

# HOUSE BILL No. 5857

June 5, 1990, Introduced by Reps. Nye, Martin, Bandstra, Law, Sparks, Muxlow, Ouwinga, Dolan, DeMars and Crandall and referred to the Committee on Taxation.

A bill to amend sections 16a, 40, and 49 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 16a as amended by Act No. 118 of the Public Acts of 1989 and section 40 as amended by Act No. 130 of the Public Acts of 1989, being sections 436.16a, 436.40, and 436.49 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 16a, 40, and 49 of Act No. 8 of the  
2 Public Acts of the Extra Session of 1933, section 16a as amended  
3 by Act No. 118 of the Public Acts of 1989 and section 40 as  
4 amended by Act No. 130 of the Public Acts of 1989, being sections  
5 436.16a, 436.40, and 436.49 of the Michigan Compiled Laws, are  
6 amended to read as follows:

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

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

11       (3) BEGINNING JANUARY 1, 1991 AND UNTIL DECEMBER 31, 1996,  
12 IN ADDITION TO THE TAXES LEVIED AND COLLECTED UNDER  
13 SUBSECTIONS (1) AND (2), THE COMMISSION SHALL LEVY AND COLLECT A  
14 TAX ON ALL WINES SOLD IN THIS STATE, AT THE RATE OF 1 CENT PER  
15 LITER IF SOLD IN BULK OR IN A LIKE RATIO IF SOLD IN SMALLER  
16 QUANTITIES. UPON COLLECTION, THE ENTIRE PROCEEDS OF THE TAX  
17 IMPOSED BY THIS SUBSECTION SHALL BE DEPOSITED IN THE STATE TREA-  
18 SURY TO THE CREDIT OF THE DRUNK DRIVER DETENTION AND CORRECTION  
19 CENTER FUND.

20       (4) ~~-(3)-~~ The commission shall reduce by 12.5 cents per  
21 liter the tax specified in subsection (1) and shall reduce by 19  
22 cents per liter the tax specified in subsection (2) on all wines  
23 manufactured in Michigan from grapes grown in Michigan, for which  
24 the wineries, blenders, or rectifiers have paid the Michigan  
25 grape growers \$100.00 per ton, or more, at the shipping point,  
26 the buyer furnishing at his or her expense all necessary packages  
27 or containers and paying transportation charges beyond the

1 shipping point. Not less than \$100.00 of the minimum payment  
2 specified in this subsection shall be paid in cash by December 15  
3 of the year in which the grapes are delivered. The remainder of  
4 the minimum payment shall be made by a promissory note payable  
5 without interest before April 16 of the year following the deliv-  
6 ery of the grapes. The tax shall also be reduced as provided in  
7 this subsection on all wines manufactured in Michigan from  
8 Michigan grown fruits, other than grapes, and also on these wines  
9 when blended with wine or wine spirits manufactured in Michigan  
10 and also blended with wine or wine spirits manufactured from  
11 grapes and fruits not grown in Michigan, when the blend does not  
12 use in the finished product over 25% in volume of wine or wine  
13 spirits manufactured outside the state of Michigan. All wines  
14 not manufactured and not entitled to tax reduction as provided in  
15 this section shall be subject to and shall pay to the commission  
16 the full amount of tax as provided in this act. Every Michigan  
17 winery, as a condition precedent to the commission having juris-  
18 diction to grant or recognize any claim for tax reduction shall,  
19 on or before December 15 of each year, when Michigan grapes are  
20 purchased, file with the commission a detailed and sworn state-  
21 ment showing the date, place of delivery, and amount of grapes  
22 purchased of Michigan grape growers, and the name and address of  
23 the Michigan growers from whom the purchases are made, together  
24 with a sworn statement that the grapes have been paid for at the  
25 price and manner provided for in this act, and that this act has  
26 been fully complied with. The commission may promulgate other  
27 necessary ~~and proper~~ rules ~~as~~ THAT in the opinion of the

1 commission will prevent tax evasion or allow wineries tax  
2 reduction on more liters of wine than would ordinarily be  
3 produced and manufactured from the tonnage purchased and on which  
4 tax reduction could legally be claimed.

5       (5) ~~-(4)-~~ All sacramental wines shall be nontaxable when  
6 used by churches. ~~-and sacramental-~~ SACRAMENTAL wines may be  
7 imported, and the commission shall not impose restrictions on  
8 importations of wine for sacramental purposes, but may promulgate  
9 rules ~~-as will-~~ TO prevent any abuses ~~-which-~~ THAT result from  
10 the importations. A wholesaler or an outstate seller of wine may  
11 sell sacramental wine directly to a church for sacramental  
12 purposes.

13       (6) ~~-(5)-~~ The commission shall levy and collect on all mixed  
14 spirit drink sold in this state a tax at the rate of 48 cents per  
15 liter if sold in bulk or a like ratio if sold in smaller  
16 quantities.

17       (7) ~~-(6)-~~ On approval by the commission, the corporation and  
18 securities bureau shall incorporate a limited number of farm  
19 mutual cooperative wineries as, in the judgment of the commis-  
20 sion, will be beneficial to the Michigan grape and fruit  
21 industry. These wineries shall be licensed under this act and  
22 the payment of 1 license fee annually by the corporation shall  
23 authorize wine making on the premises of the corporation and also  
24 on the premises of the grape and fruit growing farmers who are  
25 members of or stockholders in the corporation. The stockholders  
26 or members, on incorporation of a farmers' cooperative  
27 corporation as provided for in this section shall be certified to

1 be Michigan grape and fruit growing farmers. Wine making by  
2 cooperative corporations on farm premises is allowed but all  
3 sales of the wine shall be made by the corporation and from the  
4 corporation premises.

5 (8) ~~(7)~~ The commission may sell any existing inventory of  
6 mixed spirit drink and any mixed spirit drink ~~which~~ THAT is on  
7 order as of ~~the effective date of the 1989 amendatory act that~~  
8 ~~amended this section~~ JUNE 28, 1989 to any vendor who holds a  
9 license to sell mixed spirit drink at wholesale or retail.  
10 Prices for mixed spirit drink sold pursuant to this subsection  
11 shall be established by the commission.

12 Sec. 40. (1) Except as provided in this section, the com-  
13 mission shall levy and collect a tax on all beer manufactured or  
14 sold in this state at the rate of \$6.30 per barrel if the beer is  
15 sold in bulk or in different quantities.

16 (2) BEGINNING JANUARY 1, 1991 AND UNTIL DECEMBER 31, 1996,  
17 IN ADDITION TO THE TAX LEVIED AND COLLECTED UNDER SUBSECTION (1),  
18 THE COMMISSION SHALL LEVY AND COLLECT A TAX ON ALL BEER MANUFAC-  
19 TURED OR SOLD IN THIS STATE, AT THE RATE OF 10 CENTS PER BARREL  
20 IF THE BEER IS SOLD IN BULK OR IN DIFFERENT QUANTITIES. UPON  
21 COLLECTION, THE ENTIRE PROCEEDS OF THE TAX LEVIED IN THIS SUBSEC-  
22 TION SHALL BE DEPOSITED IN THE STATE TREASURY TO THE CREDIT OF  
23 THE DRUNK DRIVER DETENTION AND CORRECTION CENTER FUND.

24 (3) The ~~tax~~ TAXES LEVIED IN THIS SECTION shall be paid by  
25 the brewer if THE BEER IS manufactured in this state or by the  
26 wholesaler or the person from whom purchased if manufactured  
27 outside this state, whichever is designated by the commission.

1 The commission shall establish by rule a method for the  
2 collection of the ~~tax~~ TAXES levied in this ~~subsection~~  
3 SECTION. The rules shall be promulgated pursuant to the adminis-  
4 trative procedures act of 1969, Act No. 306 of the Public Acts of  
5 1969, as amended, being sections 24.201 to 24.328 of the Michigan  
6 Compiled Laws.

7 (4) ~~(2)~~ The ~~tax~~ TAXES levied in ~~subsection (1)~~ THIS  
8 SECTION shall not be collected with respect to beer that is con-  
9 sumed on the premises of the manufacturer or is damaged in the  
10 process of brewing, packaging, and storage and is not offered for  
11 sale.

12 (5) ~~(3)~~ The tax collected under ~~subsection (1)~~ THIS  
13 SECTION shall be rebated to the person who paid the tax if that  
14 person provides satisfactory proof to the commission that the  
15 beer was shipped outside of this state for sale and consumption  
16 outside this state.

17 (6) ~~(4)~~ For the purposes of taxation, a barrel shall be  
18 construed to contain 31 gallons.

19 (7) ~~(5)~~ The commission may promulgate a rule that desig-  
20 nates the states, the laws, or the rules of other states that  
21 require a licensed wholesaler of beer to pay an additional fee  
22 for the right to purchase, import, or sell beer manufactured in  
23 this state; that denies the issuance of a license authorizing the  
24 importation of beer to any licensed wholesaler of beer in that  
25 state who may ~~make application~~ APPLY for the license; that pro-  
26 hibits licensed wholesalers of beer in that state from possessing  
27 or selling beer purchased in this state, unless the person from

1 whom purchased has secured a license and paid a fee in that  
2 state, if the seller neither transports the beer into the state  
3 nor sells the beer in the state; or that imposes any higher taxes  
4 or inspection fees upon beer manufactured in this state, when  
5 transporting into or sold in that state, than is imposed upon  
6 beer manufactured and sold within that state. The rule shall  
7 prohibit all licensees from purchasing, receiving, possessing, or  
8 selling any beer manufactured in any state designated in the  
9 rule. The rule shall become effective as provided in section 47  
10 of the administrative procedures act of 1969, Act No. 306 of the  
11 Public Acts of 1969, being section 24.247 of the Michigan  
12 Compiled Laws. Any licensee or person adversely affected by the  
13 rule is entitled to review by certiorari to the proper court the  
14 question as to whether the commission acted illegally or in  
15 excess of authority in making its finding with respect to any  
16 state.

17       (8) ~~-(6)-~~ For tax years 1989 through 1991, an eligible  
18 brewer may claim a credit against the tax levied in subsection  
19 (1) in the amount of \$2.00 per barrel. As used in this subsec-  
20 tion, "eligible brewer" means a brewer, whether or not located in  
21 this state, that manufactures less than 5,000 barrels of beer  
22 during the tax year for which the credit is claimed. In deter-  
23 mining the number of barrels for purposes of the credit, all  
24 brands and labels of a brewer shall be combined and all facili-  
25 ties for the production of beer that are owned or controlled by  
26 the same person shall be treated as a single facility.

1        Sec. 49. ~~Appropriations. All moneys~~ EXCEPT AS OTHERWISE  
2 PROVIDED IN THIS ACT, ALL MONEY deposited by the commission with  
3 the state treasurer ~~—~~ shall be credited to the general fund and  
4 shall be available for the purposes for which the general fund is  
5 available.

6        Section 2. This amendatory act shall take effect January 1,  
7 1991.

8        Section 3. This amendatory act shall not take effect unless  
9 all of the following bills of the 85th Legislature are enacted  
10 into law:

11        (a) Senate Bill No. \_\_\_\_ or House Bill No. 5854 (request  
12 no. 01762'89).

13        (b) Senate Bill No. \_\_\_\_ or House Bill No. 5855 (request  
14 no. 01762'89 a).

15        (c) Senate Bill No. \_\_\_\_ or House Bill No. 5856 (request  
16 no. 01762'89 b).

17        (d) Senate Bill No. \_\_\_\_ or House Bill No. 5858 (request  
18 no. 01762'89 d).