, for selling beer or wine
24 for consumption off the premises only but not at wholesale,
25 \$100.00 for each location regardless of the fact that the loca-
26 tion may be a part of a system or chain of merchandising.

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1 (k) Specially designated distributors licensed by the
2 commission to distribute spirits and mixed spirit drink in the
3 original package for the commission for consumption off the
4 premises, \$150.00 per year, and an additional fee of \$3.00 for
5 each \$1,000.00 or major fraction of that amount in excess of
6 \$25,000.00 of the total retail value of merchandise purchased
7 under each license from the commission during the previous calen-
8 dar year.

9 (l) Hotels of class A selling beer and wine, a minimum fee
10 of \$250.00 and, for all bedrooms in excess of 20, \$1.00 for each
11 additional bedroom, but not more than \$500.00.

12 (m) Hotels of class B selling beer, wine, mixed spirit
13 drink, and spirits, a minimum fee of \$600.00 and, for all bed-
14 rooms in excess of 20, \$3.00 for each additional bedroom. If a
15 hotel of class B sells beer, wine, mixed spirit drink, and spir-
16 its in more than 1 public bar, the fee shall entitle the hotel to
17 sell in only 1 public bar, other than a bedroom, and a license
18 shall be secured for each additional public bar, other than a
19 bedroom, the fee for which shall be \$350.00.

20 (n) Taverns, selling beer and wine, \$250.00.

21 (o) Class C license selling beer, wine, mixed spirit drink,
22 and spirits, \$600.00. If a class C licensee sells beer, wine,
23 mixed spirit drink, and spirits in more than 1 bar, a fee of
24 \$350.00 shall be paid for each additional bar. In municipally
25 owned or supported facilities in which nonprofit organizations
26 operate concession stands, a fee of \$100.00 shall be paid for
27 each additional bar.

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1 (p) Clubs selling beer, wine, mixed spirit drink, and
2 spirits, \$300.00 for clubs having 150 or fewer duly accredited
3 members and \$1.00 for each additional member. The membership
4 list for the purpose only of determining the license fees to be
5 paid under this section shall be the accredited list of members
6 as determined by a sworn affidavit 30 days before the closing of
7 the license year. This section shall not prevent the commission
8 from checking a membership list and making its own determination
9 from the list or otherwise. The list of members and additional
10 members shall not be required of a club paying the maximum fee.
11 The maximum fee shall not exceed \$750.00 for any 1 club.

12 (q) Warehouse, to be fixed by the commission with a mini-
13 mum fee for each warehouse of \$50.00.

14 (r) Special licenses, a fee of \$50.00 per day, except that
15 the fee for that license or permit issued to any bona fide non-
16 profit association, duly organized and in continuous existence
17 for 1 year before the filing of its application, shall be
18 \$25.00. Not more than 5 special licenses may be granted to any
19 organization, including an auxiliary of the organization, in a
20 calendar year.

21 (s) Airlines licensed to carry passengers in this state
22 which sell, offer for sale, provide, or transport alcoholic
23 liquor, \$600.00.

24 (t) Brandy manufacturer, \$100.00.

25 (u) Mixed spirit drink manufacturer, \$100.00.

26 (v) Brewpub, \$100.00.

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1 (2) The fees provided in this act for the various types of
2 licenses shall not be prorated for a portion of the effective
3 period of the license.

4 Sec. 527. (1) The commission may issue a special license to
5 a nonprofit charitable organization that is exempt from the pay-
6 ment of taxes under the internal revenue code for the purpose of
7 allowing the organization to sell, at auction, wine donated to
8 the organization.

9 (2) A special license issued pursuant to subsection (1) is
10 not transferable. The organization applying for the special
11 license shall pay the fee required under section 525(1)(r).

12 (3) An auction permitted under subsection (1) may occur upon
13 premises which are otherwise licensed under this act to allow the
14 sale of alcoholic liquor for consumption on the licensed
15 premises.

16 Sec. 529. (1) A license or an interest in a license shall
17 not be transferred from 1 person to another without the prior
18 approval of the commission. For purposes of this section, the
19 transfer in the aggregate to another person during any single
20 licensing year of more than 10% of the outstanding stock of a
21 licensed corporation or more than 10% of the total interest in a
22 licensed limited partnership shall be considered to be a transfer
23 requiring the prior approval of the commission.

24 (2) Not later than July 1 of each year, each privately held
25 licensed corporation and each licensed limited partnership shall
26 notify the commission as to whether any of the shares of stock in
27 the corporation, or interest in the limited partnership, have

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1 been transferred during the preceding licensing year. The
2 commission may investigate the transfer of any number of shares
3 of stock in a licensed corporation, or any amount of interest in
4 a licensed limited partnership, for the purpose of ensuring com-
5 pliance with this act and the rules promulgated under this act.

6 (3) Except as otherwise provided in subdivisions (a) through
7 (f), upon approval by the commission of a transfer subject to
8 subsection (1), there shall be paid to the commission a transfer
9 fee equal to the fee provided in this act for the class of
10 license being transferred. A transfer fee shall not be prorated
11 for a portion of the effective period of the license. If a
12 person holding more than 1 license or more than 1 interest in a
13 license at more than 1 location, but in the name of a single
14 legal entity, transfers all of the licenses or interests in
15 licenses simultaneously to another single legal entity, the
16 transfers shall be considered 1 transfer for purposes of deter-
17 mining a transfer fee, payable in an amount equal to the highest
18 license fee provided in this act for any of the licenses, or
19 interests in licenses, being transferred. A transfer fee shall
20 not be required in regard to any of the following:

21 (a) The transfer, in the aggregate, of less than 50% of the
22 outstanding shares of stock in a licensed corporation or less
23 than 50% of the total interest in a licensed limited partnership
24 during any licensing year.

25 (b) The exchange of the assets of a licensed sole proprie-
26 torship, licensed general partnership, or licensed limited
27 partnership for all outstanding shares of stock in a corporation

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1 in which either the sole proprietor, all members of the general
2 partnership, or all members of the limited partnership are the
3 only stockholders of that corporation. An exchange under this
4 subdivision shall not be considered an application for a license
5 for the purposes of section 501.

6 (c) The transfer of the interest in a licensed business of a
7 deceased licensee, a deceased stockholder, or a deceased member
8 of a general or limited partnership to the deceased person's
9 spouse or children.

10 (d) The removal of a member of a firm, a stockholder, a
11 member of a general partnership or limited partnership, or asso-
12 ciation of licensees from a license.

13 (e) The addition to a license of the spouse, son, daughter,
14 or parent of any of the following:

15 (i) A licensed sole proprietor.

16 (ii) A stockholder in a licensed corporation.

17 (iii) A member of a licensed general partnership, licensed
18 limited partnership, or other licensed association.

19 (f) The occurrence of any of the following events:

20 (i) A corporate stock split of a licensed corporation.

21 (ii) The issuance to a stockholder of a licensed corporation
22 of previously unissued stock as compensation for services
23 performed.

24 (iii) The redemption by a licensed corporation of its own
25 stock.

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1 (4) A nonrefundable inspection fee of \$70.00 shall be paid
2 to the commission by an applicant or licensee at the time of
3 filing any of the following:

4 (a) An application for a new license or permit.

5 (b) A request for approval of a transfer of ownership or
6 location of a license.

7 (c) A request for approval to increase or decrease the size
8 of the licensed premises, or to add a bar.

9 (d) A request for approval of the transfer in any licensing
10 year of any of the shares of stock in a licensed corporation from
11 1 person to another, or any part of the total interest in a
12 licensed limited partnership from 1 person to another.

13 (5) An inspection fee shall be returned to the person by
14 whom it was paid if the purpose of the inspection was to inspect
15 the physical premises of the licensee, and the inspection was not
16 actually conducted. An inspection fee shall not be required for
17 any of the following:

18 (a) The issuance or transfer of a special license, salesper-
19 son license, limited alcohol buyer license, corporate salesperson
20 license, hospital permit, military permit, or Sunday sale of
21 spirits permit.

22 (b) The issuance of a new permit, or the transfer of an
23 existing permit, if the permit is issued or transferred simulta-
24 neously with the issuance or transfer of a license or an interest
25 in a license.

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1 (c) The issuance of authorized but previously unissued
2 corporate stock to an existing stockholder of a licensed
3 corporation.

4 (d) The transfer from a corporation to an existing stock-
5 holder of any of the corporation's stock that is owned by the
6 corporation itself.

7 (6) All inspection fees collected under this section shall
8 be deposited in the special fund in section 543 for carrying out
9 of the licensing and enforcement provisions of this act.

10 Sec. 531. (1) A public license shall not be granted for the
11 sale of alcoholic liquor for consumption on the premises in
12 excess of 1 license for each 1,500 of population or major frac-
13 tion thereof. On-premise escrowed licenses issued under this
14 subsection are available subject to section 501(2) to an appli-
15 cant whose proposed operation is located within any local govern-
16 mental unit in a county with a population of under 500,000 in
17 which the escrowed license was located. If the local governmen-
18 tal unit within which the former licensee's premises were located
19 spans more than 1 county, an escrowed license is available
20 subject to section 501(2) to an applicant whose proposed opera-
21 tion is located within any local governmental unit in either
22 county. If an escrowed license is activated within a local gov-
23 ernmental unit other than that local governmental unit within
24 which the escrowed license was originally issued, the commission
25 shall count that activated license against the local governmental
26 unit originally issuing the license. This quota does not bar the
27 right of an existing licensee to renew a license or transfer the

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1 license and does not bar the right of a tavern or class A hotel
2 from requesting reclassification of a license to class C, unless
3 local option laws prevent the sale of spirits and mixed spirit
4 drinks by those licensed premises, subject to the consent of the
5 commission. The upgrading of a license resulting from a request
6 under this subsection shall be approved by the local governmental
7 unit having jurisdiction.

8 (2) In a resort area, the commission may issue 1 or more
9 licenses for a period not to exceed 12 months without regard to a
10 limitation because of population, but not in excess of 550, and
11 with respect to the resort license the commission, by rule, shall
12 define and classify resort seasons by months and may issue 1 or
13 more licenses for resort seasons without regard to the calendar
14 year or licensing year.

15 (3) In addition to the resort licenses authorized in subsec-
16 tion (2), the commission may issue not more than 10 additional
17 licenses per year for the years 1996 and 1997 to establishments
18 whose business and operation, as determined by the commission, is
19 designed to attract and accommodate tourists and visitors to the
20 resort area, and whose primary purpose is not for the sale of
21 alcoholic liquor. In counties having a population of less than
22 50,000, as determined by the last federal decennial census or as
23 determined pursuant to subsection (11) and subject to
24 subsection (17) in the case of a class A hotel or a class B
25 hotel, the commission shall not require the establishments to
26 have dining facilities to seat more than 50 persons. The
27 commission may cancel the license if the resort is no longer

1 active or no longer qualifies for the license. Before January 16
2 of each year the commission shall transmit to the legislature a
3 report giving details as to the number of applications received
4 under this subsection; the number of licenses granted and to
5 whom; the number of applications rejected and the reasons; and
6 the number of the licenses revoked, suspended, or other disci-
7 plinary action taken and against whom and the grounds for revoca-
8 tion, suspension, or disciplinary action.

9 (4) In addition to any licenses for the sale of alcoholic
10 liquor for consumption on the premises that may be available in
11 the local governmental unit under subsection (1) and the resort
12 licenses authorized in subsections (2) and (3), the commission
13 may issue not more than 25 additional resort licenses per year
14 for the years 1996 and 1997. The commission may issue any of the 25
15 licenses not issued but available for calendar year 1997 during the
calendar year 1998. A person is eligible to apply for a license
under this subsection upon submitting an application to the
commission and demonstrating all of the following:

16 (a) The establishment's business and operation, as deter-
17 mined by the commission, is designed to attract and accommodate
18 tourists and visitors to the resort area.

19 (b) The establishment's primary business is not the sale of
20 alcoholic liquor.

21 (c) The capital investment in real property, leasehold
22 improvement, fixtures, and inventory for the premises to be
23 licensed is in excess of \$1,000,000.00.

24 (5) In governmental units having a population of 50,000 per-
25 sons or less, as determined by the last federal decennial census
26 or as determined pursuant to subsection (11), in which the quota
27 of specially designated distributor licenses, as provided by

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1 commission rule, has been exhausted, the commission may issue not
2 more than 10 additional specially designated distributor licenses
3 per year for the years 1996 and 1997 to established merchants
4 whose business and operation, as determined by the commission, is
5 designed to attract and accommodate tourists and visitors to the
6 resort area. A specially designated distributor license issued
7 pursuant to this subsection may be issued at a location within
8 2,640 feet of existing specially designated distributor license
9 locations. A specially designated distributor license issued
10 pursuant to this subsection shall not bar another specially des-
11 igned distributor licensee from transferring location to within
12 2,640 feet of said licensed location.

13 (6) In addition to any licenses for the sale of alcoholic
14 liquor for consumption on the premises that may be available in
15 the local governmental unit under subsection (1), and the resort
16 licenses authorized in subsections (2), (3), and (4), and not-
17 withstanding section 501(3), the commission may issue not more
18 than 5 additional special purpose licenses in any calendar year
19 for the sale of beer and wine for consumption on the premises. A
20 special purpose license issued pursuant to this subsection shall
21 be issued only for events which are to be held from May 1 to
22 September 30, are artistic in nature, and which are to be held on
23 the campus of a public university with an enrollment of 30,000 or
24 more students. A special purpose license shall be valid for 30
25 days or for the duration of the event for which it is issued,
26 whichever is less. The fee for a special purpose license shall

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1 be \$50.00. A special purpose license may be issued only to a
2 corporation which is all of the following:

3 (a) Is a nonprofit corporation organized pursuant to the
4 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
5 450.3192.

6 (b) Has a board of directors constituted of members of whom
7 half are elected by the public university at which the event is
8 scheduled and half are elected by the local governmental unit.

9 (c) Has been in continuous existence for not less than 6
10 years.

11 (7) Notwithstanding the local legislative body approval pro-
12 vision of section 501(2) and notwithstanding the provisions of
13 section 519, the commission may issue, without regard to the
14 quota provisions of subsection (1) and with the approval of the
15 governing board of the university, either a tavern or class C
16 license which may be used only for regularly scheduled events at
17 a public university's established outdoor program or festival at
18 a facility on the campus of a public university having a head
19 count enrollment of 10,000 students or more. A license issued
20 under this subsection may only be issued to the governing board
21 of a public university, a person that is the lessee or conces-
22 sionaire of the governing board of the university, or both. A
23 license issued under this subsection is not transferable as to
24 ownership or location. A license issued under this subsection
25 may not be issued at an outdoor stadium customarily used for
26 intercollegiate athletic events.

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1 (8) In issuing a resort license under subsection (3), (4),
2 or (5) the commission shall consider economic development factors
3 of the area in the issuance of licenses to establishments
4 designed to stimulate and promote the resort and tourist
5 industry. The commission shall not transfer a resort license
6 issued under subsection (3), (4), or (5) to another location, and
7 if the licensee goes out of business the license shall be surren-
8 dered to the commission.

9 (9) The limitations and quotas of this section shall not be
10 applicable to the issuance of a new license to a veteran of the
11 armed forces of the United States who was honorably discharged or
12 released under honorable conditions from the armed forces of the
13 United States and who had by forced sale disposed of a similar
14 license within 90 days before or after entering or while serving
15 in the armed forces of the United States, as a part of the
16 person's preparation for that service if the application for a
17 new license is made for the same governmental unit in which the
18 previous license was issued and within 60 days after the dis-
19 charge of the applicant from the armed forces of the United
20 States.

21 (10) The limitations and quotas of this section shall not be
22 applicable to the issuance of a new license or the renewal of an
23 existing license where the property or establishment to be
24 licensed is situated in or on land on which an airport owned by a
25 county or in which a county has an interest is situated.

26 (11) For purposes of implementing this section a special
27 state census of a local governmental unit may be taken at the

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1 expense of the local governmental unit by the federal bureau of
2 census or the secretary of state under section 6 of 1909 PA 279,
3 MCL 117.6. The special census shall be initiated by resolution
4 of the governing body of the local governmental unit involved.
5 The secretary of state may promulgate additional rules necessary
6 for implementing this section pursuant to the administrative pro-
7 cedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

8 (12) Before granting an approval as required in
9 section 501(2) for a license to be issued under subsection (2),
10 (3), or (4), a local legislative body shall disclose the avail-
11 ability of transferable licenses held in escrow for more than 1
12 licensing year within that respective local governmental unit.
13 Public notice of the meeting to consider the granting of the
14 license by the local governmental unit shall be made 2 weeks
15 before the meeting.

16 (13) The person signing the application for an on-premise
17 resort license shall state and verify that he or she attempted to
18 secure an on-premise escrowed or quota license and that, to the
19 best of his or her knowledge, an on-premise escrowed or quota
20 license is not readily available within the local governmental
21 unit in which the applicant for the on-premise resort license
22 proposes to operate.

23 (14) The commission shall not issue an on-premise resort
24 license if the local governmental unit within which the resort
25 license applicant proposes to operate has not issued all
26 on-premise licenses available under subsection (1) or if an
27 on-premise escrowed license exists and is readily available

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1 within the local governmental unit in which the applicant for the
2 on-premise resort license proposes to operate. The commission
3 may waive the provisions of this subsection upon a showing of
4 good cause.

5 (15) The commission shall not require a class A hotel or a
6 class B hotel licensed pursuant to subsection (2), (3), or (4) to
7 provide food service to registered guests or to the public.

8 (16) As used in this section:

9 (a) "Escrowed license" means a license in which the rights
10 of the licensee in the license or to the renewal of the license
11 are still in existence and are subject to renewal and activation
12 in the manner provided for in R 436.1107 of the Michigan adminis-
13 trative code.

14 (b) "Readily available" means available under a standard of
15 economic feasibility, as applied to the specific circumstances of
16 the applicant, that includes but is not limited to the
17 following:

18 (i) The fair market value of the license, if determinable.

19 (ii) The size and scope of the proposed operation.

20 (iii) The existence of mandatory contractual restrictions or
21 inclusions attached to the sale of the license.

22 Sec. 533. A retail vendor licensed under this act to sell
23 for consumption on the premises may apply for a license as a spe-
24 cially designated merchant. A specially designated distributor
25 may apply for a license as a specially designated merchant. In
26 cities, incorporated villages, or townships, the commission shall

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1 issue only 1 specially designated distributor license for each
2 3,000 of population, or fraction of 3,000.

3 Sec. 535. A vendor shall be a person authorized to do busi-
4 ness under the laws of this state.

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

7 (a) Taverns where beer and wine may be sold for consumption
8 on the premises only.

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

11 (c) Clubs where beer, wine, mixed spirit drink, and spirits
12 may be sold for consumption on the premises only to bona fide
13 members, who have attained the age of 21 years.

14 (d) Hotels of class A where beer and wine may be sold for
15 consumption on the premises and in the rooms of bona fide regis-
16 tered guests. Hotels of class B where beer, wine, mixed spirit
17 drink, and spirits may be sold for consumption on the premises
18 and in the rooms of bona fide registered guests.

19 (e) Specially designated merchants, where beer and wine may
20 be sold for consumption off the premises only.

21 (f) Specially designated distributors where spirits and
22 mixed spirit drink may be sold for consumption off the premises
23 only.

24 (g) Special licenses where beer and wine or beer, wine,
25 mixed spirit drink, and spirits may be sold for consumption on
26 the premises only.

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1 (h) Dining cars or other railroad or pullman cars,
2 watercraft, or aircraft, where alcoholic liquor may be sold for
3 consumption on the premises only, subject to rules promulgated by
4 the commission.

5 (i) Brewpubs where beer manufactured on the premises by the
6 licensee may be sold for consumption on or off the premises by
7 any of the following licensees:

8 (i) Class "C".

9 (ii) Tavern.

10 (iii) Class "A" hotel.

11 (iv) Class "B" hotel.

12 (j) Micro brewers where beer produced by the micro brewer
13 may be sold to a consumer for consumption on or off the brewery
14 premises.

15 (2) A wine maker may sell wine made by that wine maker in a
16 restaurant for consumption on or off the premises if the restau-
17 rant is owned by the wine maker or operated by another person
18 under an agreement approved by the commission and located on the
19 premises where the wine maker is licensed.

20 (3) A wine maker, with the prior written approval of the
21 commission, may conduct wine tastings of wines made by that wine
22 maker and may sell the wine made by that wine maker for consump-
23 tion off the premises at a location other than the premises where
24 the wine maker is licensed to manufacture wine, under the follow-
25 ing conditions:

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

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1 (b) Not more than 1 wine tasting location as described in
2 this subsection, per wine maker, may be approved by the commis-
3 sion in a licensing year.

4 (c) Payment of a \$100.00 fee per location is made to the
5 commission.

6 (d) The wine tasting locations shall be considered licensed
7 premises.

8 (e) Wine tasting does not take place between the hours of 2
9 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and
10 12 noon on Sunday.

11 (f) The premises and the licensee comply with and are
12 subject to all applicable rules promulgated by the commission.

13 Sec. 539. A marina that is situated on 1 of the Great
14 Lakes, on that part of an inland waterway or tributary connected
15 to and navigable to 1 of the Great Lakes, or on a Great Lakes
16 connecting waterway may be issued a license as a specially desig-
17 nated merchant or specially designated distributor, notwithstand-
18 ing the fact that the marina maintains motor vehicle fuel pumps
19 on or adjacent to the licensed premises, or maintains a financial
20 interest in any motor vehicle fuel pumps if both of the following
21 conditions are met:

22 (a) The marina's primary business is the sale of boats or
23 the provision of services and supplies to recreational power
24 cruisers and sailboats of the type that typically travel on the
25 Great Lakes.

26 (b) The fuel pumps are used for dispensing fuel only to
27 boats described in subdivision (a).

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1 Sec. 541. (1) The commission shall not prohibit an
2 applicant for or the holder of a specially designated distributor
3 license or specially designated merchant license from owning or
4 operating motor vehicle fuel pumps on or adjacent to the licensed
5 premises, if both of the following conditions are met:

6 (a) One or both of the following conditions exist:

7 (i) The applicant or licensee is located in a neighborhood
8 shopping center composed of 1 or more commercial establishments
9 organized or operated as a unit which is related in location,
10 size, and type of shop to the trade area that the unit serves,
11 which provides not less than 50,000 square feet of gross leasable
12 retail space, and which provides 5 private off-street parking
13 spaces for each 1,000 square feet of gross leasable retail
14 space.

15 (ii) The applicant or licensee maintains a minimum inventory
16 on the premises, excluding alcoholic liquor and motor vehicle
17 fuel, of not less than \$250,000.00, at cost, of those goods and
18 services customarily marketed by approved types of businesses.

19 (b) The site of payment and selection of alcoholic liquor is
20 not less than 50 feet from that point where motor vehicle fuel is
21 dispensed.

22 (2) The commission shall not prohibit an applicant for or
23 the holder of a specially designated merchant license from owning
24 or operating motor vehicle fuel pumps on or adjacent to the
25 licensed premises if both of the following conditions are met:

26 (a) The applicant or licensee is located in either of the
27 following:

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1 (i) A city, incorporated village, or township with a
2 population of 3,000 or less and a county with a population of
3 31,000 or more.

4 (ii) A city, incorporated village, or township with a popu-
5 lation of 3,500 or less and a county with a population of less
6 than 31,000.

7 (b) The applicant or licensee maintains a minimum inventory
8 on the premises, excluding alcoholic liquor and motor vehicle
9 fuel, of not less than \$10,000.00, at cost, of those goods and
10 services customarily marketed by approved types of businesses.

11 (3) The commission shall not prohibit an applicant for or
12 the holder of a specially designated distributor license from
13 owning or operating motor vehicle fuel pumps on or adjacent to
14 the licensed premises if both of the following conditions are
15 met:

16 (a) The applicant or licensee is located in either of the
17 following:

18 (i) A city, incorporated village, or township with a popula-
19 tion of 3,000 or less and a county with a population of 31,000 or
20 more.

21 (ii) A city, incorporated village, or township with a popu-
22 lation of 3,500 or less and a county with a population of less
23 than 31,000.

24 (b) The applicant or licensee maintains a minimum inventory
25 on the premises, excluding alcoholic liquor and motor vehicle
26 fuel, of not less than \$12,500.00, at cost, of those goods and
27 services customarily marketed by approved types of businesses.

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1 (4) A person who was issued a specially designated merchant
2 license or specially designated distributor license at a location
3 at which another person owned, operated or maintained motor vehi-
4 cle fuel pumps at the same location may have or acquire an inter-
5 est in the ownership, operation or maintenance of those motor
6 vehicle fuel pumps.

7 (5) The commission may transfer ownership of a specially
8 designated merchant license or specially designated distributor
9 license to a person who owns or is acquiring an interest in motor
10 vehicle fuel pumps already in operation at the same location at
11 which the license is issued.

12 Sec. 543. (1) Quarterly, upon recommendation of the commis-
13 sion, the state shall pay in the manner prescribed by law to the
14 city, village, or township in which a full-time police department
15 or full-time ordinance enforcement department is maintained or,
16 if a police department or full-time ordinance enforcement depart-
17 ment is not maintained, to the county, to be credited to the
18 sheriff's department of the county in which the licensed premises
19 are located, 55% of the amount of the proceeds of the retailers'
20 license fees and license renewal fees collected in that jurisdic-
21 tion, for the specific purpose of enforcing this act and the
22 rules promulgated under this act. Forty-one and one-half percent
23 of the amount of the proceeds of retailers' license and license
24 renewal fees collected shall be deposited in a special fund to be
25 annually appropriated to the commission for carrying out the
26 licensing and enforcement provisions of this act. Any
27 unencumbered or uncommitted money in the special fund shall

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1 revert to the general fund of the state 12 months after the end
2 of each fiscal year in which the funds were collected. The leg-
3 islature shall appropriate 3-1/2% of the amount of the proceeds
4 of retailers' license and license renewal fees collected to be
5 credited to a special fund in the state treasury for the purposes
6 of promoting and sustaining programs for the prevention, rehabil-
7 itation, care, and treatment of alcoholics. This subsection does
8 not apply to retail license fees collected for railroad or
9 Pullman cars, watercraft, or aircraft, or to the transfer fees
10 provided in section 529.

11 (2) All license and license renewal fees, other than retail
12 license and license renewal fees, shall be credited to the grape
13 and wine industry council created in section 303, to be used as
14 provided in section 303. Money credited to the grape and wine
15 industry council shall not revert to the state general fund at
16 the close of the fiscal year, but shall remain in the account to
17 which it was credited to be used as provided in section 303.

18 (3) All retail license fees collected for railroad or
19 Pullman cars, watercraft, or aircraft, and the transfer fees pro-
20 vided in section 529 shall be deposited in the special fund cre-
21 ated in subsection (1) for carrying out the licensing and
22 enforcement provisions of this act.

23 CHAPTER 6

24 Sec. 601. (1) A wholesale licensee or an applicant for a
25 wholesale license, if an individual, shall be licensed only if
26 that individual has resided in this state for not less than 1
27 year immediately prior to the date of issuance of the license.

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1 (2) A wholesale licensee or an applicant for a wholesale
2 license, if a partnership other than a limited partnership, shall
3 be licensed only if all of its members have resided in this state
4 for not less than 1 year immediately prior to the date of issu-
5 ance of the license.

6 (3) A wholesale licensee or an applicant for a wholesale
7 license, if a limited partnership, shall be licensed only if the
8 limited partnership is authorized to do business under the laws
9 of this state, and if the general partner and all limited part-
10 ners have resided in this state for not less than 1 year immedi-
11 ately preceding the date of issuance of the license. If the gen-
12 eral partner is a corporation, the limited partnership shall be
13 licensed only if the corporation has been authorized to do busi-
14 ness under the laws of this state for not less than 1 year imme-
15 diately preceding the date on which the corporation obtained an
16 interest in the limited partnership. A limited partnership that
17 holds a wholesale license shall not admit as a new limited part-
18 ner an individual who has not resided in this state for at least
19 1 year immediately preceding the date on which the limited part-
20 nership interest was acquired by the individual.

21 (4) A wholesale licensee or an applicant for a wholesale
22 license, if a corporation, shall be licensed only if the corpora-
23 tion is authorized to do business under the laws of this state
24 and if all stockholders of the corporation have resided in this
25 state for not less than 1 year immediately preceding the date of
26 issuance of the license. A corporation that holds a wholesale
27 license shall not issue shares of the corporation's stock to a

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1 person who has not resided in this state for at least 1 year
2 immediately preceding the date on which the corporate stock was
3 acquired by the person.

4 Sec. 603. (1) Except as provided in subsection (6) and sec-
5 tion 605, a manufacturer, mixed spirit drink manufacturer, ware-
6 houser, wholesaler, outstate seller of beer, outstate seller of
7 wine, outstate seller of mixed spirit drink, or vendor of spirits
8 shall not have any financial interest, directly or indirectly, in
9 the establishment, maintenance, operation, or promotion of the
10 business of any other vendor.

11 (2) Except as provided in subsection (6) and section 605, a
12 manufacturer, mixed spirit drink manufacturer, warehouser, whole-
13 saler, outstate seller of beer, outstate seller of wine, outstate
14 seller of mixed spirit drink, or vendor of spirits or a stock-
15 holder of a manufacturer, mixed spirit drink manufacturer, ware-
16 houser, wholesaler, outstate seller of beer, outstate seller of
17 wine, outstate seller of mixed spirit drink, or vendor of spirits
18 shall not have an interest by ownership in fee, leasehold, mort-
19 gage, or otherwise, directly or indirectly, in the establishment,
20 maintenance, operation, or promotion of the business of any other
21 vendor.

22 (3) Except as provided in subsection (6) and section 605, a
23 manufacturer, mixed spirit drink manufacturer, warehouser, whole-
24 saler, outstate seller of beer, outstate seller of wine, outstate
25 seller of mixed spirit drink, or vendor of spirits shall not have
26 an interest directly or indirectly by interlocking directors in a
27 corporation or by interlocking stock ownership in a corporation

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

3 (4) Except as provided in subsection (6) and section 605, a
4 person shall not buy the stocks of a manufacturer, mixed spirit
5 drink manufacturer, warehouse, wholesaler, outstate seller of
6 beer, outstate seller of wine, outstate seller of mixed spirit
7 drink, or vendor of spirits and place the stock in any portfolio
8 under an arrangement, written trust agreement, or form of invest-
9 ment trust agreement and issue participating shares based upon
10 the portfolio, trust agreement, or investment trust agreement,
11 and sell the participating shares within this state.

12 (5) The commission may approve a brandy manufacturer to sell
13 brandy made by that brandy manufacturer in a restaurant for con-
14 sumption on or off the premises if the restaurant is owned by the
15 brandy manufacturer or operated by another person under an agree-
16 ment approved by the commission and is located on the premises
17 where the brandy manufacturer is licensed. Brandy sold for con-
18 sumption off the premises under this subsection shall be sold at
19 the uniform price established by the commission.

20 (6) A brewpub may have an interest in up to 2 other brewpubs
21 so long as the combined production of all the locations in which
22 the brewpub has an interest does not exceed 5,000 barrels of beer
23 per calendar year.

24 Sec. 605. (1) A brewer, or the parent company, a subsid-
25 iary or an affiliate of a brewer which parent company, subsid-
26 iary, or affiliate is located in this state may acquire, develop,
27 sell, lease, finance, maintain, operate, or promote real property

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1 occupied or to be occupied by another vendor, except a
2 wholesaler, if all of the following exist:

3 (a) The brewer has received written approval of the commis-
4 sion before entering into any arrangement or contract between the
5 parties regarding the real property.

6 (b) The legislative body of the city, village, or township
7 where the property is located certifies to the commission that
8 the real property is in an urban, commercial, or community rede-
9 velopment area and is designated as such by a state or federal
10 agency.

11 (c) Any arrangement or contract entered into between the
12 brewer, its parent company, subsidiary, or affiliate and another
13 vendor shall not directly or indirectly influence or control the
14 brand of alcoholic liquor sold or to be sold by the vendor and
15 shall only be concerned with real property.

16 (2) The commission may deny or approve an arrangement or
17 contract to be entered into under this section. In denying or
18 approving an arrangement or contract, the commission shall con-
19 sider all of the following:

20 (a) That the arrangement or contract to be entered into is
21 concerned only with real property.

22 (b) That the certification required under subsection (1)(b)
23 has been received by the commission.

24 (c) That the arrangement or contract does not violate this
25 act or the rules promulgated under this act.

26 (3) The commission may review any arrangement or contract
27 under this section at the time that 1 of the parties to the

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1 arrangement or contract applies for or renews a license. The
2 commission may deny, revoke, or suspend the license of a party to
3 the arrangement or contract if the commission finds that the
4 party to the arrangement or contract has violated this act or the
5 rules promulgated under this act.

6 (4) Except as otherwise provided in subsection (5), a whole-
7 saler shall not be a party to, directly or indirectly, an
8 arrangement or contract under this section.

9 (5) A manufacturer, mixed spirit drink manufacturer, ware-
10 houser, wholesaler, authorized distribution agent, outstate
11 seller of beer, outstate seller of wine, outstate seller of mixed
12 spirit drink, or vendor of spirits may acquire, develop, sell,
13 lease, finance, maintain, operate, or promote a condominium
14 project or own a condominium unit as its sole property, under the
15 condominium act, 1978 PA 59, MCL 559.101 to 559.275, if that con-
16 dominium unit is not the licensed premises owned separately by a
17 retailer and if all of the following apply:

18 (a) Condominium assessments in the condominium project are
19 based on the proportional area each condominium unit has to the
20 total area.

21 (b) A condominium unit operating as a licensed premises
22 operates under a separate name from the condominium project
23 except that cooperative advertising shall be permitted among
24 owners of condominium units for the purpose of promoting the con-
25 dominium project if the name of a brand or brands of an alcoholic
26 liquor is not mentioned in the advertising.

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1 (c) Ownership of a condominium unit and participation in a
2 condominium association under this section is not considered a
3 financial interest, interest by ownership, or interest by inter-
4 locking directors on stock ownership prohibited by section 603.

5 (d) A retailer separately owning a separate condominium unit
6 as sole property does not directly purchase alcoholic liquor from
7 the manufacturer, warehouser, wholesaler, outstate seller of
8 mixed spirit drink, or vendor of spirits who owns, leases, main-
9 tains, finances, or operates the condominium project.

10 (e) A wholesaler who has a direct or indirect interest in a
11 condominium unit in which a retailer is located does not sell
12 alcoholic liquor to any licensed retail business in which that
13 retailer, or any person having an ownership interest in that
14 retailer, has an ownership interest; and, a retail licensed busi-
15 ness in which that retailer, or any person having an ownership
16 interest in that retailer, has an ownership interest does not
17 purchase alcoholic liquor from a wholesaler who has a direct or
18 indirect interest in a condominium or condominium unit in which
19 that retailer is located.

20 (f) A retailer acquiring a separate condominium unit as sole
21 property pays the fair market value for the unit.

22 (6) Subsection (5) does not apply to a manufacturer, mixed
23 spirit drink manufacturer, warehouser, wholesaler, authorized
24 distribution agent, outstate seller of beer, outstate seller of
25 wine, outstate seller of mixed spirit drink, or vendor of spirits
26 with a direct or indirect interest in a license under the
27 Michigan gaming control and revenue act, the Initiated Law of

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1 1996, MCL 432.201 to 432.216. Subsection (5) does not prohibit a
2 direct physical connection between a condominium unit which is
3 the licensed premises and a condominium unit which is not the
4 licensed premises.

5 Sec. 607. (1) Except as provided in section 537(2), a ware-
6 houser, mixed spirit drink manufacturer, wholesaler, outstate
7 seller of beer, outstate seller of wine, outstate seller of mixed
8 spirit drink, or vendor of spirits shall not be licensed as a
9 specially designated merchant or a specially designated distribu-
10 tor or permitted to sell or deliver to the consumer any quantity
11 of alcoholic liquor at retail.

12 (2) A specially designated distributor or specially desig-
13 nated merchant or any other retailer shall not hold a mixed
14 spirit drink manufacturer, wholesale, warehouse, outstate seller
15 of beer, outstate seller of mixed spirit drink, or outstate
16 seller of wine license.

17 (3) A brewer, warehouser, or wholesaler shall not be
18 licensed as a specially designated merchant, except for brewers
19 who manufacture less than 200,000 barrels of beer per year. This
20 subsection shall not affect the operation of a brewery hospital-
21 ity room.

22 (4) A wholesaler may sell or deliver beer and alcoholic
23 liquor to hospitals, military establishments, governments of fed-
24 eral Indian reservations, and churches requiring sacramental
25 wines and may sell to the wholesaler's own employees to a limit
26 of 2 cases of 24 12-ounce units or its equivalent of malt

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1 beverage per week, or 1 case of 12 1-liter units or its
2 equivalent of wine or mixed spirit drink per week.

3 Sec. 609. Except as provided in section 605, a manufactur-
4 er, mixed spirit drink manufacturer, warehouse, wholesaler, out-
5 state seller of beer, outstate seller of wine, outstate seller of
6 mixed spirit drink, or vendor of spirits shall not aid or assist
7 any other vendor by gift, loan of money or property of any
8 description, or other valuable thing, or by the giving of premi-
9 ums or rebates, and a vendor shall not accept the same. However,
10 if manufacturers of spirits reduce the price of their products,
11 the manufacturer of spirits may refund the amount of the price
12 reductions to specially designated distributor licensees in a
13 manner prescribed by the commission.

14 Sec. 611. (1) A refund or credit of the tax on wine or
15 mixed spirit drink paid under section 301 and of the tax on beer
16 paid under section 409 shall be made by the commission to a
17 brewer, wine maker, outstate seller of beer, outstate seller of
18 wine, outstate seller of mixed spirit drink, manufacturer of
19 mixed spirit drink, wholesaler, or retail licensee who paid the
20 tax if the wine, beer, or mixed spirit drink was sold to a mili-
21 tary installation or Indian reservation in this state or, subject
22 to subsection (2), if the wine, beer, or mixed spirit drink is
23 lost, made unmarketable, or condemned by order of the commission
24 as the result of a fire, flood, casualty, or other occurrence. A
25 refund or credit shall not be made as the result of theft.

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1 (2) A refund or credit of taxes as provided in subsection
2 (1) shall be made for damaged wine, beer, or mixed spirit drink
3 only if all of the following circumstances exist:

4 (a) At the time of the fire, flood, casualty, or other
5 occurrence, the wine, beer, or mixed spirit drink was being held
6 for sale by the vendor claiming the refund or credit.

7 (b) The refund or credit of the amount claimed or any part
8 of the amount claimed has not been and will not be claimed for
9 the same wine, beer, or mixed spirit drink under any other law or
10 rule.

11 (c) The vendor claiming the refund or credit is not indemni-
12 fiable by any valid claim of insurance or otherwise for the tax
13 on the wine, beer, or mixed spirit drink covered by the claim.

14 (d) The amount claimed for a refund or credit is more than
15 \$250.00 or the refund or credit is claimed for defective wine,
16 beer, or mixed spirit drink for which the commission has autho-
17 rized a manufacturer, outstate seller of beer, outstate seller of
18 wine, outstate seller of mixed spirit drink, manufacturer of
19 mixed spirit drink, or wholesaler to make an exchange, have
20 replaced, or be reimbursed.

21 (e) The occurrence was not caused by an intentional act of
22 the vendor claiming the refund or credit or an agent of that
23 vendor.

24 (3) A claim for a refund or credit of the tax as provided in
25 subsection (1) shall be made not later than 3 months after either
26 of the following:

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1 (a) The date upon which the damage occurred or was first
2 discovered.

3 (b) The date of the sale to a military installation or
4 Indian reservation in this state.

5 (4) A claim for a refund or credit of the tax as provided in
6 subsection (1) shall be submitted to the commission on a form
7 approved by the commission. The claim shall contain the follow-
8 ing information, as applicable:

9 (a) The name and business address of the vendor claiming the
10 refund or credit.

11 (b) The address where the wine, beer, or mixed spirit drink
12 was lost, made unmarketable, or condemned, if different from the
13 business address.

14 (c) The address of the military installation or Indian res-
15 ervation to which the wine, beer, or mixed spirit drink was
16 sold.

17 (d) The kind of wine, beer, or mixed spirit drink.

18 (e) The size of bottles or containers.

19 (f) The number of bottles or containers.

20 (g) The total amount of wine, beer, or mixed spirit drink
21 that was sold or damaged. The amount shall be stated in liters
22 or portions of liters for wine and mixed spirit drink and barrels
23 or portions of barrels for beer.

24 (h) A statement that other claims for a refund or credit of
25 the amount claimed or for any part of the amount claimed have not
26 been and will not be made.

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1 (i) A statement that the vendor has not been indemnified by
2 a valid claim of insurance or otherwise for the tax on the wine,
3 beer, or mixed spirit drink covered by the claim.

4 (j) Evidence that the tax on the wine, beer, or mixed spirit
5 drink has been paid.

6 (k) Evidence that the wine, beer, or mixed spirit drink was
7 lost, made unmarketable, or condemned by reason of damage sus-
8 tained as the result of a fire, flood, casualty, or other
9 occurrence.

10 (l) A statement as to the type and date of the occurrence.

11 (m) A statement that the occurrence was not caused by an
12 intentional act of the vendor claiming the refund or credit or an
13 agent of that vendor.

14 (5) The vendor claiming the refund or credit for damaged
15 wine, beer, or mixed spirit drink shall support a claim with any
16 evidence, such as an inventory, statement, invoice, bill, record,
17 or label, relating to the quantity of wine, beer, or mixed spirit
18 drink on hand at the time of the fire, flood, casualty, or other
19 disaster and alleged to have been lost, made unmarketable, or
20 condemned as a result of the damage.

21 (6) Before or after a tax refund or credit has been made for
22 damaged wine, beer, or mixed spirit drink, the wine, beer, or
23 mixed spirit drink upon which the refund or credit is based shall
24 be removed from this state or destroyed under the supervision of
25 the commission.

26 (7) In addition to the provisions of this section, the tax
27 paid on wine or mixed spirit drink pursuant to section 301 shall

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1 be rebated to the person who paid the tax upon the presentation
2 of satisfactory proof to the commission that the wine or mixed
3 spirit drink was shipped outside of this state for sale and con-
4 sumption outside of this state.

5

CHAPTER 7

6 Sec. 701. (1) Alcoholic liquor shall not be sold or fur-
7 nished to a minor. Except as otherwise provided in
8 subsection (2) and subject to subsection (4), a person who know-
9 ingly sells or furnishes alcoholic liquor to a minor, or who
10 fails to make diligent inquiry as to whether the person is a
11 minor, is guilty of a misdemeanor. A retail licensee or a retail
12 licensee's clerk, agent, or employee who violates this subsection
13 shall be punished in the manner provided for licensees in
14 section 909. Notwithstanding section 909 and except as otherwise
15 provided in subsection (2), a person who is not a retail licensee
16 or a retail licensee's clerk, agent, or employee and who violates
17 this subsection shall be fined \$1,000.00 and may be sentenced to
18 imprisonment for up to 60 days for a first offense, shall be
19 fined \$2,500.00 and shall be sentenced to imprisonment for up to
20 90 days for a second or subsequent offense, and may be ordered to
21 perform community service. A suitable sign describing the con-
22 tent of this section and the penalties for its violation shall be
23 posted in a conspicuous place in each room where alcoholic liquor
24 is sold. The signs shall be approved and furnished by the
25 commission.

26 (2) A person who is not a retail licensee or the retail
27 licensee's clerk, agent, or employee and who violates

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1 subsection (1) is guilty of a felony, punishable by imprisonment
2 for not more than 10 years, or a fine of not more than \$5,000.00,
3 or both, if the subsequent consumption of the alcoholic liquor by
4 the minor is a direct and substantial cause of that person's
5 death or an accidental injury that causes that person's death.

6 (3) If a violation occurs in an establishment that is
7 licensed by the commission for consumption of alcoholic liquor on
8 the licensed premises, a person who is a licensee or the clerk,
9 agent, or employee of a licensee shall not be charged with a vio-
10 lation of subsection (1) or section 801(2) unless the licensee or
11 the clerk, agent, or employee of the licensee knew or should have
12 reasonably known with the exercise of due diligence that a person
13 less than 21 years of age possessed or consumed alcoholic liquor
14 on the licensed premises and the licensee or clerk, agent, or
15 employee of the licensee failed to take immediate corrective
16 action.

17 (4) If the enforcing agency involved in the violation is the
18 state police or a local police agency, a licensee shall not be
19 charged with a violation of subsection (1) or section 801(2)
20 unless enforcement action under section 703 is taken against the
21 minor who purchased or attempted to purchase, consumed or
22 attempted to consume, or possessed or attempted to possess alco-
23 holic liquor and, if applicable, enforcement action is taken
24 under this section against the person 21 years of age or older
25 who sold or furnished the alcoholic liquor to the minor. If the
26 enforcing agency is the commission, then the commission shall
27 recommend to a local law enforcement agency that enforcement

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1 action be taken against a violator of this section or section 703
2 who is not a licensee. However, this subsection does not apply
3 under any of the following circumstances:

4 (a) The person against whom enforcement action is taken
5 under section 703 or the person 21 years of age or older who sold
6 or furnished alcoholic liquor to the minor is not alive or is not
7 present in this state at the time the licensee is charged.

8 (b) The violation of subsection (1) is the result of an
9 undercover operation in which the minor purchased or received
10 alcoholic liquor under the direction of the person's employer and
11 with the prior approval of the local prosecutor's office as part
12 of an employer-sponsored internal enforcement action.

13 (c) The violation of subsection (1) is the result of an
14 undercover operation in which the minor purchased or received
15 alcoholic liquor under the direction of the state police, the
16 commission, or a local police agency as part of an enforcement
17 action. However, any initial or contemporaneous purchase or
18 receipt of alcoholic liquor by the minor shall have been under
19 the direction of the state police, the commission, or the local
20 police agency and shall have been part of the undercover
21 operation.

22 (5) If a minor participates in an undercover operation in
23 which the minor is to purchase or receive alcoholic liquor under
24 the supervision of a law enforcement agency, his or her parents
25 or legal guardian shall consent to the participation if that
26 person is less than 18 years of age.

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1 (6) In an action for the violation of this section, proof
2 that the defendant or the defendant's agent or employee demanded
3 and was shown, before furnishing alcoholic liquor to a minor, a
4 motor vehicle operator's or chauffeur's license or a registration
5 certificate issued by the federal selective service, or other
6 bona fide documentary evidence of the age and identity of that
7 person, shall be a defense to an action brought under this
8 section.

9 (7) The commission shall provide, on an annual basis, a
10 written report to the department of state police as to the number
11 of actions heard by the commission involving violations of this
12 section and section 801(2). The report shall include the dispo-
13 sition of each action and contain figures representing the fol-
14 lowing categories:

15 (a) Decoy operations.

16 (b) Off-premises violations.

17 (c) On-premises violations.

18 (d) Repeat offenses within the 3 years preceding the date of
19 that report.

20 (8) As used in this section:

21 (a) "Corrective action" means action taken by a licensee or
22 a clerk, agent, or employee of a licensee designed to prevent a
23 minor from further possessing or consuming alcoholic liquor on
24 the licensed premises. Corrective action includes, but is not
25 limited to, contacting a law enforcement agency and ejecting the
26 minor and any other person suspected of aiding and abetting the
27 minor.

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1 (b) "Diligent inquiry" means a diligent good faith effort to
2 determine the age of a person, which includes at least an exami-
3 nation of an official Michigan operator's or chauffeur's license,
4 an official Michigan personal identification card, or any other
5 bona fide picture identification which establishes the identity
6 and age of the person.

7 Sec. 703. (1) A minor shall not purchase or attempt to pur-
8 chase alcoholic liquor, consume or attempt to consume alcoholic
9 liquor, or possess or attempt to possess alcoholic liquor, except
10 as provided in this section. Notwithstanding section 909, a
11 minor who violates this subsection is guilty of a misdemeanor
12 punishable by the following fines and sanctions, and is not
13 subject to the penalties prescribed in section 909:

14 (a) For the first violation a fine of not more than \$100.00,
15 and may be ordered to participate in substance abuse prevention
16 or substance abuse treatment and rehabilitation services as
17 defined in section 6107 of the public health code, 1978 PA 368,
18 MCL 333.6107, and designated by the administrator of substance
19 abuse services, and may be ordered to perform community service
20 and to undergo substance abuse screening and assessment at his or
21 her own expense as described in subsection (3).

22 (b) For a second violation a fine of not more than \$200.00,
23 and may be ordered to participate in substance abuse prevention
24 or substance abuse treatment and rehabilitation services as
25 defined in section 6107 of the public health code, 1978 PA 368,
26 MCL 333.6107, and designated by the administrator of substance
27 abuse services, to perform community service, and to undergo

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1 substance abuse screening and assessment at his or her own
2 expense as described in subsection (3). The person is also
3 subject to sanctions against his or her operator's or chauffeur's
4 license imposed in subsection (4).

5 (c) For a third or subsequent violation a fine of not more
6 than \$500.00, and may be ordered to participate in substance
7 abuse prevention or substance abuse treatment and rehabilitation
8 services as defined in section 6107 of the public health code,
9 1978 PA 368, MCL 333.6107, and designated by the administrator of
10 substance abuse services, to perform community service, and to
11 undergo substance abuse screening and assessment at his or her
12 own expense as described in subsection (3). The person is also
13 subject to sanctions against his or her operator's or chauffeur's
14 license imposed in subsection (4).

15 (2) A person who furnishes fraudulent identification to a
16 minor, or notwithstanding subsection (1) a minor who uses fraudu-
17 lent identification to purchase alcoholic liquor, is guilty of a
18 misdemeanor. The court shall order the secretary of state to
19 suspend, pursuant to section 319(5) of the Michigan vehicle code,
20 1949 PA 300, MCL 257.319, for a period of 90 days, the operator
21 or chauffeur license of a person who is convicted of furnishing
22 or using fraudulent identification in violation of this subsec-
23 tion and the operator or chauffeur license of that person shall
24 be surrendered to the court. The court shall immediately forward
25 the surrendered license and an abstract of conviction to the sec-
26 retary of state. A suspension ordered under this subsection

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1 shall be in addition to any other suspension of the person's
2 operator or chauffeur license.

3 (3) The court may order the person found violating subsec-
4 tion (1) to undergo screening and assessment by a person or
5 agency as designated by the substance abuse coordinating agency
6 as defined in section 6103 of the public health code, 1978 PA
7 368, MCL 333.6103, in order to determine whether the person is
8 likely to benefit from rehabilitative services, including alcohol
9 or drug education and alcohol or drug treatment programs.

10 (4) Immediately upon the entry of a conviction or a probate
11 court disposition for a violation of subsection (1), the court
12 shall consider all prior convictions or probate court disposi-
13 tions of subsection (1), or a local ordinance or law of another
14 state substantially corresponding to subsection (1), and shall
15 impose the following sanctions:

16 (a) If the court finds that the person has 1 such prior con-
17 viction or probate court disposition, the court shall order the
18 secretary of state to suspend the operator's or chauffeur's
19 license of the person for a period of not less than 90 days or
20 more than 180 days. The court may order the secretary of state
21 to issue to the person a restricted license after the first 30
22 days of the period of suspension in the manner described in sub-
23 section (5) and provided for in section 319 of the Michigan vehi-
24 cle code, 1949 PA 300, MCL 257.319. In the case of a person who
25 does not possess an operator's or chauffeur's license, the secre-
26 tary of state shall deny the application for an operator's or
27 chauffeur's license for the applicable suspension period.

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1 (b) If the court finds that the person has 2 or more such
2 prior convictions or probate court dispositions, the court shall
3 order the secretary of state to suspend the operator's or
4 chauffeur's license of the person for a period of not less than
5 180 days or more than 1 year. The court may order the secretary
6 of state to issue to the person a restricted license after the
7 first 60 days of the period of suspension in the manner described
8 in subsection (5) and provided for in section 319 of the Michigan
9 vehicle code, 1949 PA 300, MCL 257.319. In the case of a person
10 who does not possess an operator's or chauffeur's license, the
11 secretary of state shall deny the application for an operator's
12 or chauffeur's license for the applicable suspension period.

13 (5) In those cases in which a restricted license is allowed
14 under this section, the court shall not order the secretary of
15 state to issue a restricted license unless the person states
16 under oath, and the court finds based upon the record in open
17 court, that the person is unable to take public transportation to
18 and from his or her work location, place of alcohol or drug edu-
19 cation treatment, probation department, court-ordered community
20 service program, or educational institution, and does not have
21 any family members or others able to provide transportation. The
22 court order under subsection (4) and the restricted license shall
23 indicate the work location of the person to whom it is issued,
24 the approved route or routes and permitted times of travel, and
25 shall permit the person to whom it is issued only to do 1 or more
26 of the following:

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1 (a) Drive to and from the person's residence and work
2 location.

3 (b) Drive in the course of the person's employment or
4 occupation.

5 (c) Drive to and from the person's residence and an alcohol
6 or drug education or treatment program as ordered by the court.

7 (d) Drive to and from the person's residence and the court
8 probation department, or a court-ordered community service pro-
9 gram, or both.

10 (e) Drive to and from the person's residence and an educa-
11 tional institution at which the person is enrolled as a student.

12 (6) If license sanctions are imposed, immediately upon the
13 entry of a court-ordered sanction pursuant to subsection (4), the
14 court shall order the person convicted for the violation to sur-
15 render to the court his or her operator's or chauffeur's
16 license. The court shall immediately forward a notice of
17 court-ordered license sanctions to the secretary of state. If
18 the license is not forwarded to the secretary of state, an expla-
19 nation of the reason why the license is absent shall be
20 attached. If the finding is appealed to the circuit court, the
21 court may, ex parte, order the secretary of state to stay the
22 suspension issued pursuant to this section pending the outcome of
23 the appeal. Immediately following imposition of the sanction,
24 the court shall forward a notice to the secretary of state indi-
25 cating the sanction imposed.

26 (7) A peace officer who has reasonable cause to believe a
27 minor has consumed alcoholic liquor may require the person to

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1 submit to a preliminary chemical breath analysis. A peace
2 officer may arrest a person based in whole or in part upon the
3 results of a preliminary chemical breath analysis. The results
4 of a preliminary chemical breath analysis or other acceptable
5 blood alcohol test are admissible in a criminal prosecution to
6 determine whether the minor has consumed or possessed alcoholic
7 liquor. A minor who refuses to submit to a preliminary chemical
8 breath test analysis as required in this subsection is responsi-
9 ble for a state civil infraction and may be ordered to pay a
10 civil fine of not more than \$100.00.

11 (8) A law enforcement agency, upon determining that a person
12 less than 18 years of age who is not emancipated pursuant to 1968
13 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, pur-
14 chased, or attempted to consume, possess, or purchase alcoholic
15 liquor in violation of subsection (1) shall notify the parent or
16 parents, custodian, or guardian of the person as to the nature of
17 the violation if the name of a parent, guardian, or custodian is
18 reasonably ascertainable by the law enforcement agency. The
19 notice required by this subsection shall be made not later than
20 48 hours after the law enforcement agency determines that the
21 person who allegedly violated subsection (1) is less than 18
22 years of age and not emancipated pursuant to 1968 PA 293, MCL
23 722.1 to 722.6. The notice may be made by any means reasonably
24 calculated to give prompt actual notice including, but not
25 limited to, notice in person, by telephone, or by first-class
26 mail. If a person less than 17 years of age is incarcerated for

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1 violating subsection (1), his or her parents or legal guardian
2 shall be notified immediately as provided in this subsection.

3 (9) This section does not prohibit a minor from possessing
4 alcoholic liquor during regular working hours and in the course
5 of his or her employment if employed by a person licensed by this
6 act, by the commission, or by an agent of the commission, if the
7 alcoholic liquor is not possessed for his or her personal
8 consumption.

9 (10) This section shall not be construed to limit the civil
10 or criminal liability of the vendor or the vendor's clerk, ser-
11 vant, agent, or employee for a violation of this act.

12 (11) The consumption of alcoholic liquor by a minor who is
13 enrolled in a course offered by an accredited postsecondary edu-
14 cational institution in an academic building of the institution
15 under the supervision of a faculty member is not prohibited by
16 this act if the purpose of the consumption is solely educational
17 and is a necessary ingredient of the course.

18 (12) The consumption by a minor of sacramental wine in con-
19 nection with religious services at a church, synagogue, or temple
20 is not prohibited by this act.

21 (13) Subsection (1) does not apply to a minor who partici-
22 pates in either or both of the following:

23 (a) An undercover operation in which the minor purchases or
24 receives alcoholic liquor under the direction of the person's
25 employer and with the prior approval of the local prosecutor's
26 office as part of an employer-sponsored internal enforcement
27 action.

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1 (b) An undercover operation in which the minor purchases or
2 receives alcoholic liquor under the direction of the state
3 police, the commission, or a local police agency as part of an
4 enforcement action except that any initial or contemporaneous
5 purchase or receipt of alcoholic liquor by the minor is under the
6 direction of the state police, the commission, or the local
7 police agency and is part of the undercover operation. The state
8 police, the commission, or a local police agency shall not
9 recruit or attempt to recruit a minor for participation in an
10 undercover operation at the scene of a violation of
11 subsection (1), section 801(2), or section 701(1).

12 (14) As used in this section:

13 (a) "Probate court disposition" means an order of disposi-
14 tion of the probate court or the family division of the circuit
15 court for a child found to be within the provisions of chapter
16 XIIIA of 1939 PA 288, MCL 712A.1 to 712A.32.

17 (b) "Work location" means, as applicable, either the spe-
18 cific place or places of employment, or the territory or territo-
19 ries regularly visited by the person in pursuance of the person's
20 occupation, or both.

21 Sec. 705. (1) A sheriff or deputy sheriff; village or town-
22 ship marshal; an officer or member of a village, township, or
23 city police department; an officer of the department of state
24 police; or an inspector of the commission who witnesses a viola-
25 tion of section 703 or a local ordinance corresponding to that
26 section may stop and detain the person for purposes of obtaining

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1 satisfactory identification, seizing illegally possessed
2 alcoholic liquor, and issuing an appearance ticket.

3 (2) As used in this section, "appearance ticket" means a
4 complaint or written notice, issued and subscribed by a law
5 enforcement officer of the type described in subsection (1) or
6 inspector of the commission, directing a designated person to
7 appear in a designated district, municipal, or probate court at a
8 designated time in connection with the alleged violation. The
9 appearance ticket shall consist of the following parts:

10 (a) The original which shall be a complaint or notice to
11 appear by the officer and filed with the court.

12 (b) The first copy which shall be the abstract of court
13 record.

14 (c) The second copy which shall be delivered to the alleged
15 violator.

16 (d) The third copy which shall be retained by the law
17 enforcement agency.

18 (3) The court may accept a plea of guilty by the defendant
19 of the allegations of an appearance ticket and the court shall
20 then impose a fine, license suspension, or other sanction as fur-
21 ther authorized by section 703. If the defendant denies the
22 allegations of the appearance ticket, the court shall then set a
23 date for trial or hearing.

24 Sec. 707. A vendor shall not sell any alcoholic liquor to
25 any person in an intoxicated condition.

CHAPTER 8

1

2 Sec. 801. (1) Except as otherwise provided in this act,
3 before the approval and granting, or renewal, of a license, the
4 following licensees or applicants for that license shall make,
5 execute, and deliver to the commission a bond executed by a
6 surety company authorized to do business in the state or, in the
7 discretion of the commission, by approved personal surety running
8 to the people of the state, in the following amounts:

9 (a) A manufacturer of beer, a manufacturer of wine, a mixed
10 spirit drink manufacturer, an outstate seller of beer, an out-
11 state seller of mixed spirit drink, and an outstate seller of
12 wine, a bond in an amount equal to 1/12 of the total beer, mixed
13 spirit drink, or wine excise taxes paid to the state in the last
14 calendar year or a bond in the sum of \$1,000.00, whichever is
15 greater, for the faithful performance of the conditions of the
16 license issued and for compliance with this act. A surety shall
17 not cancel a bond issued under this subdivision except upon 30
18 days' written notice to the commission.

19 (b) A special license authorizing the sale of beer, mixed
20 spirit drink, wine, or spirits for consumption on the premises, a
21 bond in the sum of \$1,000.00. A bond issued under this subdivi-
22 sion shall remain in effect for 60 days after the expiration of
23 the special license. A bond is not required for a church or
24 school.

25 (2) A retail licensee shall not directly, individually, or
26 by a clerk, agent, or servant sell, furnish, or give alcoholic
27 liquor to a minor except as otherwise provided in this act. A

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1 retail licensee shall not directly or indirectly, individually or
2 by a clerk, agent, or servant sell, furnish, or give alcoholic
3 liquor to a person who is visibly intoxicated.

4 (3) Except as otherwise provided in this section, an indi-
5 vidual who suffers damage or who is personally injured by a minor
6 or visibly intoxicated person by reason of the unlawful selling,
7 giving, or furnishing of alcoholic liquor to the minor or visibly
8 intoxicated person, if the unlawful sale is proven to be a proxi-
9 mate cause of the damage, injury, or death, or the spouse, child,
10 parent, or guardian of that individual, shall have a right of
11 action in his or her name against the person who by selling,
12 giving, or furnishing the alcoholic liquor has caused or contrib-
13 uted to the intoxication of the person or who has caused or con-
14 tributed to the damage, injury, or death. In an action pursuant
15 to this section, the plaintiff shall have the right to recover
16 actual damages in a sum of not less than \$50.00 in each case in
17 which the court or jury determines that intoxication was a proxi-
18 mate cause of the damage, injury, or death.

19 (4) An action under this section shall be instituted within
20 2 years after the injury or death. A plaintiff seeking damages
21 under this section shall give written notice to all defendants
22 within 120 days after entering an attorney-client relationship
23 for the purpose of pursuing a claim under this section. Failure
24 to give written notice within the time specified shall be grounds
25 for dismissal of a claim as to any defendants that did not
26 receive that notice unless sufficient information for determining
27 that a retail licensee might be liable under this section was not

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1 known and could not reasonably have been known within the 120
2 days. In the event of the death of either party, the right of
3 action under this section shall survive to or against his or her
4 personal representative. In each action by a husband, wife,
5 child, or parent, the general reputation of the relation of hus-
6 band and wife or parent and child shall be prima facie evidence
7 of the relation, and the amount recovered by either the husband,
8 wife, parent, or child shall be his or her sole and separate
9 property. The damages, together with the costs of the action,
10 shall be recovered in an action under this section. If the par-
11 ents of the individual who suffered damage or who was personally
12 injured are entitled to damages under this section, the father
13 and mother may sue separately, but recovery by 1 is a bar to
14 action by the other.

15 (5) An action under this section against a retail licensee
16 shall not be commenced unless the minor or the alleged intoxi-
17 cated person is a named defendant in the action and is retained
18 in the action until the litigation is concluded by trial or
19 settlement.

20 (6) Any licensee subject to the provisions of subsection (3)
21 regarding the unlawful selling, furnishing, or giving of alco-
22 holic liquor to a visibly intoxicated person shall have the right
23 to full indemnification from the alleged visibly intoxicated
24 person for all damages awarded against the licensee.

25 (7) All defenses of the alleged visibly intoxicated person
26 or the minor shall be available to the licensee. In an action
27 alleging the unlawful sale of alcoholic liquor to a minor, proof

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1 that the defendant retail licensee or the defendant's agent or
2 employee demanded and was shown a Michigan driver license or
3 official state personal identification card, appearing to be gen-
4 uine and showing that the minor was at least 21 years of age,
5 shall be a defense to the action.

6 (8) There shall be a rebuttable presumption that a retail
7 licensee, other than the retail licensee who last sold, gave, or
8 furnished alcoholic liquor to the minor or the visibly intoxi-
9 cated person, has not committed any act giving rise to a cause of
10 action under subsection (3).

11 (9) The alleged visibly intoxicated person shall not have a
12 cause of action pursuant to this section and a person shall not
13 have a cause of action pursuant to this section for the loss of
14 financial support, services, gifts, parental training, guidance,
15 love, society, or companionship of the alleged visibly intoxi-
16 cated person.

17 (10) This section provides the exclusive remedy for money
18 damages against a licensee arising out of the selling, giving, or
19 furnishing of alcoholic liquor.

20 (11) Except as otherwise provided for under this section and
21 section 815, a civil action under subsection (3) against a retail
22 licensee shall be subject to the revised judicature act of 1961,
23 1961 PA 236, MCL 600.101 to 600.9947.

24 Sec. 803. (1) Except as otherwise provided in
25 subsection (2), before the renewal or approval and granting of a
26 retail license, a retail licensee or applicant for a retail
27 license shall file with the commission proof of financial

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1 responsibility providing security for liability under
2 section 801(3) of not less than \$50,000.00. The proof of finan-
3 cial responsibility may be in the form of cash, unencumbered
4 securities, a policy or policies of liquor liability insurance, a
5 constant value bond executed by a surety company authorized to do
6 business in this state, or membership in a group self-insurance
7 pool authorized by law that provides security for liability under
8 section 801.

9 (2) If the commissioner of insurance certifies, pursuant to
10 section 2409b of the insurance code of 1956, 1956 PA 218, MCL
11 500.2409b, that liquor liability insurance is not reasonably
12 available in this state or is not available at a reasonable pre-
13 mium, the commission may waive the requirements of subsection (1)
14 with regard to any affected retail licensees and applicants for a
15 retail license until the commissioner of insurance certifies that
16 liquor liability insurance is reasonably available or is avail-
17 able at a reasonable premium, as applicable, to the affected
18 licensees and applicants.

19 (3) A licensee may furnish proof of financial responsibility
20 that exceeds the requirements of this section.

21 (4) An insurer under a policy or policies of liquor liabil-
22 ity insurance or a surety under such a bond shall not be named as
23 a defendant in an action brought against the insured or bonded
24 licensee for liability under section 801. Bankruptcy of the
25 insured shall not discharge an insurer or surety under this sec-
26 tion from liability. Insurance policies and bonds issued for

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1 purposes under this section shall continue from year to year
2 unless sooner canceled by the insurer.

3 (5) An insured retail licensee shall not cancel any such
4 liquor liability insurance except upon 30 days' prior written
5 notice to the commission and unless new proof of financial
6 responsibility complying with this section is procured by the
7 retail licensee and delivered to the commission prior to the
8 expiration of the 30-day period, the license of that licensee
9 shall be revoked.

10 (6) This section does not apply to a special licensee or
11 applicant for a special license.

12 (7) The commission shall promulgate rules pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328, to implement and enforce this section.

15 Sec. 805. If an action is instituted against a retailer as
16 defendant in any court of competent jurisdiction to enforce the
17 liability provided in section 801 and service of process has not
18 been effected in the manner provided for by law, and either the
19 sheriff or constable to whom process has been delivered for serv-
20 ice shall make return that he or she has not been able to serve
21 the defendant for a period of 30 days, in which period he or she
22 has made 3 or more attempts to serve the defendant at his or her
23 residence or place of business, or the plaintiff or another
24 person with knowledge of the facts files an affidavit in the
25 cause stating that the defendant has ceased to be a resident of
26 the state of Michigan or has been absent from the state for a
27 continuous period of 6 months, then it shall be competent for the

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1 plaintiff to cause service of process to be made upon the
2 defendant by service of the process upon the commission, the
3 liability for which suit is brought arose during the period in
4 which the defendant was a licensed retailer and was insured under
5 the provisions of section 803. Such service of process shall be
6 made in duplicate on the commission, and return showing such
7 service shall be made to the court. The commission shall mail a
8 copy of the process served upon it to the defendant at the
9 address shown in the consent to service of process, and shall
10 immediately transmit to the clerk of the court in which the
11 action is pending an acknowledgment of the mailing of the copy of
12 that process by the commission to the defendant. Whenever the
13 foregoing provisions of this section have been complied with, the
14 court may proceed to hear and determine the matter as fully and
15 effectually as though the defendant retailer had been personally
16 served with process within the jurisdiction of the court. The
17 commission shall also notify the insurer under the liability
18 policy of the defendant, on file with the commission, that the
19 commission has received service of that process, stating the
20 names of the parties to the action and the court in which the
21 action is pending. If the defendant retailer is deceased, serv-
22 ice of process may be made upon the executor or administrator of
23 the deceased defendant by service on the commission, in an action
24 in which that service would be authorized by this section upon
25 the defendant if he or she were living, in the manner provided in
26 this section.

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1 Sec. 807. The insurer shall file with the commission, at
2 Lansing, Michigan, at least 30 days before the effectiveness of
3 any termination or cancellation of the contract or policy, a
4 notice giving the date at which it is proposed to terminate or
5 cancel the contract or policy. Any termination of the contract
6 or policy shall not be effective as far as the insured covered by
7 the policy is concerned until 30 days after such notice of the
8 proposed termination or cancellation is received by the
9 commission.

10 Sec. 809. Except as otherwise provided for by law or the
11 Michigan court rules, when an action for damages brought under
12 this act has been reduced to a judgment, the insurer shall,
13 within 90 days from the date of the judgment, pay the judgment
14 together with the costs in full, unless the judgment has been
15 paid or settled by the insured. If the insurer fails or neglects
16 to pay the judgment and costs within 90 days, it shall be subject
17 to punitive damages in the amount of \$1,000.00, in addition to
18 the amount of the judgment and interest on the judgment. The
19 amount of the judgment, with interest on the judgment, and the
20 punitive damages provided for in this section may be recovered by
21 the person or persons entitled to damages under the judgment in
22 an action against the insurer in any court of competent jurisdic-
23 tion in this state.

24 Sec. 811. The insurance policy described in this chapter
25 shall cover the liability imposed by section 801 and shall con-
26 tain the following conditions:

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1 That no condition, provision, stipulation or limitation
2 contained in the policy, or any other endorsement thereon, shall
3 relieve the insurer from liability (within the statutory limits
4 provided by section 803 of the Michigan liquor control code of
5 1997), for the payment of any claim for which the insured may be
6 held legally liable under section 801 of said act.

7 Sec. 813. No false statement or breach of authority or act
8 or omission on the part of the insured shall vitiate this insur-
9 ance, unless the intention of the insured to conceal a hazard of
10 perpetrating fraud is proven; and this policy cannot be cancelled
11 by the insured or the company without first giving thirty days'
12 written notice to the commission in Lansing, Michigan.

13 Sec. 815. (1) In defense of a civil action under section
14 801, a retail licensee may present evidence that, at the time of
15 the selling, giving, or furnishing of the alcoholic liquor, the
16 retail licensee was adhering to responsible business practices.
17 Responsible business practices are those business policies, pro-
18 cedures, and actions which an ordinarily prudent person would
19 follow in like circumstances. The compensating of an employee of
20 an on premises retail licensee on a commission basis constitutes
21 an unreasonable business practice for purposes of this section.

22 (2) The compensation of an employee of an on premises retail
23 licensee shall not be on a commission basis.

24 CHAPTER 9

25 Sec. 901. A person, directly or indirectly, himself or her-
26 self or by his or her clerk, agent, or employee, shall not
27 manufacture, manufacture for sale, sell, offer or keep for sale,

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1 barter, furnish, import, import for sale, transport for hire,
2 transport, or possess any alcoholic liquor unless the person com-
3 plies with this act.

4 Sec. 903. (1) The commission or any commissioner or duly
5 authorized agent of the commission designated by the chairperson
6 of the commission, upon due notice and proper hearing, may sus-
7 pend or revoke any license upon a violation of this act or any of
8 the rules promulgated by the commission under this act. The com-
9 mission or any commissioner or duly authorized agent of the com-
10 mission designated by the chairperson of the commission, may
11 assess a penalty of not more than \$300.00 for each violation of
12 this act or rules promulgated under this act, or not more than
13 \$1,000.00 for each violation of section 801(2), in addition to or
14 in lieu of revocation or suspension of the license, which penalty
15 shall be paid to the commission and deposited with the state
16 treasurer and shall be credited to the general fund of the
17 state. The commission shall hold a hearing and order the suspen-
18 sion or revocation of a license if the licensee has been found
19 liable, within a 24-month period, for 3 or more separate viola-
20 tions of section 801(2) which violations occurred on different
21 occasions.

22 (2) The commission shall provide a procedure by which a
23 licensee who is aggrieved by any penalty imposed under subsection
24 (1) and any suspension or revocation of a license ordered by the
25 commission, a commissioner, or a duly authorized agent of the
26 commission may request a hearing for the purpose of presenting
27 any facts or reasons to the commission as to why the penalty,

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1 suspension, or revocation should be modified or rescinded. Any
2 such request shall be in writing and accompanied by a fee of
3 \$25.00. The commission, after reviewing the record made before a
4 commissioner or a duly authorized agent of the commission, may
5 allow or refuse to allow the hearing in accordance with the
6 commission's rules. The right to a hearing provided in this sub-
7 section, however, shall not be interpreted by any court as cur-
8 tailing, removing, or annulling the right of the commission to
9 suspend or revoke licenses as provided for in this act. A
10 licensee does not have a right of appeal from the final determi-
11 nation of the commission, except by leave of the circuit court.
12 Notice of the order of suspension or revocation of a license or
13 of the assessment of a penalty, or both, shall be given in the
14 manner prescribed by the commission. The suspension or revoca-
15 tion of a license or the assessment of a penalty, or both, by the
16 commission or a duly authorized agent of the commission does not
17 prohibit the institution of a criminal prosecution for a viola-
18 tion of this act. The institution of a criminal prosecution for
19 a violation of this act or the acquittal or conviction of a
20 person for a violation of this act does not prevent the suspen-
21 sion or revocation of a license or the assessment of a penalty,
22 or both, by the commission. In a hearing for the suspension or
23 revocation of a license issued under this act, proof that the
24 defendant licensee or an agent or employee of the licensee
25 demanded and was shown, before furnishing any alcoholic liquor to
26 a minor, a motor vehicle operator or chauffeur license or a
27 registration certificate issued by the federal selective service,

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1 or other bona fide documentary evidence of majority and identity
2 of the person, may be offered as evidence in a defense to a pro-
3 ceeding for the suspension or revocation of a license issued
4 under this act. A licensee who has reason to believe that a
5 minor has used fraudulent identification to purchase alcoholic
6 liquor in violation of section 703 shall file a police report
7 concerning the violation with a local law enforcement agency and
8 shall also present the alleged fraudulent identification to the
9 local law enforcement agency at the time of filing the report if
10 the identification is in the possession of the licensee. The
11 commission may promulgate rules pursuant to the administrative
12 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328,
13 regarding the utilization by licensees of equipment designed to
14 detect altered or forged driver licenses, state identification
15 cards, and other forms of identification.

16 (3) In addition to the hearing commissioners provided for in
17 section 209, the chairperson of the commission may designate not
18 more than 2 duly authorized agents to hear violation cases. A
19 person appointed under this subsection shall be a member in good
20 standing of the state bar of Michigan.

21 (4) A duly authorized agent who has been designated by the
22 chairperson pursuant to subsection (3) shall have, in the hearing
23 of violation cases, the same authority and responsibility as does
24 a hearing commissioner under this act and the rules promulgated
25 under this act.

26 (5) A duly authorized agent who has been designated by the
27 chairperson pursuant to subsection (3) shall be ineligible for

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1 appointment to the commission for a period of 1 year after the
2 person ceases to serve as a duly authorized agent.

3 Sec. 905. (1) Notwithstanding section 903, if a retail
4 licensee or a retail licensee's clerk, agent, or employee vio-
5 lates this act by selling or furnishing alcoholic liquor to a
6 minor, or by allowing a minor to consume alcoholic liquor or pos-
7 sess alcoholic liquor for personal consumption on the licensed
8 premises, and if the enforcing agency involved in the prosecution
9 of the violation is the state police or a local police agency,
10 the commission shall not take any action under section 903 to
11 suspend or revoke the licensee's license or assess a penalty
12 against the licensee unless enforcement action is taken against
13 the minor who purchased, consumed, or received the alcoholic
14 liquor from the retail licensee or the retail licensee's clerk,
15 agent, or employee and, if applicable, enforcement action is
16 taken under this section against the person 21 years of age or
17 older who sold or furnished the alcoholic liquor to the minor.

18 (2) Subsection (1) does not apply under either of the fol-
19 lowing circumstances:

20 (a) The enforcing agent involved in the prosecution is a
21 commission inspector rather than a police agency.

22 (b) The prosecution of the violation is the result of an
23 undercover operation in which the minor who purchased, consumed,
24 or received the alcoholic liquor acted under the direction of the
25 state police or a local police agency as part of the enforcement
26 action and such enforcement action is otherwise in compliance
27 with section 701(4).

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1 Sec. 907. (1) Upon revocation of a license issued under
2 this act, any and all privileges conferred by that license shall
3 be forfeited and the commission shall seize any and all alcoholic
4 liquor found in the possession of the licensee.

5 (2) The commission shall remit to that licensee the purchase
6 price less 10%, paid by the licensee to the commission for all
7 alcoholic liquor seized. All other alcoholic liquor seized shall
8 be disposed of by order of the commission and no payment shall be
9 made for that alcoholic liquor.

10 (3) A person whose license has been revoked for cause or
11 whose license has been ordered transferred to another person for
12 cause is not eligible for issuance or reissuance of a license
13 under this act for a period of at least 2 years.

14 Sec. 909. (1) Except as otherwise provided in this act, a
15 person, other than a person required to be licensed under this
16 act, who violates this act is guilty of a misdemeanor.

17 (2) Except as otherwise provided in this act, a licensee who
18 violates this act, or a rule or regulation promulgated under this
19 act, is guilty of a misdemeanor punishable by imprisonment for
20 not more than 6 months or a fine of not more than \$500.00, or
21 both.

22 (3) A person who performs any act for which a license is
23 required under this act without first obtaining that license or
24 who sells alcoholic liquor in a county that has prohibited the
25 sale of alcoholic liquor under section 1107 is guilty of a felony
26 punishable by imprisonment for not more than 1 year or by a fine
27 of not more than \$1,000.00, or both.

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1 (4) It is the intent of the legislature that the court, in
2 imposing punishment under this section, should discriminate
3 between casual or slight violations and habitual sales of alco-
4 holic liquor or attempts to commercialize violations of this act
5 or the rules or regulations promulgated under this act.

6 Sec. 911. (1) If a person fails or refuses to pay the tax
7 required by this act, the commission shall assess the tax against
8 that person and the tax shall become due and payable together
9 with a penalty or penalties that the commission considers appro-
10 priate, but not to exceed \$5,000.00, upon demand by the commis-
11 sion or a person designated by the commission. If the tax
12 remains unpaid for 15 days after that demand is made, the commis-
13 sion may issue its warrant under its official seal, directed to
14 the sheriff of any county or other officer, to levy upon and sell
15 the taxpayer's property, either personal or real, used in connec-
16 tion with the business for the privilege of doing which the tax
17 is levied, found within his or her jurisdiction, for the payment
18 of the amount of the tax with the added penalties, interest and
19 cost of executing the warrant. A warrant issued under this sec-
20 tion shall be returned to the commission, together with the money
21 collected by virtue of the warrant, within the time specified in
22 the warrant, which time shall be not less than 20 or more than 90
23 days from the date of the warrant. The sheriff or other officer
24 to whom the warrant is directed shall proceed upon the warrant in
25 all respects, with like effect, and in the same manner as pre-
26 scribed by law in respect to executions issued against property
27 upon judgments by a court of record, and shall be entitled to the

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1 same fees for his service in executing the warrant, to be
2 collected in the same manner. The state of Michigan, through the
3 commission or an officer or agent designated by it, is authorized
4 to bid for and purchase any property sold under this section.

5 (2) In addition to the mode of collection provided in sub-
6 section (1), the commission may bring an action at law in the
7 county in which the business or any part of the business is car-
8 ried on, to collect and recover the amount of taxes, interest, or
9 penalties, or any combination of taxes, interest, or penalties,
10 due from a taxpayer.

11 Sec. 913. (1) A person shall not maintain, operate, lease,
12 or otherwise furnish to any person, any premises or place which
13 is not licensed under this act within which the other person may
14 engage in the drinking of alcoholic liquor for consideration.

15 (2) A person shall not consume alcoholic liquor in a commer-
16 cial establishment selling food if the commercial establishment
17 is not licensed under this act. A person owning, operating, or
18 leasing a commercial establishment selling food which is not
19 licensed under this act shall not allow the consumption of alco-
20 holic liquor on its premises.

21 (3) This section shall not apply to any hotel or any
22 licensee under this act.

23 (4) This section shall not be construed to repeal or amend
24 section 1019.

25 (5) As used in this section, "consideration" includes any
26 fee, cover charge, the storage of alcoholic liquor, the sale of
27 food, ice, mixers, or other liquids used with alcoholic liquor

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1 drinks, or the furnishing of glassware or other containers for
2 use in the consumption of alcoholic liquor in conjunction with
3 the sale of food.

4 Sec. 915. (1) Alcoholic liquor shall not be consumed on the
5 public highways.

6 (2) Except as provided in subsections (3) and (4), alcoholic
7 liquor may be possessed or consumed in public parks, public
8 places of amusement, or a publicly owned area not licensed to
9 sell for consumption on the premises.

10 (3) The governing body of a local governmental unit may pro-
11 hibit by ordinance, order, or resolution the possession or con-
12 sumption of alcoholic liquor in any public park, public place of
13 amusement, or publicly owned area that is owned or administered,
14 or both, by that local governmental unit. When land is leased
15 from a department or agency of this state, an ordinance, order,
16 or resolution adopted pursuant to this subsection shall be
17 subject to the approval of the department or agency.

18 (4) A department or agency of this state that administers
19 public lands may prohibit by rule, order, or resolution the pos-
20 session or consumption of alcoholic liquor on the public land
21 under its jurisdiction.

22 (5) As used in this section:

23 (a) "Local governmental unit" means a county, city, town-
24 ship, village, or charter authority.

25 (b) "Publicly owned area" means an area under the jurisdic-
26 tion of a local governmental unit.

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1 Sec. 917. (1) A person who engages in the business of
2 selling or keeping for sale alcoholic liquor in violation of this
3 act, whether as owner, clerk, agent, servant, or employee, is
4 equally liable, as principal, both civilly and criminally, for
5 the violation of this act.

6 (2) A person or principal is liable, both civilly and crimi-
7 nally, for the acts of his or her clerk, servant, agent, or
8 employee, in violating this act.

9 Sec. 919. A person who falsely or fraudulently makes, simu-
10 lates, forges, alters, or counterfeits a document, label, or
11 stamp prescribed by the commission under this act or rules
12 promulgated under this act, or who causes or procures to be
13 falsely or fraudulently made, simulated, forged, altered, or
14 counterfeited any such document, label, or stamp, who knowingly
15 and willfully utters, publishes, passes, or tenders as true, any
16 such false, altered, forged, or counterfeited document, label, or
17 stamp, or who uses more than once any label or stamp prescribed
18 by the commission pursuant to this act or the rules promulgated
19 under this act is guilty of a felony punishable by imprisonment
20 for not more than 1 year or by a fine of not more than \$1,000.00,
21 or both.

22 Sec. 921. Notwithstanding section 203, a collector, who is
23 21 years of age or older, of ceramic commemorative bottles con-
24 taining alcoholic liquor and bearing an unbroken federal tax
25 stamp or seal may sell or trade the bottles to other such collec-
26 tors of those bottles without obtaining a license under this
27 act. All sales conducted under this subsection shall be for the

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1 purpose of exchanging ceramic commemorative bottles between
2 private collectors of those bottles and shall not be for the pur-
3 pose of selling alcoholic liquor for personal consumption. A
4 sale or exchange conducted under this subsection shall not occur
5 in any of the following ways:

6 (a) In connection with the business of a holder of an alco-
7 holic liquor license.

8 (b) In connection with any other business.

9 Sec. 923. The commission has complete power to regulate,
10 limit, and control the sale, transfer, barter, or exchange in
11 this state of warehouse receipts for alcoholic liquor wherever
12 alcoholic liquor is situated.

13 Sec. 925. This act shall be liberally construed to effect
14 the intent and purposes set forth in this act.

15 CHAPTER 10

16 Sec. 1001. The commanding general of the Michigan national
17 guard may publish by general order such regulations and restric-
18 tions as to the transportation, possession, sale, and use of
19 alcoholic liquor in armories, air bases, and naval installations
20 owned or leased by the state or provided by the federal govern-
21 ment by lease, license, or use permit and used by outside parties
22 of a nonmilitary or state governmental nature and on the state
23 military reservation during the field training periods of the
24 Michigan national guard, either in state or federal service, as
25 he or she determines are for the best interests of the military
26 service.

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1 Sec. 1003. A person who makes a false or fraudulent
2 statement to the commission, orally or in writing, for the
3 purpose of inducing the commission to act or refrain from taking
4 action or for the purpose of enabling or assisting a person to
5 evade the provisions of this act is guilty of a violation of this
6 act and is punishable in the manner provided for in section 909.

7 Sec. 1005. (1) A licensee who, by himself or herself or by
8 his or her agent or employee, sells, offers for sale, exposes for
9 sale, or possesses alcoholic liquor that is adulterated, mis-
10 branded, or in bottles that have been refilled is guilty of a
11 violation of this act.

12 (2) For purposes of this section, alcoholic liquor is adul-
13 terated if it contains any liquid or other ingredient that was
14 not placed there by the original manufacturer or bottler.

15 (3) For purposes of this section alcoholic liquor is mis-
16 branded if it is not plainly labeled, marked, or otherwise
17 designated.

18 (4) For purposes of this section, alcoholic liquor bottles
19 have been refilled when the bottles contain any liquid or other
20 ingredient not placed in the bottles by the original manufacturer
21 or bottler.

22 (5) This section does not apply to beer containers.

23 Sec. 1007. All alcoholic liquor that is manufactured,
24 transported, sold, or possessed without the consent of the com-
25 mission is hereby declared contraband and shall be disposed of by
26 order of the commission.

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1 Sec. 1009. (1) If alcoholic liquor is seized under a
2 judgment rendered against a licensee or if a licensee becomes
3 insolvent, the officer seizing that alcoholic liquor or the
4 trustee in bankruptcy of the insolvent licensee shall deliver to
5 the commission all alcoholic liquor found in the licensee's
6 possession.

7 (2) Within 1 month after the date of delivery of alcoholic
8 liquor to the commission by an officer or trustee in bankruptcy
9 under this section, the commission shall pay over to the officer
10 or trustee in bankruptcy the purchase price, less 10%, paid by
11 the licensee to the commission for all legal alcoholic liquor
12 seized and the value, less 10%, as established by the commission,
13 of other legally acquired alcoholic liquor delivered to the com-
14 mission under this section. Alcoholic liquor delivered to the
15 commission under this section that was illegally acquired by the
16 licensee shall be disposed of by order of the commission and pay-
17 ment shall not be made for that alcoholic liquor.

18 Sec. 1011. Alcoholic liquor for consumption on the premises
19 shall be sold only in accordance with a printed price list that
20 is readily available to customers.

21 Sec. 1013. A sale or purchase of alcoholic liquor made in a
22 state liquor store and by all types of licensees shall be for
23 cash only, except for the following:

24 (a) A customer's charge account with a specially designated
25 merchant who is not a holder of a license authorizing sale of
26 alcoholic liquor for consumption on the premises.

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1 (b) A sale to a bona fide registered guest of a class
2 B-hotel or class A-hotel, if the extension of credit does not
3 exceed 30 days.

4 (c) A sale to an industrial account if the extension of
5 credit does not exceed 30 days.

6 (d) A sale to a person holding an authorized credit card
7 from a credit card agency.

8 (e) A sale to a professional account, or an industrial
9 account of class C-licensee or a tavern, whose major business is
10 food, if the extension of credit does not exceed 30 days.

11 (f) A sale by a private club to a bona fide member.

12 Sec. 1015. (1) A nonlicensee, or a person who holds either
13 a special license or a club license under this act, may offer and
14 award unopened alcoholic liquor having a value of less than
15 \$200.00 to a person 21 years of age or older in a drawing or
16 raffle or as a door prize, pursuant to a lawful fund raising
17 activity. The alcoholic liquor awarded shall not be consumed on
18 the premises at which it is awarded.

19 (2) A person who holds either a special license or a club
20 license under this act and who has purchased alcoholic liquors to
21 be awarded as provided for in subsection (1) shall be exempt from
22 sections 1021(2) and 1025 for those purchases.

23 (3) A person who holds either a special license or a club
24 license under this act shall not sell or award alcoholic liquor
25 to a person who is in an intoxicated condition.

26 Sec. 1017. Alcoholic liquor shall not be served to a person
27 for consumption on the premises unless the glass in which the

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1 alcoholic liquor is to be served has been sterilized by a method
2 and in a manner as prescribed by the commission.

3 Sec. 1019. (1) Alcoholic liquor may be served by any hotel
4 licensed individually under this act in the room of a bona fide
5 guest.

6 (2) A person shall not consume or offer for consumption
7 spirits or mixed spirit drink in any place licensed under this
8 act to sell beer or wine and not licensed to sell spirits or
9 mixed spirit drink.

10 Sec. 1021. (1) A regulation shall not be made requiring the
11 purchase or serving of food with the purchase of alcoholic
12 liquor. The commission shall not require a class A hotel or
13 class B hotel to provide food services to registered guests or to
14 the public.

15 (2) Alcoholic liquor sold by vendors for consumption on the
16 premises shall not be removed from those premises.

17 Sec. 1023. The commission shall not prohibit licensees from
18 allowing pinball machines on the premises for the purpose of
19 amusement.

20 Sec. 1025. (1) A vendor shall not give away any alcoholic
21 liquor of any kind or description at any time in connection with
22 his or her business, except manufacturers for consumption on the
23 premises only.

24 (2) Subsection (1) does not prevent either of the
25 following:

26 (a) A vendor of spirits, brewer, mixed spirit drink
27 manufacturer, wine maker, small wine maker, outstate seller of

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1 beer, outstate seller of wine, or outstate seller of mixed spirit
2 drink, or a bona fide market research organization retained by 1
3 of the persons named in this subsection, from conducting sam-
4 plings or tastings of an alcoholic liquor product before it is
5 approved for sale in this state, if the sampling or tasting is
6 conducted pursuant to prior written approval of the commission.

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

9 (3) A vendor shall not sell an alcoholic liquor to a person
10 in an intoxicated condition.

11 Sec. 1027. (1) Unless otherwise provided by rule of the
12 commission, a person shall not conduct samplings or tastings of
13 any alcoholic liquor for a commercial purpose except at premises
14 that are licensed by the commission for the sale and consumption
15 of alcoholic liquor on the premises.

16 (2) This section does not prevent a vendor of spirits,
17 brewer, wine maker, mixed spirit drink manufacturer, small wine
18 maker, outstate seller of beer, outstate seller of wine, or out-
19 state seller of mixed spirit drink, or a bona fide market
20 research organization retained by 1 of the persons named in this
21 subsection, from conducting samplings or tastings of an alcoholic
22 liquor product before it is approved for sale in this state if
23 the sampling or tasting is conducted pursuant to prior written
24 approval of the commission.

25 (3) A sampling or tasting of any alcoholic liquor in a home
26 or domicile for other than a commercial purpose is not subject to
27 this section.

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1 (4) For purposes of this section, "commercial purpose" means
2 a purpose for which monetary gain or other remuneration could
3 reasonably be expected.

4 CHAPTER 11

5 Sec. 1101. (1) Spirits and mixed spirit drink for consump-
6 tion on the premises, in addition to beer and wine, may be sold
7 by restaurants, hotels, and establishments approved by the com-
8 mission under this act in the following cities, villages, or
9 townships if the legislative body of the city, village, or town-
10 ship by resolution of a majority vote of the members elect, votes
11 in favor of allowing that sale. A petition may be filed with the
12 city, village, or township clerk requesting the submission of the
13 question of sale of spirits and mixed spirit drink for consump-
14 tion on the premises, in addition to beer and wine. In the case
15 of a city or township, the petition shall be signed by a number
16 of the registered and qualified electors which shall be not less
17 than 35% of the total number of votes cast for all candidates for
18 the office of secretary of state in that city or township at the
19 last general election held for that purpose. In the case of a
20 village, the petition shall be signed by a number of the regis-
21 tered and qualified electors that is not less than 35% of the
22 total number of votes cast for all candidates for the office of
23 president of the village at the last village election held for
24 that purpose. The question shall not be submitted to the elec-
25 tors of a city, village, or township more often than once in
26 every 2 years. The city, village, or township clerk shall,
27 within 10 days after the petition is filed with the clerk, give

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1 notice of the filing by publication of notice setting forth the
2 essential facts of the petition in a newspaper published or in
3 general circulation in the city, village, or township. The city,
4 village, or township clerk shall submit the question at the next
5 regular state election held in the city, village, or township if
6 the petitions are filed at least 60 days before the election.
7 Class C licensees in a newly incorporated city or village shall
8 continue to be licensed by the commission until the question of
9 the sale of spirits and mixed spirit drink for consumption on the
10 premises, in addition to beer and wine, is submitted to the elec-
11 tions of the city or village as provided in this section. The
12 question of the sale of spirits and mixed spirit drink for con-
13 sumption on the premises, in addition to beer and wine, shall be
14 submitted by ballot in substantially the following form:

15 "Shall the sale of spirits and mixed spirit drink in addi-
16 tion to beer and wine be permitted for consumption on the
17 premises within the city, village, or township of
18 under the provisions of the law governing same?

19 Yes

20 No".

21 (2) All votes on the question submitted by ballot under sub-
22 section (1) shall be taken, counted, and canvassed in the same
23 manner as votes cast in city, village, or township elections, as
24 applicable, are taken, counted, and canvassed. Ballots shall be
25 furnished by the election commission or similar body of the
26 respective city, village, or township. If a majority of the
27 electors voting at an election conducted under this section shall

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1 vote in favor of the question submitted by ballot under
2 subsection (1), spirits and mixed spirit drink may be sold under
3 this act in that city, village, or township for consumption on
4 the premises, in addition to beer and wine.

5 (3) At any time within 18 months after an election conducted
6 under this section has resulted in a tie vote, the question shall
7 be resubmitted to the electors upon the filing of a petition with
8 the legislative body of the city, village, or township. The
9 petition shall be signed by a number of electors not less than
10 that required under subsection (1) for the calling of an election
11 on an original petition. The question shall be resubmitted to
12 the electors by the city, village, or township clerk at the next
13 regular election if that election occurs not less than 30 days
14 and not more than 60 days after the filing of the petition or at
15 a special election called for that purpose and to be held within
16 not less than 30 days and not more than 60 days after the filing
17 of the petition.

18 (4) This section shall not be used by the legislative body
19 of a city, village, or township to nullify the results of a ref-
20 erendum vote of the electors of the city, village, or township.

21 Sec. 1103. (1) If spirits and mixed spirit drink for con-
22 sumption on the premises, in addition to beer and wine, may be
23 sold by restaurants, hotels, and establishments approved by the
24 commission in a city, village, or township and all or a part of
25 that city, village, or township becomes annexed to and a part of
26 a city or village that does not, at the time of annexation,
27 permit those sales, class C licensees in that annexed area shall

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1 continue to be licensed by the commission until the next regular,
2 city, or village election, at which election, without the need to
3 file a petition, the question of the sale of spirits and mixed
4 spirit drink for consumption on the premises, in addition to beer
5 and wine, shall be submitted to the electors of the city or vil-
6 lage to which the territory has been annexed.

7 (2) The form of the ballot, the voting and canvassing of
8 votes, and the effect of the votes shall be as provided in sec-
9 tion 1101.

10 (3) The fact that a vote has been taken upon that question
11 either in the annexing municipality or in the annexed area, or in
12 both, within 4 years before the annexation is not a bar to the
13 submission of the question as provided in this section.

14 Sec. 1105. (1) When the question of the sale of spirits and
15 mixed spirit drink for consumption on the premises is submitted
16 to and approved by the electors of a city, village, or township,
17 and immediately after certification of the results of the elec-
18 tion, all currently approved licensed establishments for consump-
19 tion of beer and wine on the premises in the city, village, or
20 township shall be licensed to serve spirits and mixed spirit
21 drink in addition to beer and wine for consumption on the
22 premises upon application to and approval by the commission and
23 payment of the applicable license fee as specified in section
24 525.

25 (2) A township having incorporated villages within its
26 boundaries may submit to the voters in the unincorporated portion
27 of the township the question of sale of spirits and mixed spirit

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1 drink for consumption on the premises and the will of the
2 electors outside of the incorporated villages shall decide the
3 question for the unincorporated portion of the township.

4 Sec. 1107. (1) Upon the filing with the county clerk of a
5 petition signed by not less than 20% of the registered and quali-
6 fied electors of any county of the entire vote cast for the
7 office of secretary of state in that county at the last general
8 election requesting the submission to the electors of that county
9 of the question of the manufacture or sale of alcoholic liquor,
10 or both, within that county, the county clerk shall submit the
11 question at the next regular state election held in that county.
12 A petition filed under this subsection shall be filed at least 60
13 days before the election. A ballot question under this subsec-
14 tion shall not be submitted to the electors more often than once
15 in any 4-year period.

16 (2) All votes on the question shall be taken, counted, and
17 canvassed in the same manner as votes cast for county offices are
18 taken, counted, and canvassed. The vote on that question shall
19 be by ballot, which ballots shall be furnished by the board of
20 election commissioners of the county and shall be substantially
21 in 1 of the following forms:

22 "1. Shall the manufacture of alcoholic liquor be prohibited
23 in the county of

24 Yes

25 No

26 2. Shall the sale of alcoholic liquor be prohibited in the
27 county of

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1 Yes

2 No

3 3. Shall the manufacture and sale of alcoholic liquor be
4 prohibited in the county of

5 Yes

6 No"

7 (3) The effective date of the prohibition of the manufacture
8 or sale, or both, as applicable, shall be 30 days after the board
9 of county canvassers has determined that a majority of those
10 voting on that question have voted in favor of the prohibition.
11 The county clerk shall give notice of the effective date of the
12 prohibition by publishing the date at least once in a newspaper
13 published in that county or, if no newspaper is published within
14 the county, in a newspaper published in an adjoining county.

15 Sec. 1109. (1) Notwithstanding section 1101, a city, vil-
16 lage, or township in which there are no retail licenses for the
17 sale of alcoholic liquor may, by ordinance, prohibit the retail
18 sale of alcoholic liquor within its borders.

19 (2) An ordinance adopted under subsection (1) remains in
20 effect until the next general or special election held not less
21 than 45 days after the adoption of the ordinance. At that elec-
22 tion, the ordinance shall be submitted to the electors of the
23 city, village, or township for affirmance or revocation. A revo-
24 cation of the ordinance is effective on the date the election
25 results are certified.

26 (3) The commission shall not issue a license that violates
27 an ordinance adopted under subsection (1).

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1 Sec. 1111. (1) The sale of beer and wine between the hours
2 of 2 a.m. and 12 midnight on Sunday may be prohibited in any
3 county, city, village, or township by a majority vote of the
4 electors voting at a regular state election. Not more often than
5 once in every 4 years, upon the filing of a petition with the
6 county, city, village, or township clerk, as applicable, request-
7 ing the submission of the question of the Sunday sale of beer and
8 wine, the clerk shall submit that question to the electors of the
9 county, city, village, or township at the next regular state
10 election held in that county, city, village or township. A peti-
11 tion filed under this subsection shall be filed not less than 60
12 days before the regular state election. A ballot question under
13 this subsection shall not be submitted more often than once in
14 any 4-year period.

15 (2) In the case of a county, city, or township, the petition
16 shall be signed by a number of the registered and qualified elec-
17 tors of the county, city, or township that is not less than 35%
18 of the total number of votes cast for all candidates for the
19 office of secretary of state in that county, city, or township at
20 the last general election held for that purpose and, in the case
21 of a village the petition shall be signed by a number of the reg-
22 istered and qualified electors of the village that is less than
23 35% of the total number of votes cast for all candidates for the
24 office of president of the village at the last village election
25 held for that purpose.

26 (3) The question of the Sunday sale of beer and wine shall
27 be submitted by ballot in substantially the following form:

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1 "Shall the sale of beer and wine within (the county, city,
2 village, or township as the case may be) between the hours of 2
3 a.m. and 12 midnight on Sunday be prohibited?

4 Yes

5 No"

6 (4) All votes on the question submitted to the electors
7 under this section shall be taken, counted, and canvassed in the
8 same manner as votes cast in county, city, village, or township
9 election, as applicable, are taken, counted, and canvassed.
10 Ballots shall be furnished by the election commission or similar
11 body of the respective county, city, village, or township. If a
12 majority of the electors voting at an election conducted under
13 this section vote in favor of the question submitted, the sale of
14 beer and wine within that county, city, village, or township
15 between the hours of 2 a.m. and 12 midnight on Sunday is
16 prohibited.

17 Sec. 1113. (1) Except as provided in subsection (2), (3),
18 or (5), a licensee enumerated under section 525 or any other
19 person shall not sell at retail, give away, or furnish, and a
20 person shall not knowingly and willfully buy, spirits or mixed
21 spirit drink between the hours of 2 a.m. and 12 midnight on
22 Sunday. If January 1 falls on Sunday, the hours may be extended
23 to 4 a.m.

24 (2) If the legislative body of a county has authorized the
25 sale of spirits and mixed spirit drink for consumption on the
26 premises on Sunday, by resolution approved by a majority of the
27 legislative body voting on that resolution, the spirits and mixed

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1 spirit drink may be sold after 12 noon in an establishment
2 licensed under this act in which the gross receipts derived from
3 the sale of food and other goods and services exceed 50% of the
4 total gross receipts. With respect to an action taken by the
5 legislative body or if the legislative body fails to act, a peti-
6 tion may be filed with the county clerk requesting the submission
7 of the question of the sale of spirits and mixed spirit drink for
8 consumption on the premises in addition to beer and wine on
9 Sunday. The petition shall be signed by a number of the regis-
10 tered and qualified electors of the county that is not less than
11 8% of the total number of votes cast for all candidates for the
12 office of secretary of state in the county at the last general
13 election held for that purpose. The question shall not be sub-
14 mitted to the electors of a county more than once every 4 years.
15 The county clerk shall submit the question at the next regular
16 state election held in the county if the petitions are filed not
17 less than 60 days before the election. The question of the sale
18 of spirits and mixed spirit drink for consumption on the
19 premises, in addition to beer and wine, on Sunday shall be sub-
20 mitted by ballot in substantially the following form:

21 "Shall the sale of spirits and mixed spirit drink for con-
22 sumption on the premises be permitted on Sunday in an establish-
23 ment licensed under the Michigan liquor control code of 1997 in
24 which the gross receipts derived from the sale of food or other
25 goods and services exceed 50% of the total gross receipts within
26 the county of under the provisions of the law

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1 governing the sale of spirits and mixed spirit drink for
2 consumption?

3 Yes

4 No "

5 (3) If the legislative body of a county has authorized the
6 sale of spirits and mixed spirit drink for consumption off the
7 premises on Sunday by resolution approved by a majority of the
8 legislative body voting on the resolution, spirits and mixed
9 spirit drink may be sold after 12 noon in a retail establishment
10 licensed under this act. With respect to an action taken by the
11 legislative body or if the legislative body fails to act, a peti-
12 tion may be filed with the county clerk requesting the submission
13 of the question of the sale of spirits and mixed spirit drink for
14 consumption off the premises, in addition to beer and wine, in a
15 retail establishment licensed under this act on Sunday. The
16 petition shall be signed by a number of the registered and quali-
17 fied electors of the county that is not less than 8% of the total
18 number of votes cast for all candidates for the office of secre-
19 tary of state in the county at the last general election held for
20 that purpose. The question shall not be submitted to the elec-
21 tors of a county more than once every 4 years. The county clerk
22 shall submit the question at the next regular state election held
23 in the county if the petitions are filed not less than 60 days
24 before the election. The question of the sale of spirits and
25 mixed spirit drink for consumption off the premises, in addition
26 to beer and wine, in a retail establishment licensed under this

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1 act on Sunday shall be submitted by ballot in substantially the
2 following form:

3 "Shall the sale of spirits and mixed spirit drink for con-
4 sumption off the premises be permitted on Sunday in a retail
5 establishment licensed under the Michigan liquor control code of
6 1997 within the county of under the provisions of the
7 law governing the sale of spirits and mixed spirit drink for
8 consumption?

9 Yes

10 No".

11 (4) Votes on a question submitted under this section shall
12 be taken, counted, and canvassed in the same manner as votes cast
13 in county elections are taken, counted, and canvassed. A ballot
14 shall be furnished by the election commission or similar body of
15 the county. If a majority of the electors voting at an election
16 vote in favor of the proposal, spirits and mixed spirit drink may
17 be sold in the county under this act for consumption on the
18 premises or by a retail establishment for consumption off the
19 premises, in addition to beer and wine, on Sunday. The sale
20 shall not be permitted in a city, village, or township in which
21 the sale of spirits and mixed spirit drink is prohibited under
22 this act. A violation of this section is a misdemeanor. This
23 section does not apply to spirits and mixed spirit drink served
24 to a bona fide guest in the residence of a person or sold or fur-
25 nished for medicinal purposes as provided for in this act.

26 (5) A licensee enumerated under section 525 or any other
27 person shall not sell at retail, and a person shall not knowingly

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1 (3) If section 1201 is repealed, every licensee, who has on
2 hand any spirits on the effective date of the repeal, shall file
3 a complete inventory of those spirits with the commission within
4 20 days after the repeal. The commission shall credit to such a
5 licensee an amount equal to 4% of the retail selling price of
6 those spirits on future purchases of spirits from the
7 commission.

8 Sec. 1203. (1) In addition to any and all taxes imposed by
9 law, there is imposed, levied upon, and collected a specific tax
10 equal to 4% retail selling price of spirits. The tax shall be
11 collected by the commission at the time of sale by the
12 commission. In the case of sales to licensees, the tax shall be
13 computed on the retail selling price established by the commis-
14 sion without allowance of discount.

15 (2) Upon collection, the commission shall deposit the entire
16 proceeds in the state treasury, to the credit of the state school
17 aid fund established by sections 8, 10, and 11 of article IX of
18 the state constitution.

19 Sec. 1205. (1) In addition to any and all taxes imposed by
20 law, there is imposed and levied upon and collected a specific
21 tax equal to 1.85% of the retail selling price of spirits for
22 consumption off the premises. The tax shall be collected by the
23 commission at the time of the sale by the commission.

24 (2) Upon collection, the commission shall deposit the entire
25 proceeds in the state treasury, to the credit of the liquor pur-
26 chase revolving fund.

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1 Sec. 1207. (1) The legislature finds and declares that
2 there exists in this state a continuing need for programs to
3 promote tourism and convention business in order to assist in the
4 prevention of unemployment and the alleviation of the conditions
5 of unemployment, to preserve existing jobs, and to create new
6 jobs to meet the employment demands of population growth. In
7 order to achieve these purposes, it is necessary to assist and
8 encourage local units of government to acquire, construct,
9 improve, enlarge, renew, replace, repair, furnish, and equip con-
10 vention facilities and the real property on which they are
11 located.

12 (2) In addition to any other taxes imposed by law, there is
13 imposed, levied upon, and collected a specific tax equal to 4.0%
14 of the retail selling price of spirits for consumption on the
15 premises. The tax shall be collected by the commission at the
16 time of sale by the commission. In the case of sales to licens-
17 ees, the tax shall be computed on the retail selling price estab-
18 lished by the commission without allowance of discount.

19 (3) In addition to any other taxes imposed by law, there is
20 imposed, levied upon, and collected a specific tax equal to 4.0%
21 of the retail selling price of spirits for consumption off the
22 premises. The tax shall be collected by the commission at the
23 time of the sale by the commission.

24 (4) Upon collection, the commission shall deposit the pro-
25 ceeds of the taxes imposed pursuant to subsections (2) and (3) in
26 the state treasury to the credit of the convention facility
27 development fund created by the state convention facility

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1 development act, 1985 PA 106, MCL 207.621 to 207.640, for
2 distribution and use only in the manner and for the purposes
3 stated in that act.

4 (5) The tax imposed by this act shall not be levied during
5 any period in which the tax imposed pursuant to the state conven-
6 tion facility development act, 1985 PA 106, MCL 207.621 to
7 207.640, is not levied.

8 (6) This section shall not be construed as making
9 appropriations.

10 CHAPTER 13

11 Sec. 1301. The following acts and parts of acts are
12 repealed:

13 (a) The Michigan liquor control act, 1933 (Ex Sess) PA 8,
14 MCL 436.1 to 436.58.

15 (b) 1959 PA 94, MCL 436.101 to 436.103.

16 (c) 1962 PA 218, MCL 436.121 to 436.125.

17 (d) 1972 PA 213, MCL 436.131 to 436.133.

18 (e) The tourism and convention facility promotion tax act,
19 1985 PA 107, MCL 436.141 to 436.148.

20 Sec. 1303. (1) This act does not impair or affect any act
21 done, offense committed or right accruing, accrued or acquired,
22 or penalty, forfeiture or punishment incurred prior to the time
23 this act takes effect, but the same may be enjoyed, asserted,
24 enforced, prosecuted or inflicted, as fully and to the same
25 extent as if this act had not been passed.

26 (2) When the commission is directed or authorized to
27 promulgate rules by this act and rules exist on the date the

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1 requirement to promulgate rules takes effect, which rules the
2 commission believes adequately cover the matter, the commission
3 may determine that new rules are not required or may delay the
4 promulgation of new rules until the commission considers it
5 advisable. Those rules promulgated under former act 1933 (Ex
6 Sess) PA 8 and in effect on the effective date of this act shall
7 remain in effect until rescinded or otherwise changed according
8 to law, as provided for in section 31 of the administrative pro-
9 cedures act of 1969, 1969 PA 306, MCL 24.231.

10 (3) In the case of the commission created pursuant to this
11 act which was preceded by a commission with the same or similar
12 name and functions, members of the predecessor commission shall
13 continue in office for the duration of the terms of office for
14 which they were appointed and with the new members appointed
15 shall constitute the new commission. Members shall be appointed
16 under this act only as terms of the former members expire or
17 vacancies occur. Members of the predecessor commission may be
18 appointed to the new commission to succeed themselves subject to
19 the limits for any total period of service that may be set forth
20 in this act.

21 (4) It is the intention of the legislature that editorial
22 changes in the language of the statutes recodified in this act
23 not be construed as changes to the meanings of those statutes.

24 (5) A reference in any other law to the Michigan liquor con-
25 trol act, 1933 (Ex Sess) PA 8, being MCL 436.1 to 436.58, is con-
26 sidered to be a reference to this act.

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1 (6) A reference to a provision in former 1933 (Ex Sess) PA 8
2 is considered to be a reference to the successor provision in
3 this act. A reference in any application, document, authoriza-
4 tion, order, license, or other document issued or provided by the
5 commission or its authorized agent to former 1933 (Ex Sess) PA 8
6 is considered to be a reference to this act.