

HOUSE BILL No. 4618

April 12, 1989, Introduced by Reps. Brown, Gilmer, DeMars, Wartner and Johnson and referred to the Committee on Taxation.

A bill to amend section 40 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," 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:

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

5 Sec. 40. (1) ~~There~~ EXCEPT AS PROVIDED IN THIS SECTION,
6 THE COMMISSION shall ~~be levied and collected by the commission~~
7 LEVY AND COLLECT A TAX on all beer manufactured or sold in this
8 state ~~a tax~~ at the rate of \$6.30 per barrel if the beer is sold
9 in bulk or in different quantities. The tax shall be paid by the

1 brewer if manufactured in this state ~~—~~ or by the wholesaler or
2 the person from whom purchased if manufactured outside this
3 state, whichever is designated by the commission. The commission
4 shall establish by rule a method for the collection of the tax
5 ~~imposed~~ LEVIED in this subsection. The rules shall be promul-
6 gated pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
7 No. 306 of the Public Acts of 1969, as amended, being sections
8 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws.

9 (2) The tax ~~prescribed~~ LEVIED in subsection (1) shall not
10 be collected with respect to beer ~~which~~ THAT is consumed on the
11 premises of the manufacturer or ~~which~~ is damaged in the process
12 of brewing, packaging, and storage and is not offered for sale.

13 (3) The tax ~~imposed~~ COLLECTED under subsection (1) shall
14 be rebated to the person who paid the tax ~~upon~~ IF THAT PERSON
15 PROVIDES satisfactory proof ~~being furnished~~ to the commission
16 that the beer was shipped outside of this state for sale and con-
17 sumption outside this state.

18 (4) For the purposes of taxation, a barrel shall be con-
19 strued to contain 31 gallons.

20 (5) The commission may promulgate a rule ~~which~~ THAT desig-
21 nates the states, the laws, or the rules of other states ~~which~~
22 THAT require a licensed wholesaler of beer to pay an additional
23 fee for the right to purchase, import, or sell beer manufactured
24 in this state; ~~which deny~~ THAT DENIES the issuance of a license
25 authorizing the importation of beer to any licensed wholesaler of
26 beer in that state who may make application for the license;
27 ~~which prohibit~~ THAT PROHIBITS licensed wholesalers of beer in

1 that state from possessing or selling beer purchased in this
2 state, unless the person from whom purchased has secured a
3 license and paid a fee in that state, if the seller neither
4 transports the beer into the state nor sells the beer in the
5 state; or ~~which impose~~ THAT IMPOSES any higher taxes or inspec-
6 tion fees upon beer manufactured in this state when transporting
7 into or sold in that state, than is imposed upon beer manufac-
8 tured and sold within that state. The rule shall prohibit all
9 licensees from purchasing, receiving, possessing, or selling any
10 beer manufactured in any state designated in the rule. The rule
11 shall become effective ~~90 days after its adoption~~ AS PROVIDED
12 IN SECTION 47 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
13 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTION 24.247 OF THE
14 MICHIGAN COMPILED LAWS. Any licensee or person adversely affected
15 by the rule ~~shall be~~ IS entitled to review by certiorari to the
16 proper court the question as to whether the commission ~~has~~
17 acted illegally or in excess of authority in making its finding
18 with respect to any state.

19 (6) AN ELIGIBLE BREWER MAY CLAIM A CREDIT AGAINST THE TAX
20 LEVIED IN SUBSECTION (1) IN THE AMOUNT OF \$2.00 PER BARREL. AS
21 USED IN THIS SUBSECTION, "ELIGIBLE BREWER" MEANS A BREWER,
22 WHETHER OR NOT LOCATED IN THIS STATE, THAT MANUFACTURES LESS THAN
23 5,000 BARRELS OF BEER DURING THE TAX YEAR FOR WHICH THE CREDIT IS
24 CLAIMED. IN DETERMINING THE NUMBER OF BARRELS FOR PURPOSES OF
25 THE CREDIT, ALL BRANDS AND LABELS OF A BREWER SHALL BE COMBINED
26 AND ALL FACILITIES FOR THE PRODUCTION OF BEER THAT ARE OWNED OR

1 CONTROLLED BY THE SAME PERSON SHALL BE TREATED AS A SINGLE
2 FACILITY.