

Act No. 130  
Public Act of 1989  
July 11, 1989  
Filed by the Secretary of State  
July 11, 1989

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Reps. Brown, Gilmer, DeMars, Wartner and Johnson

# **ENROLLED HOUSE BILL No. 4618**

AN ACT to amend section 40 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "An act to create a liquor control commission for the control of the alcoholic beverage traffic within the state of Michigan, and to prescribe its powers, duties and limitations; to provide for the control of the alcoholic liquor traffic within the state of Michigan and the establishment of 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 thereto; to provide for the licensing and taxation thereof, and the disposition of the moneys received under this act; to prescribe liability for retail licensees under certain circumstances; 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 the confiscation and disposition of property seized under the provisions of this act; to provide a referendum in certain cases; and to repeal certain acts and parts of acts," as amended by Act No. 209 of the Public Acts of 1980, being section 436.40 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 40 of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended by Act No. 209 of the Public Acts of 1980, being section 436.40 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 40. (1) Except as provided in this section, the commission shall levy and collect a tax on all beer manufactured or sold in this state at the rate of \$6.30 per barrel if the beer is sold in bulk or in different quantities. The tax shall be paid by the brewer if manufactured in this state or by the wholesaler or the person from whom purchased if manufactured outside this state, whichever is designated by the commission. The commission shall establish by rule a method for the collection of the tax levied in this subsection. The rules shall be promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) The tax levied in subsection (1) shall not be collected with respect to beer that is consumed on the premises of the manufacturer or is damaged in the process of brewing, packaging, and storage and is not offered for sale.

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

(4) For the purposes of taxation, a barrel shall be construed to contain 31 gallons.

(5) The commission may promulgate a rule that designates the states, the laws, or the rules of other states that require a licensed wholesaler of beer to pay an additional fee for the right to purchase, import, or sell beer manufactured in this state; that denies the issuance of a license authorizing the importation of beer to any

licensed wholesaler of beer in that state who may make application for the license; that prohibits licensed wholesalers of beer in that state from possessing or selling beer purchased in this state, unless the person from whom purchased has secured a license and paid a fee in that state, if the seller neither transports the beer into the state nor sells the beer in the state; or that imposes any higher taxes or inspection fees upon beer manufactured in this state when transporting into or sold in that state, than is imposed upon beer manufactured and sold within that state. The rule shall prohibit all licensees from purchasing, receiving, possessing, or selling any beer manufactured in any state designated in the rule. The rule shall become effective as provided in section 47 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.247 of the Michigan Compiled Laws. Any licensee or person adversely affected by the rule is entitled to review by certiorari to the proper court the question as to whether the commission acted illegally or in excess of authority in making its finding with respect to any state.

(6) For tax years 1989 through 1991, an eligible brewer may claim a credit against the tax levied in 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, that manufactures less than 5,000 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.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.