

Act No. 118
Public Acts of 1989
Approved by the Governor
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**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Senator DeGrow

ENROLLED SENATE BILL No. 263

AN ACT to amend sections 2, 2h, 2m, 2o, 2p, 2r, 2t, 14, 16a, 17, 19, 19c, 19d, 19e, 19f, 19g, 22, 24, 26b, 29, 30, 30d, 31, 32, 49a, 56, 56a, and 56b 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," sections 2 and 30d as amended by Act No. 236 of the Public Acts of 1986, sections 2m, 2p, 14, and 24 as amended by Act No. 153 of the Public Acts of 1981, sections 16a and 31 as amended by Act No. 123 of the Public Acts of 1985, sections 17 and 19c as amended by Act No. 207 of the Public Acts of 1988, section 19 as amended by Act No. 192 of the Public Acts of 1986, section 19d as amended by Act No. 185 of the Public Acts of 1980, section 19e as amended by Act No. 433 of the Public Acts of 1980, section 19g as added and section 29 as amended by Act No. 245 of the Public Acts of 1986, section 22 as amended by Act No. 176 of the Public Acts of 1986, section 30 as amended by Act No. 170 of the Public Acts of 1981, and section 49a as amended by Act No. 382 of the Public Acts of 1984, being sections 436.2, 436.2h, 436.2m, 436.2o, 436.2p, 436.2r, 436.2t, 436.14, 436.16a, 436.17, 436.19, 436.19c, 436.19d, 436.19e, 436.19f, 436.19g, 436.22, 436.24, 436.26b, 436.29, 436.30, 436.30d, 436.31, 436.32, 436.49a, 436.56, 436.56a, and 436.56b of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 2, 2h, 2m, 2o, 2p, 2r, 2t, 14, 16a, 17, 19, 19c, 19d, 19e, 19f, 19g, 22, 24, 26b, 29, 30, 30d, 31, 32, 49a, 56, 56a, and 56b of Act No. 8 of the Public Acts of the Extra Session of 1933, sections 2 and 30d as amended by Act No. 236 of the Public Acts of 1986, sections 2m, 2p, 14, and 24 as amended by Act No. 153 of the Public Acts of 1981, sections 16a and 31 as amended by Act No. 123 of the Public Acts of 1985, sections 17 and 19c as amended by Act No. 207 of the Public Acts of 1988, section 19 as amended by Act No. 192 of the Public Acts of 1986, section 19d as amended by Act No. 185 of the Public Acts of 1980, section 19e as amended by Act No. 433 of the Public Acts of 1980, section 19g as added and section 29 as amended by Act No. 245 of the Public Acts of 1986, section 22 as amended by Act No. 176 of the Public Acts of 1986, section 30 as amended by Act No. 170 of the Public Acts of 1981, and section 49a as amended by Act No. 382 of the Public Acts of 1984, being sections 436.2, 436.2h, 436.2m, 436.2o, 436.2p, 436.2r, 436.2t, 436.14, 436.16a, 436.17, 436.19, 436.19c, 436.19d, 436.19e, 436.19f, 436.19g, 436.22, 436.24, 436.26b, 436.29, 436.30, 436.30d, 436.31, 436.32, 436.49a, 436.56, 436.56a, and 436.56b of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2. For purposes of this act, the words and phrases defined in this section and in sections 2a to 2z have the meanings ascribed to them in those sections, unless the context shall otherwise require:

(a) "Alcoholic liquor" means any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume which are fit for use for beverage purposes. The commission shall define and classify alcoholic liquor according to alcoholic content as belonging to 1 of the varieties hereinafter defined.

(b) "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, or other cereal in potable water.

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

(d) "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink.

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

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

(g) "Brandy" means an alcoholic liquor as defined in the federal regulations, 27 C.F.R. 5.22(d) (1980).

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

(i) Nonalcoholic beverages.

(ii) Flavoring.

(iii) Coloring materials.

(iv) Fruit juices.

(v) Fruit adjuncts.

(vi) Sugar.

(vii) Carbon dioxide.

(viii) Preservatives.

(i) "Mixed spirit drink" means a drink produced and packaged or sold by a mixed spirit drink manufacturer or an outstate seller of mixed spirit drink which contains 10% or less alcohol by volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives.

Sec. 2h. "Hotel" means a building which in the judgment of the commission has been regularly used and kept open as such in a bona fide manner for the feeding and lodging of guests, where all who conduct themselves properly and who are able and ready to pay for such services are received if there are accommodations for them. A hotel must be prepared to show that the major portion of its receipts is derived from the renting of rooms and the sale of food. The commission may require that a hotel shall have been maintained as such for a period of 1 year prior to the issuance of the license. For license purposes, hotels in cities of 50,000 population and less than 175,000 population shall contain not less than 25 permanent bedrooms and in cities of 175,000 population or over shall contain not less than 50 permanent bedrooms within 1 structure for lease to persons, and shall be adequately equipped to serve meals to not less than 100 persons at 1 time, in a cafeteria or dining room provided for that purpose. A hotel in a city, village, or township of less than 100,000 population which does not contain at least 25 permanent bedrooms, but is adequately equipped to serve meals to not less than 25 persons at 1 time in a public cafeteria or dining room provided for that purpose, may apply to the commission setting forth the special facts and circumstances, and the commission may make an exception and grant the petitioner a hotel license. Class "A" hotels are those hotels licensed under this act to sell beer and wine. Class "B" hotels are those hotels licensed under this act to sell beer, wine, spirits, and mixed spirit drink.

Sec. 2m. (1) As used in this act:

(a) "Brandy manufacturer" means any person licensed under this act to engage in the manufacturing, rectifying or blending, or both, of brandy only and not any other distilled spirit. Only a licensed wine maker or a small wine maker is eligible to be a brandy manufacturer.

(b) "Mixed spirit drink manufacturer" means any person licensed under this act to manufacture in this state mixed spirit drink and to sell mixed spirit drink to a wholesaler.

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

(d) "Outstate seller of mixed spirit drink" means a person licensed by the commission to sell mixed spirit drink not manufactured in this state to a wholesaler in this state according to rules promulgated by the commission.

(e) "Outstate seller of wine" means a person licensed by the commission to sell wine which has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission, and to sell sacramental wine as provided in section 16a.

(f) "Retailer" means a person licensed by the commission who sells to the consumer, under rules as the commission may establish.

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

(h) "Vendor of spirits" means a person selling spirits to the commission.

(i) "Wholesaler" means a person who sells beer, wine, or mixed spirit drink only to retailers or other licensees, and who sells sacramental wine as provided in section 16a.

(j) "Warehouseman" means a licensee authorized by the commission to store alcoholic beverages, but prohibited from making sales or deliveries to retailers unless the licensee is also the holder of a wholesaler or manufacturer license issued by the commission.

(2) For the purposes of rules promulgated by the commission, a mixed spirit drink manufacturer and an outstate seller of mixed spirit drink shall be considered and treated as a wine manufacturer and outstate seller of wine, respectively, except that they shall be subject to the rules applicable to spirits for purposes of manufacturing and labeling.

Sec. 2o. "Special license" shall mean a contract between the commission and the special licensee granting authority to said licensee to sell beer, wine, mixed spirit drink, or spirits. The license shall be granted only to such persons and such organization and for such period of time as the commission shall determine.

Sec. 2p. "Specially designated distributor" means a person engaged in an established business licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises.

Sec. 2r. "State liquor store" shall mean a store established by the liquor control commission under this act for the sale of spirits in the original package for consumption off the premises.

Sec. 2t. "Class C license" shall mean any place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises.

Sec. 14. The commission may license any hotel or established merchant, who if a natural person, shall be a resident of this state, and if a corporation, shall be authorized to do business under the laws of this state, in places that the commission may designate, to sell spirits for consumption off the premises. If alcoholic liquor is sold by a specially designated distributor, pursuant to a license issued under this section, it shall be sold at a price fixed by the commission, and pursuant to rules promulgated by the commission.

Sec. 16a. (1) There shall be levied and collected by the commission on all wines containing 16% or less of alcohol by volume sold in this state and manufactured from grapes or fruits not grown in this state, a tax at the rate of 13.5 cents per liter if sold in bulk and in a like ratio if sold in smaller quantities.

(2) There shall be levied and collected by the commission on all wines containing more than 16% of alcohol by volume sold in this state a tax at the rate of 20 cents per liter if sold in bulk and in a like ratio if sold in smaller quantities.

(3) The commission shall reduce by 12.5 cents per liter the tax specified in subsection (1) and shall reduce by 19 cents per liter the tax specified in subsection (2) on all wines manufactured in Michigan from grapes grown in Michigan, for which the wineries, blenders, or rectifiers have paid the Michigan grape growers \$100.00 per ton, or more, at the shipping point, the buyer furnishing at his or her expense all necessary packages or containers and paying transportation charges beyond the shipping point. Not less than \$100.00 of the minimum payment specified in this subsection shall be paid in cash by December 15 of the year in which the grapes are delivered. The remainder of the minimum payment shall be made by a promissory note payable without interest before April 16 of the year following the delivery of the grapes. The tax shall also be reduced as provided in this subsection on all wines manufactured in Michigan from Michigan grown fruits, other than grapes, and also on these wines when blended with wine or wine spirits manufactured in Michigan and also

blended with wine or wine spirits manufactured from grapes and fruits not grown in Michigan, when the blend does not use in the finished product over 25% in volume of wine or wine spirits manufactured outside the state of Michigan. All wines not manufactured and not entitled to tax reduction as provided in this section shall be subject to and shall pay to the commission the full amount of tax as provided in this act. Every Michigan winery, as a condition precedent to the commission having jurisdiction to grant or recognize any claim for tax reduction shall, on or before December 15 of each year, when Michigan grapes are purchased, file with the commission a detailed and sworn statement showing the date, place of delivery, and amount of grapes purchased of Michigan grape growers, and the name and address of the Michigan growers from whom the purchases are made, together with a sworn statement that the grapes have been paid for at the price and manner provided for in this act, and that this act has been fully complied with. The commission may promulgate other necessary and proper rules as in the opinion of the commission will prevent tax evasion or allow wineries tax reduction on more liters of wine than would ordinarily be produced and manufactured from the tonnage purchased and on which tax reduction could legally be claimed.

(4) All sacramental wines shall be nontaxable when used by churches and sacramental wines may be imported and the commission shall not impose restrictions on importations of wine for sacramental purposes but may promulgate rules as will prevent any abuses which result from the importations. A wholesaler or an outstate seller of wine may sell sacramental wine directly to a church for sacramental purposes.

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

(6) On approval by the commission, the corporation and securities bureau shall incorporate a limited number of farm mutual cooperative wineries as, in the judgment of the commission, will be beneficial to the Michigan grape and fruit industry. These wineries shall be licensed under this act and the payment of 1 license fee annually by the corporation shall authorize wine making on the premises of the corporation and also on the premises of the grape and fruit growing farmers who are members of or stockholders in the corporation. The stockholders or members, on incorporation of a farmers' cooperative corporation as provided for in this section shall be certified to be Michigan grape and fruit growing farmers. Wine making by cooperative corporations on farm premises is allowed but all sales of the wine shall be made by the corporation and from the corporation premises.

(7) The commission may sell any existing inventory of mixed spirit drink and any mixed spirit drink which is on order as of the effective date of the 1989 amendatory act that amended this section to any vendor who holds a license to sell mixed spirit drink at wholesale or retail. Prices for mixed spirit drink sold pursuant to this subsection shall be established by the commission.

Sec. 17. (1) The commission may issue licenses, as provided in this act, upon the payment of the fees provided in section 19 and the filing of the bonds required in section 22, or liability insurance as provided in section 22a.

(2) The commission shall issue licenses to manufacturers only when 25% or more of the capital stock is owned by residents of this state, except that these limitations shall not apply to manufacturers of wine, mixed spirit drink, beer, or malt beverages or to distillers or rectifiers.

(3) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act shall be construed to be a contract between the commission and the licensee and shall be signed by both parties. When a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by the proper court, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a proper court to operate the licensed establishment of a licensee of the commission. The commission may grant a part-year license for a proportionate part of the license fee specified in section 19. In a resort area the commission shall grant a license for as short a period as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained other than by transfer shall not be transferred within 3 years after its issuance except if the licensee clearly and convincingly shows that unusual hardship will result if the transfer is not consented to by the commission. Except as provided in section 17b, an application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 1,000,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body shall not be required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications called for in this subsection. Upon request of the local legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell alcoholic liquor for consumption on the premises, or the commission

shall revoke any permit issued by the commission which is held in conjunction with a license to sell alcoholic liquor for consumption on the premises.

(4) A local legislative body, by resolution, may request that the commission revoke the license of a licensee granted a license to sell alcoholic liquor for consumption off the premises whose place of business is located within the local legislative body's jurisdiction and who has been determined pursuant to commission violation hearings to have sold or furnished alcoholic liquor, on at least 3 separate occasions in a single calendar year, to a person who is less than 21 years of age, provided said violations did not involve the use of falsified or fraudulent identification by the person who is less than 21 years of age. If the commission verifies that the licensee who is the subject of the resolution has been found to have committed the violations as prescribed in this subsection, the commission may suspend or revoke the licensee's license, and any permit held in conjunction with the license.

(5) Except as otherwise provided in this act, a license other than a special license which has been approved by the governing authority of such state owned land shall not be issued by the commission to sell alcoholic liquor, either on or off the premises, if the property or establishment to be covered by the license is situated in or on state owned land. However, this prohibition shall not apply to the following land:

(a) The Michigan state fairgrounds.

(b) The Upper Peninsula state fairgrounds.

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

(d) Land which was under lease to a person licensed in the calendar year 1954 and on which a licensed establishment is presently located.

(e) Land which was owned or leased by the federal government, used as a military installation, and transferred to this state before January 1, 1980 pursuant to Act No. 151 of the Public Acts of 1978, being sections 3.551 to 3.561 of the Michigan Compiled Laws. Two additional licenses may be issued pursuant to this subdivision for establishments located on this state land without regard to or effect on the quota provisions of section 19c in the local governmental unit in which the license will be issued. A person issued a license pursuant to this subdivision may renew the license and transfer ownership of the license, without regard to or effect on the quota provisions of section 19c, if title to the property covered by the license is transferred from the state to another person or to another governmental unit. The commission shall not transfer a license issued under this subdivision to another location. Before the issuance of a license, and annually thereafter before the issuance of a license for a new licensing period, the applicant for a license shall submit to the commission a certificate from the department or agency charged with control of the land setting forth that the issuance of a license is not incompatible with the objects and purposes entrusted to that department or agency under the law establishing control of the land in the department or agency. This subsection shall not prohibit the issuance of a license pursuant to section 17h.

(f) Property owned by the Michigan state waterways commission and leased to persons under the harbor development act, Act No. 79 of the Public Acts of 1988, being sections 281.1251 to 281.1268 of the Michigan Compiled Laws. A license may be issued under this subdivision to a lessee without regard to the quota provisions of section 19c, but the license shall not be issued without the written approval of the Michigan state waterways commission or its designee. A license issued under this subdivision shall not be transferable as to ownership or location, and, if the licensee goes out of business, the license shall be surrendered to the liquor control commission.

(6) This act shall not prohibit a hotel, which is or was the holder of a license authorizing the retail sale of alcoholic liquor for consumption on the premises, from applying for and receiving, under this act, any other and different type of license authorizing the retail sale of alcoholic liquor for consumption on the premises, nor shall the application for the license be considered a new application for a license, so long as the total number of public licenses for consumption on the premises shall not exceed the authorized total established in this act and the sale of alcoholic liquor is approved by the electors. The commission may divide the state into 3 zones and establish for each zone an anniversary date for renewal of full-year retail licenses in the licensing year. The commission shall promulgate rules 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, for the effective administration of the renewal of licenses.

(7) The commission, with the written approval of the department of natural resources in the case of the Michigan state fairgrounds and the department of agriculture, in the case of the Upper Peninsula state fairgrounds, may issue without regard to the quota provision of section 19c a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds, or both, to service the licensed area in use for recreational or exhibition purposes, other than at the time of the annual state fair, under section 6 of the Michigan exposition and fairgrounds act, Act No. 361 of the

Public Acts of 1978, being section 285.166 of the Michigan Compiled Laws, and the annual Upper Peninsula state fair, under section 2 of Act No. 89 of the Public Acts of 1927, as amended, being section 285.142 of the Michigan Compiled Laws. A license issued under this subsection is not transferable.

(8) Notwithstanding section 3, a collector, who is 21 years of age or older, of ceramic commemorative bottles containing alcoholic liquor and which bear an unbroken federal tax stamp or seal may sell or trade the bottles to other such collectors of the bottles without obtaining a license pursuant to this act. All sales conducted pursuant to this subsection shall be for the purpose of exchanging ceramic commemorative bottles between private collectors of the bottles and shall not be for the purpose of selling alcoholic liquor for personal consumption. A sale or exchange conducted pursuant to this subsection shall not occur in any of the following ways:

- (a) In connection with the business of a holder of an alcoholic liquor license.
- (b) In connection with any other business.

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

- (a) Manufacturers of spirits, but not including makers, blenders, and rectifiers of wines containing 21% of alcohol or less by volume, \$10,000.00.
- (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or fraction of a barrel, production annually with a maximum fee of \$1,000.00, and in addition \$50.00 for each motor vehicle used in delivery to retail licensees. A fee increase shall not apply to a manufacturer of less than 15,000 barrels production per year.
- (c) Outstate seller of beer, delivering or selling beer in this state, \$1,000.00.
- (d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$100.00. The small wine maker license fee shall be \$25.00.
- (e) Outstate seller of wine, delivering or selling wine in this state, \$300.00.
- (f) Outstate seller of mixed spirit drink, delivering or selling mixed spirit drink in this state, \$300.00.
- (g) Dining cars or other railroad or pullman cars selling alcoholic liquor, \$100.00 per train.
- (h) Wholesale vendors other than manufacturers of beer, \$300.00 for the first motor vehicle used in delivery to retail licensees and \$50.00 for each additional motor vehicle used in delivery to retail licensees.
- (i) Watercraft, licensed to carry passengers, selling alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of \$500.00 per year computed on the basis of \$1.00 per person per passenger capacity.
- (j) Specially designated merchants, for selling beer or wine for consumption off the premises only, but not at wholesale, \$100.00 for each location regardless of the fact that the location may be a part of a system or chain of merchandising.
- (k) Specially designated distributors licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises, \$150.00 per year; and \$3.00 additional fee for each \$1,000.00 or major fraction of that amount in excess of \$25,000.00 of the total retail value of merchandise purchased under each license from the liquor control commission during the previous calendar year.
- (l) Hotels of class A selling beer and wine, a minimum fee of \$250.00 and for all bedrooms in excess of 20, \$1.00 for each additional bedroom, but not to exceed \$500.00.
- (m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of \$600.00 and for all bedrooms in excess of 20, \$3.00 for each additional bedroom. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, the fee shall entitle the hotel to sell in only 1 public bar, other than a bedroom, and a license shall be secured for each additional public bar, other than a bedroom, the fee for which shall be \$350.00.
- (n) Taverns, selling beer and wine, \$250.00.
- (o) Class C license selling beer, wine, mixed spirit drink, and spirits, \$600.00. If a class C licensee sells beer, wine, mixed spirit drink, and spirits in more than 1 bar, a fee of \$350.00 shall be paid for each additional bar. In municipally owned or supported facilities in which nonprofit organizations operate concession stands, a fee of \$100.00 shall be paid for each additional bar.
- (p) Clubs selling beer, wine, mixed spirit drink, and spirits, \$300.00 for clubs having 150 or less duly accredited members and \$1.00 for each additional member. The membership list for the purpose only of determining the license fees to be paid under this section shall be the accredited list of members as determined by a sworn affidavit 30 days before the closing of the license year. This section shall not prevent the commission from checking a membership list and making its own determination from the list or otherwise. The list of members and additional members shall not be required of a club paying the maximum fee. The maximum fee shall not exceed \$750.00 for any 1 club.

(q) Warehouses, to be fixed by the commission with a minimum fee for each warehouse of \$50.00.

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

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

(t) Brandy manufacturer, \$100.00.

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

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

Sec. 19c. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. This quota does not bar the right of an existing licensee to renew a license or transfer the license nor does it bar the right of a tavern or class A hotel from requesting reclassification of a license to class C, unless local option laws prevent the sale of spirits and mixed spirit drinks by those licensed premises, subject to the consent of the commission. Upgrading of a license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

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

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 10 additional licenses per year for each of the years 1988, 1989, 1990, 1991, 1992, and 1993 to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area, and whose primary purpose is not for the sale of alcoholic liquor. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined pursuant to subsection (10), the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to the number of applications received under this subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 25 additional resort licenses for each of the years 1988, 1989, 1990, 1991, 1992, and 1993 if all of the following conditions are met:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

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

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

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection (10), in which the quota of specially designated distributor licenses, as provided by commission rule, has been exhausted, the commission may issue not more than 10 additional specially designated distributor licenses per year for each of the years 1988, 1989, 1990, 1991, 1992, and 1993 to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort licenses authorized in subsections (2), (3), and (4), and notwithstanding section 17(4), the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special

purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be \$50.00. A special purpose license may be issued only to a corporation which is all of the following:

(a) Is a nonprofit corporation organized pursuant to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

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

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

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

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

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

(10) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.6 of the Michigan Compiled Laws. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(11) The limitations and quotas of this section shall not be applicable to the issuance of a new license to the governing board of a college or university pursuant to section 17h.

(12) The limitations and quotas of this section shall not be applicable to the issuance of a national sporting event license pursuant to section 17b.

Sec. 19d. (1) A retail vendor licensed under this act to sell for consumption on the premises may apply for a license as a specially designated merchant. A specially designated distributor may apply for a license as a specially designated merchant. Except as provided in section 31(5), a warehouseman, mixed spirit drink manufacturer, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not be licensed as a specially designated merchant or a specially designated distributor or permitted to sell or deliver to the consumer any quantity of alcoholic liquor at retail.

(2) A specially designated distributor or specially designated merchant or any other retailer shall not hold a mixed spirit drink manufacturer, wholesale, warehouse, outstate seller of beer, outstate seller of mixed spirit drink, or outstate seller of wine license.

(3) A brewer, warehouseman, or wholesaler shall not be licensed as a specially designated merchant, except for brewers who manufacture less than 200,000 barrels of beer per year. This subsection shall not affect the operation of a brewery hospitality room.

(4) A wholesaler may sell or deliver beer and alcoholic liquor to hospitals, military establishments, governments of federal Indian reservations, and churches requiring sacramental wines and may sell to the wholesaler's own employees to a limit of 2 cases of 24 12-ounce units or its equivalent of malt beverage per week, or 1 case of 12 1-liter units or its equivalent of wine or mixed spirit drink per week.

Sec. 19e. (1) Except as provided in subsection (2), (3), or (5), a licensee enumerated under section 19 or any other person shall not sell at retail, give away, or furnish and a person shall not knowingly and willfully buy spirits or mixed spirit drink between the hours of 2 a.m. and 12 midnight on Sunday. If January 1 falls on Sunday the hours may be extended to 4 a.m.

(2) If the legislative body of a county has authorized the sale of spirits and mixed spirit drink for consumption on the premises on Sunday, by resolution approved by a majority of the legislative body voting on that resolution, the spirits and mixed spirit drink may be sold after 12 noon in an establishment licensed under this act in which the gross receipts derived from the sale of food and other goods and services exceed 50% of the total gross receipts. With respect to an action taken by the legislative body, or, if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question of the sale of spirits and mixed spirit drink for consumption on the premises in addition to beer and wine on Sunday. The petition shall be signed by a number of the registered and qualified electors of a county which shall be not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election held for that purpose. The question shall not be submitted to the electors of a county more than once every 4 years.

The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before the election. The question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption on the premises be permitted on Sunday, in an establishment licensed under the liquor control act in which the gross receipts derived from the sale of food or other goods and services exceed 50% of the total gross receipts within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No ”

(3) If the legislative body of a county has authorized the sale of spirits and mixed spirit drink for consumption off the premises on Sunday, by resolution approved by a majority of the legislative body voting on the resolution, spirits and mixed spirit drink may be sold after 12 noon in a retail establishment licensed under this act. With respect to an action taken by the legislative body, or, if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday. The petition shall be signed by a number of the registered and qualified electors of a county which shall be not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election held for that purpose. The question shall not be submitted to the electors of a county more than once every 4 years. The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before the election. The question of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption off the premises be permitted, on Sunday, in a retail establishment licensed under the liquor control act within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No ”

(4) Votes on a question submitted pursuant to this section shall be taken, counted, and canvassed in the same manner as votes cast in county elections are taken, counted, and canvassed. A ballot shall be furnished by the election commission or similar body of the respective county. If a majority of the electors voting at an election vote in favor of the proposal, spirits and mixed spirit drink may be sold in the county under this act for consumption on the premises or by a retail establishment for consumption off the premises, in addition to beer and wine, on Sunday. The sale shall not be permitted in a city, village, or township in which the sale of spirits and mixed spirit drink is prohibited under this act. A violation of this section is a misdemeanor. This section shall not apply to spirits and mixed spirit drink served to a bona fide guest in the residence of a person or sold or furnished for medicinal purposes as provided for in this act.

(5) A licensee enumerated under section 19 or any other person shall not sell at retail, and a person shall not knowingly and willfully buy, alcoholic liquor between the hours of 9 p.m. on December 24 and 7 a.m. on December 26. If December 26 falls on Sunday, the hours of closing shall be determined pursuant to this act. The legislative body of a city, village, or township, by resolution or ordinance, may prohibit the sale of alcoholic liquor on Sunday or a legal holiday, primary election day, general election day, or municipal election day.

Sec. 19f. A licensee who elects to sell spirits or mixed spirit drink on Sunday*under section 19e shall not do so until he or she first pays to the liquor control commission an additional fee in the amount of 15% of the fee charged for the issuance of his or her license. The revenue received from this section shall be deposited with the state treasurer in a special fund to be used only by the department of public health in programs for the treatment of alcoholics.

Sec. 19g. (1) A person shall not conduct samplings or tastings of any alcoholic liquor for a commercial purpose except at premises that are licensed by the commission for the sale and consumption of alcoholic liquor on the premises, unless otherwise provided by rule of the commission.

(2) This section does not prevent a vendor of spirits, brewer, wine maker, mixed spirit drink manufacturer, small wine maker, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission.

(3) A sampling or tasting of any alcoholic liquor in a home or domicile for other than a commercial purpose is not subject to this section.

(4) For purposes of this section, "commercial purpose" means any purpose for which monetary gain or other remuneration could reasonably be expected.

Sec. 22. (1) As used in this section, "minor" means a person less than 21 years of age.

(2) Except as otherwise provided in this act, before the approval and granting, or renewal, of a license, the following licensees or applicants for such licenses shall make, execute, and deliver to the commission a bond executed by a surety company authorized to do business in the state, or in the discretion of the commission, by approved personal surety running to the people of the state, in the following amounts:

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

(b) A special license authorizing the sale of beer, mixed spirit drink, wine, or spirits for consumption on the premises, a bond in the sum of \$1,000.00. A bond issued under this subdivision shall remain in effect for 60 days after the expiration of the special license. A bond shall not be required for a church or school.

(3) A retail licensee shall not directly, individually, or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to a minor except as otherwise provided in this act, nor directly or indirectly, individually or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to a person who is visibly intoxicated.

(4) Except as otherwise provided in this section, an individual who suffers damage or is personally injured by a minor or visibly intoxicated person by reason of the unlawful selling, giving, or furnishing of alcoholic liquor to the minor or visibly intoxicated person, if the unlawful sale is proven to be a proximate cause of the damage, injury, or death, or the spouse, child, parent, or guardian of that individual, shall have a right of action in his or her name against the person who by selling, giving, or furnishing the alcoholic liquor has caused or contributed to the intoxication of the person or who has caused or contributed to the damage, injury, or death. In an action pursuant to this section, the plaintiff shall have the right to recover actual damages in a sum of not less than \$50.00 in each case in which the court or jury determines that intoxication was a proximate cause of the damage, injury, or death.

(5) An action under this section shall be instituted within 2 years after the injury or death. A plaintiff seeking damages under this section shall give written notice to all defendants within 120 days after entering an attorney-client relationship for the purpose of pursuing a claim under this section. Failure to give written notice within the time specified shall be grounds for dismissal of a claim as to any defendants that did not receive such notice unless sufficient information for determining that a retail licensee might be liable under this section was not known and could not reasonably have been known within the 120 days. In the event of the death of either party, the right of action under this section shall survive to or against his or her personal representative. In each action by a husband, wife, child, or parent, the general reputation of the relation of husband and wife or parent and child shall be prima facie evidence of the relation, and the amount recovered by either the husband, wife, parent, or child shall be his or her sole and separate property. The damages, together with the costs of the action, shall be recovered in an action under this section. If the parents of the individual who suffered damage or who was personally injured are entitled to damages under this section, the father and mother may sue separately, but recovery by 1 is a bar to action by the other.

(6) An action under this section against a retail licensee shall not be commenced unless the minor or the alleged intoxicated person is a named defendant in the action and is retained in the action until the litigation is concluded by trial or settlement.

(7) Any licensee subject to the provisions of subsection (4) regarding the unlawful selling, furnishing, or giving of alcoholic liquor to a visibly intoxicated person shall have the right to full indemnification from the alleged visibly intoxicated person for all damages awarded against the licensee.

(8) All defenses of the alleged visibly intoxicated person or the minor shall be available to the licensee. In an action alleging the unlawful sale of alcoholic liquor to a minor, proof that the defendant retail licensee or the defendant's agent or employee demanded and was shown a Michigan driver's license or official state personal identification card, appearing to be genuine and showing that the minor was at least 21 years of age, shall be a defense to the action.

(9) There shall be a rebuttable presumption that a retail licensee, other than the retail licensee who last sold, gave, or furnished alcoholic liquor to the minor or the visibly intoxicated person, has not committed any act giving rise to a cause of action under subsection (4).

(10) The alleged visibly intoxicated person shall not have a cause of action pursuant to this section nor shall any person have a cause of action pursuant to this section for the loss of financial support, services, gifts, parental training, guidance, love, society, or companionship of the alleged visibly intoxicated person.

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

(12) Except as otherwise provided for under this section and section 22h, a civil action under subsection (4) against a retail licensee shall be subject to the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws.

Sec. 24. The following classes of vendors may sell alcoholic liquors at retail as provided in this section:

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

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

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

(d) Hotels of class A where beer and wine may be sold for consumption on the premises and in the rooms of bona fide registered guests.

Hotels of class B where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

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

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

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

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

Sec. 26b. Alcoholic liquor may be served by any hotel licensed individually under the provisions of this act in the room of a bona fide guest. Spirits or mixed spirit drink shall not be consumed in any place licensed under this act to sell beer or wine and not licensed to sell spirits or mixed spirit drink.

Sec. 29. (1) A vendor shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business except manufacturers for consumption on the premises only. This subsection does not prevent a vendor of spirits, brewer, mixed spirit drink manufacturer, wine maker, small wine maker, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission, nor does this subsection prevent the conducting of any sampling or tasting authorized by rule of the commission.

(2) A vendor shall not sell any alcoholic liquor to any person in an intoxicated condition.

Sec. 30. Except as provided in section 31a, a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not aid or assist any other vendor by gift, loan of money or property of any description, or other valuable thing, or by the giving of premiums or rebates, and a vendor shall not accept the same. However, if manufacturers of spirits reduce the price of their products, the manufacturer of spirits may refund the amount of the price reductions to specially designated distributor licensees in a manner prescribed by the commission.

Sec. 30d. (1) A manufacturer and outstate seller of wine shall grant to each of its wholesalers a sales territory within which the wholesaler shall be a distributor of the specified brand or brands of the manufacturer or outstate seller of wine. The territory shall be the territory agreed upon between the wholesaler and manufacturer or outstate seller of wine. A manufacturer or outstate seller of wine may grant the right to sell a specified brand or brands in a sales territory to more than 1 wholesaler.

(2) A manufacturer of a mixed wine drink, mixed spirit drink manufacturer, outstate seller of a mixed wine drink, or outstate seller of mixed spirit drink shall grant to each of its wholesalers an exclusive sales territory in which the wholesaler shall be a distributor of the specified brand or brands of the manufacturer or outstate seller. The territory shall be the territory agreed upon between the wholesaler and manufacturer of a mixed wine drink, mixed spirit drink manufacturer, outstate seller of mixed wine drinks, or outstate seller of mixed spirit drink.

Sec. 31. (1) Except as provided in section 31a, a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have any financial interest, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(2) Except as provided in section 31a, a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits or a stockholder of a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest by ownership in fee, leasehold, mortgage, or otherwise, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(3) Except as provided in section 31a, a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest directly or indirectly by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(4) Except as provided in section 31a, a person shall not buy the stocks of a manufacturer, mixed spirit drink manufacturer, warehouseman, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits and place the stock in any portfolio under an arrangement, written trust agreement, or form of investment trust agreement and issue participating shares based upon the portfolio, trust agreement, or investment trust agreement, and sell the participating shares within this state.

(5) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned or leased to another person by the wine maker and located on the premises where the wine maker is licensed.

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

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

(b) That not more than 1 wine tasting location as described in this subsection, per wine maker, may be approved by the commission in a licensing year.

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

(d) That the wine tasting locations shall be considered licensed premises.

(e) That wine tasting shall not take place between the hours of 2 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and noon on Sunday.

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

(7) Subsection (6) shall take effect October 24, 1982.

Sec. 32. A person, directly or indirectly, himself or herself or by his or her clerk, agent or employee shall not manufacture, manufacture for sale, sell, offer or keep for sale, barter, furnish, or import, import for sale, transport for hire, or transport, or possess any alcoholic liquor unless the person complies with this act.

Sec. 49a. (1) A refund or credit of the tax on wine or mixed spirit drink paid pursuant to section 16a and the tax on beer paid pursuant to section 40 shall be made by the commission to a brewer, or a wine maker, or an outstate seller of beer, or an outstate seller of wine, outstate seller of mixed spirit drink, manufacturer of mixed

spirit drink, or a wholesaler, or a retail licensee who paid the tax if the wine, beer, or mixed spirit drink was sold to a military installation or an Indian reservation in this state; or if the wine, beer, or mixed spirit drink is lost, made unmarketable, or condemned by order of the commission as the result of a fire, flood, casualty, or other occurrence. A refund or credit shall not be made as the result of theft.

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

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

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

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

(d) The amount claimed for a refund or credit is more than \$250.00; or the refund or credit is claimed for defective wine, beer, or mixed spirit drink for which the commission has authorized a manufacturer, an outstate seller of beer, an outstate seller of wine, an outstate seller of mixed spirit drink, manufacturer of mixed spirit drink, or a wholesaler to make an exchange, have replaced, or be reimbursed.

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

(3) A claim for a refund or credit of the tax as provided in subsection (1), except for damage occurring between January 1, 1980 and April 20, 1982, shall be made not later than 3 months after either of the following:

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

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

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

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

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

(c) The address of the military installation or Indian reservation to which the wine, beer, or mixed spirit drink was sold.

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

(e) The size of bottles or containers.

(f) The number of bottles or containers.

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

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

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

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

(k) Evidence that the wine, beer, or mixed spirit drink was lost, made unmarketable, or condemned by reason of damage sustained as the result of a fire, flood, casualty, or other occurrence.

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

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

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

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

(7) This section applies to wine, beer, or mixed spirit drink that was damaged as the result of a fire, flood, casualty, or other occurrence which occurred after December 31, 1979.

(8) In addition to the provisions of this section, the tax paid on wine or mixed spirit drink pursuant to section 16a shall be rebated to the person who paid the tax upon satisfactory proof being furnished to the commission that the wine or mixed spirit drink was shipped outside of this state for sale and consumption outside this state.

Sec. 56. Spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, may be sold by restaurants, hotels, and establishments, approved by the commission under this act, in the following cities, villages, or townships, when the legislative body of such a city, village, or township shall, by resolution of a majority vote of the members elect, vote in favor thereof. A petition may be filed with the city, village, or township clerk requesting the submission of the question of sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine. In case of a city or township the petition shall be signed by a number of the registered and qualified electors which shall be not less than 35% of the total number of votes cast for all candidates for the office of secretary of state in that city or township at the last general election held for that purpose. In case of a village the petition shall be signed by a number of the registered and qualified electors which shall not be less than 35% of the total number of votes cast for all candidates for the office of president of the village at the last village election held for that purpose. The question shall not be submitted to the electors of a city, village, or township more often than once in every 2 years. The city, village, or township clerk shall within 10 days after the filing with the clerk of the petition, give notice of the filing by publication of notice setting forth the essential facts of the petition in a newspaper published or in general circulation in the city, village, or township. The city, village, or township clerk shall submit the question at the next regular state election held in the city, village or township if the petitions are filed at least 60 days before the election. With respect to newly incorporated cities or villages, class C licensees in any such a city or village shall continue to be licensed by the commission until the question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, is submitted to the electors of the city or village as herein provided. The question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, shall be submitted by ballot in substantially the following form:

"Shall the sale of spirits and mixed spirit drink in addition to beer and wine be permitted for consumption on the premises within the city, village, or township of under the provisions of the law governing same?

Yes

No"

All votes on the question shall be taken, counted, and canvassed in the same manner as votes cast in city, village, or township elections as the case may be, are taken, counted, and canvassed. Ballots shall be furnished by the election commission or similar body of the respective cities, villages, or townships. In case a majority of the electors voting at such an election shall vote in favor thereof, spirits and mixed spirit drink may be sold in that city, village, or township, pursuant to this act, for consumption on the premises, in addition to beer and wine.

At any time within 18 months after such an election has resulted in a tie vote, the question shall be resubmitted to the electors upon the filing of a petition with the legislative body of the city, village, or township. The petition shall be signed by a number of electors not less than that required by this section for the calling of an election on an original petition. The question shall be resubmitted to the electors by the city, village, or township clerk at the next regular election if that election occurs not less than 30 days, nor more than 60 days, after the filing of the petition, or at a special election called for that purpose and to be held within not less than 30 nor more than 60 days after the filing of the petition.

This section shall not be used by the legislative body of a city, village or township to nullify the results of a referendum vote of the electors of the city, village, or township.

Sec. 56a. Whenever spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, may be sold by restaurants, hotels and establishments, approved by the commission, in any city, village or township, and a part of or the whole of such city, village or township shall become annexed to and a part of any city or village which does not, at the time of annexation, permit such sales, class C licensees in any such annexed area shall continue to be licensed by the commission until the next regular or city or village election subsequent to the effective date of this amendatory act, at which election, without the necessity of the filing of a petition, the question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, shall be submitted to the electors of the city or village to which the territory has been annexed. The form of the ballot, the voting and canvassing of votes and the effect thereof shall be as provided in section 56 of this act. The fact that a vote has been taken upon such question either in the annexing municipality or the annexed area, or in both, within 4 years preceding the annexation shall not be a bar to submission of the question as herein provided.

Sec. 56b. (1) When the question of the sale of spirits and mixed spirit drink for consumption on the premises is submitted to and approved by the electors of a city, village, or township, and immediately after certification

of the results of the election, all currently approved licensed establishments for consumption of beer and wine on the premises, in the city, village, or township, shall be licensed to serve spirits and mixed spirit drink in addition to beer and wine for consumption on the premises upon application to and approval by the Michigan liquor control commission and payment of the applicable license fee as specified in section 19.

(2) A township having incorporated villages within its boundaries may submit to the voters in the unincorporated portion of the township the question of sale of spirits and mixed spirit drink for consumption on the premises and the will of the electors outside of the incorporated villages shall decide the question for the unincorporated portion of the township.

This act is ordered to take immediate effect.

.....
Secretary of the Senate.

.....
Clerk of the House of Representatives.

Approved.....

.....
Governor.