

SENATE BILL No. 263

March 16, 1989, Introduced by Senator DE GROW and referred to the Committee on Regulatory Affairs.

A bill to amend sections 2, 2h, 2m, 2o, 2p, 2q, 2r, 2s, 2t, 14, 16a, 17, 18a, 19, 19c, 19d, 19e, 19g, 22, 24, 26b, 29, 30, 30d, 31, 32, 34, 49a, 56, 56a, and 56b of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," 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, 436.2q, 436.2r, 436.2s, 436.2t, 436.14, 436.16a, 436.17, 436.18a, 436.19, 436.19c, 436.19d, 436.19e, 436.19g, 436.22, 436.24, 436.26b, 436.29, 436.30, 436.30d, 436.31, 436.32, 436.34, 436.49a, 436.56, 436.56a, and 436.56b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 2h, 2m, 2o, 2p, 2q, 2r, 2s, 2t, 14,
2 16a, 17, 18a, 19, 19c, 19d, 19e, 19g, 22, 24, 26b, 29, 30, 30d,
3 31, 32, 34, 49a, 56, 56a, and 56b of Act No. 8 of the Public Acts
4 of the Extra Session of 1933, sections 2 and 30d as amended by
5 Act No. 236 of the Public Acts of 1986, sections 2m, 2p, 14, and
6 24 as amended by Act No. 153 of the Public Acts of 1981, sections
7 16a and 31 as amended by Act No. 123 of the Public Acts of 1985,
8 sections 17 and 19c as amended by Act No. 207 of the Public Acts
9 of 1988, section 19 as amended by Act No. 192 of the Public Acts
10 of 1986, section 19d as amended by Act No. 185 of the Public Acts
11 of 1980, section 19e as amended by Act No. 433 of the Public Acts
12 of 1980, section 19g as added and section 29 as amended by Act
13 No. 245 of the Public Acts of 1986, section 22 as amended by Act
14 No. 176 of the Public Acts of 1986, section 30 as amended by Act
15 No. 170 of the Public Acts of 1981, and section 49a as amended by
16 Act No. 382 of the Public Acts of 1984, being sections 436.2,
17 436.2h, 436.2m, 436.2o, 436.2p, 436.2q, 436.2r, 436.2s, 436.2t,
18 436.14, 436.16a, 436.17, 436.18a, 436.19, 436.19c, 436.19d,

1 436.19e, 436.19g, 436.22, 436.24, 436.26b, 436.29, 436.30,
2 436.30d, 436.31, 436.32, 436.34, 436.49a, 436.56, 436.56a, and
3 436.56b of the Michigan Compiled Laws, are amended to read as
4 follows:

5 Sec. 2. For purposes of this act, the words and phrases
6 defined in this section and in sections 2a to 2z have the mean-
7 ings ascribed to them in those sections, unless the context shall
8 otherwise require:

9 (a) "Alcoholic liquor" means any spirituous, vinous, malt,
10 or fermented liquor, liquids and compounds, whether or not medi-
11 cated, proprietary, patented, and by whatever name called, con-
12 taining 1/2 of 1% or more of alcohol by volume which are fit for
13 use for beverage purposes. The commission shall define and clas-
14 sify alcoholic liquor according to alcoholic content as belonging
15 to 1 of the varieties hereinafter defined.

16 (b) "Beer" means any beverage obtained by alcoholic ferment-
17 tation of an infusion or decoction of barley, malt, hops, or
18 other cereal in potable water.

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

24 (d) "Spirits" means any beverage which contains alcohol
25 obtained by distillation, mixed with potable water or other sub-
26 stances, or both, in solution, and includes wine containing an

1 alcoholic content of more than 21% by volume, except sacramental
2 wine AND MIXED SPIRIT DRINK.

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

8 (f) "Sacramental wine" means wine containing not more than
9 24% of alcohol by volume which is used for sacramental purposes.

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

12 (h) "Mixed wine drink" means a drink containing 8% or less
13 alcohol by volume, consisting of wine mixed with nonalcoholic
14 beverages or flavoring or coloring materials, and which may also
15 contain water, fruit juices, fruit adjuncts, sugar, carbon diox-
16 ide, or preservatives; or other similar product marketed as a
17 wine cooler.

18 (I) "MIXED SPIRIT DRINK" MEANS A DRINK CONTAINING 10% OR
19 LESS ALCOHOL BY VOLUME CONSISTING OF DISTILLED SPIRITS MIXED WITH
20 NONALCOHOLIC BEVERAGES OR FLAVORING OR COLORING MATERIALS AND
21 WHICH MAY ALSO CONTAIN WATER, FRUIT JUICES, FRUIT ADJUNCTS,
22 SUGAR, CARBON DIOXIDE, OR PRESERVATIVES; OR OTHER SPIRITS-BASED
23 BEVERAGE, REGARDLESS OF THE PERCENT OF ALCOHOL BY VOLUME, THAT IS
24 MANUFACTURED FOR SALE IN A METAL CONTAINER. FOR THE PURPOSES OF
25 RULES PROMULGATED BY THE COMMISSION, A MIXED SPIRIT DRINK SHALL
26 BE CONSIDERED A WINE EXCEPT THAT A MIXED SPIRIT DRINK SHALL BE

1 CONSIDERED SPIRITS FOR THE PURPOSES OF MANUFACTURING AND
2 LABELING.

3 Sec. 2h. "Hotel" shall mean a building which in the judg-
4 ment of the commission has been regularly used and kept open as
5 such in a bona fide manner for the feeding and lodging of guests,
6 where all who conduct themselves properly and who are able and
7 ready to pay for such services are received if there be accommo-
8 dations for them. Said hotel must be prepared to show that the
9 major portion of its receipts is derived from the renting of
10 rooms and the sale of food. The commission may require that said
11 hotel shall have been maintained as such for a period of 1 year
12 prior to the issuance of the license. For license purposes
13 "hotels" in cities of 50,000 population and less than 175,000
14 population shall contain not less than 25 permanent bedrooms and
15 in cities of 175,000 population or over shall contain not less
16 than 50 permanent bedrooms within 1 structure for lease to per-
17 sons, and shall be adequately equipped to serve meals to not less
18 than 100 persons at 1 time, in a cafeteria and/or dining room
19 provided for that purpose. Any hotel in a city, village or town-
20 ship of less than 100,000 population which does not contain at
21 least 25 permanent bedrooms, but shall be adequately equipped to
22 serve meals to not less than 25 persons at 1 time in a public
23 cafeteria and/or dining room provided for that purpose, may apply
24 to the commission setting forth the special facts and circum-
25 stances, and the commission may make an exception and grant such
26 petitioner a hotel license. Class "A" hotels are those hotels,
27 licensed under this act to sell beer, ~~and~~ wine, AND MIXED

1 SPIRIT DRINK. Class "B" hotels are those hotels, licensed under
2 this act to sell beer, wine, ~~and~~ spirits, AND MIXED SPIRIT
3 DRINK.

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

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

10 (B) "MIXED SPIRIT DRINK MANUFACTURER" MEANS ANY PERSON
11 LICENSED UNDER THIS ACT TO MANUFACTURE IN THIS STATE MIXED SPIRIT
12 DRINK AND TO SELL MIXED SPIRIT DRINK TO A WHOLESALER.

13 (C) ~~(b)~~ "Outstate seller of beer" means a person licensed
14 by the commission to sell beer which has not been manufactured in
15 this state to a wholesaler in this state in accordance with rules
16 promulgated by the commission.

17 (D) "OUTSTATE SELLER OF MIXED SPIRIT DRINK" MEANS A PERSON
18 LICENSED BY THE COMMISSION TO SELL MIXED SPIRIT DRINK NOT MANU-
19 FACTURED IN THIS STATE TO A WHOLESALER IN THIS STATE ACCORDING TO
20 RULES PROMULGATED BY THE COMMISSION.

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

1 (F) ~~(d)~~ "Retailer" means a person licensed by the
2 commission who sells to the consumer, under rules as the
3 commission may establish.

4 (G) ~~(e)~~ "Vendor" means a person licensed by the commission
5 to sell alcoholic liquor.

6 (H) ~~(f)~~ "Vendor of spirits" means a person selling spirits
7 to the commission.

8 (I) ~~(g)~~ "Wholesaler" means a person who sells BEER, WINE,
9 OR MIXED SPIRIT DRINK only to retailers or other licensees, and
10 who sells sacramental wine as provided in section 16a.

11 (J) ~~(h)~~ "Warehouseman" means a licensee authorized by the
12 commission to store alcoholic beverages, but prohibited from
13 making sales or deliveries to retailers unless the licensee is
14 also the holder of a wholesaler or manufacturer license issued by
15 the commission.

16 (2) FOR THE PURPOSES OF RULES PROMULGATED BY THE COMMISSION,
17 A MIXED SPIRIT DRINK MANUFACTURER AND AN OUTSTATE SELLER OF MIXED
18 SPIRIT DRINK SHALL BE CONSIDERED AND TREATED AS A WINE MANUFAC-
19 Turer AND OUTSTATE SELLER OF WINE, RESPECTIVELY, EXCEPT THAT THEY
20 SHALL BE SUBJECT TO THE RULES APPLICABLE TO SPIRITS FOR PURPOSES
21 OF MANUFACTURING AND LABELING.

22 Sec. 20. "Special license" shall mean a contract between
23 the commission and the special licensee granting authority to
24 said licensee to sell beer, wine, MIXED SPIRIT DRINK, or
25 spirits. The license shall be granted only to such persons and
26 such organization and for such period of time as the commission
27 shall determine.

1 Sec. 2p. "Specially designated distributor" means a person
2 engaged in an established business licensed by the commission to
3 distribute ~~alcoholic liquor other than wine and beer~~ SPIRITS in
4 the original package for the commission for consumption off the
5 premises.

6 Sec. 2q. "Specially designated merchant" shall mean any
7 person to whom the commission grants a license to sell beer,
8 ~~and/or~~ wine, AND MIXED SPIRIT DRINK at retail for consumption
9 off the premises of such licensed place.

10 Sec. 2r. "State liquor store" shall mean a store estab-
11 lished by the liquor control commission under this act for the
12 sale of ~~alcoholic liquor~~ SPIRITS in the original package for
13 consumption off the premises.

14 Sec. 2s. "Tavern" shall mean any place licensed to sell at
15 retail beer, ~~and~~ wine, AND MIXED SPIRIT DRINK for consumption
16 on the premises only.

17 Sec. 2t. "Class C license" shall mean any place licensed to
18 sell at retail beer, wine, MIXED SPIRIT DRINK, and spirits for
19 consumption on the premises.

20 Sec. 14. The commission may license any hotel or estab-
21 lished merchant, who if a natural person, shall be a resident of
22 this state, and if a corporation, shall be authorized to do busi-
23 ness under the laws of this state, in places that the commission
24 may designate, to sell alcoholic liquor except wine, ~~and~~ beer,
25 AND MIXED SPIRIT DRINK for consumption off the premises. If
26 alcoholic liquor is sold by a specially designated distributor,
27 pursuant to a license issued under this section, it shall be sold

1 at a price fixed by the commission, and pursuant to rules
2 promulgated by the commission.

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

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

13 (3) The commission shall reduce by 12.5 cents per liter the
14 tax specified in subsection (1) and shall reduce by 19 cents per
15 liter the tax specified in subsection (2) on all wines manufac-
16 tured in Michigan from grapes grown in Michigan, for which the
17 wineries, blenders, or rectifiers have paid the Michigan grape
18 growers \$100.00 per ton, or more, at the shipping point, the
19 buyer furnishing at his or her expense all necessary packages or
20 containers and paying transportation charges beyond the shipping
21 point. Not less than \$100.00 of the minimum payment specified in
22 this subsection shall be paid in cash by December 15 of the year
23 in which the grapes are delivered. The remainder of the minimum
24 payment shall be made by a promissory note payable without inter-
25 est before April 16 of the year following the delivery of the
26 grapes. The tax shall also be reduced as provided in this
27 subsection on all wines manufactured in Michigan from Michigan

1 grown fruits, other than grapes, and also on these wines when
2 blended with wine or wine spirits manufactured in Michigan and
3 also blended with wine or wine spirits manufactured from grapes
4 and fruits not grown in Michigan, when the blend does not use in
5 the finished product over 25% in volume of wine or wine spirits
6 manufactured outside the state of Michigan. All wines not manu-
7 factured and not entitled to tax reduction as provided in this
8 section shall be subject to and shall pay to the commission the
9 full amount of tax as provided in this act. Every Michigan
10 winery, as a condition precedent to the commission having juris-
11 diction to grant or recognize any claim for tax reduction shall,
12 on or before December 15 of each year, when Michigan grapes are
13 purchased, file with the commission a detailed and sworn state-
14 ment showing the date, place of delivery, and amount of grapes
15 purchased of Michigan grape growers, and the name and address of
16 the Michigan growers from whom the purchases are made, together
17 with a sworn statement that the grapes have been paid for at the
18 price and manner provided for in this act, and that this act has
19 been fully complied with. The commission may promulgate other
20 necessary and proper rules as in the opinion of the commission
21 will prevent tax evasion or allow wineries tax reduction on more
22 liters of wine than would ordinarily be produced and manufactured
23 from the tonnage purchased and on which tax reduction could
24 legally be claimed.

25 (4) All sacramental wines shall be nontaxable when used by
26 churches and sacramental wines may be imported and the commission
27 shall not impose restrictions on importations of wine for

1 sacramental purposes but may promulgate rules as will prevent any
2 abuses which result from the importations. A wholesaler or an
3 outstate seller of wine may sell sacramental wine directly to a
4 church for sacramental purposes.

5 (5) THE COMMISSION SHALL LEVY AND COLLECT ON ALL MIXED
6 SPIRIT DRINK SOLD IN THIS STATE A TAX AT THE RATE OF 48 CENTS PER
7 LITER IF SOLD IN BULK OR A LIKE RATIO IF SOLD IN SMALLER
8 QUANTITIES. THE TAX SHALL BE PAID BY THE WHOLESALER ON THE FIF-
9 TEENTH DAY OF THE MONTH FOLLOWING THE SALE OF THE MIXED SPIRIT
10 DRINK TO A RETAILER.

11 (6) ~~-(5)-~~ On approval by the commission, the corporation and
12 securities bureau shall incorporate a limited number of farm
13 mutual cooperative wineries as, in the judgment of the commis-
14 sion, will be beneficial to the Michigan grape and fruit
15 industry. These wineries shall be licensed under this act and
16 the payment of 1 license fee annually by the corporation shall
17 authorize wine making on the premises of the corporation and also
18 on the premises of the grape and fruit growing farmers who are
19 members of or stockholders in the corporation. The stockholders
20 or members, on incorporation of a farmers' cooperative corpora-
21 tion as provided for in this section shall be certified to be
22 Michigan grape and fruit growing farmers. Wine making by cooper-
23 ative corporations on farm premises is allowed but all sales of
24 the wine shall be made by the corporation and from the corpora-
25 tion premises.

26 (7) ~~-(6)-~~ The commission may sell any existing inventory of
27 wine and any wine which is on order as of April 25, 1982, to any

1 vendor who holds a license to sell wine at wholesale or retail or
2 to any retail customer. Prices for wine sold pursuant to this
3 subsection shall be established by the commission.

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

8 (2) The commission shall issue licenses to manufacturers
9 only when 25% or more of the capital stock is owned by residents
10 of this state, except that these limitations shall not apply to
11 manufacturers of wine, ~~or~~ MIXED SPIRIT DRINK, beer, or malt
12 beverages or to distillers or rectifiers.

13 (3) A full-year license issued by the commission shall
14 expire on April 30 following the date of issuance or the date
15 fixed by the commission. A license issued under this act shall
16 be construed to be a contract between the commission and the
17 licensee and shall be signed by both parties. When a licensee
18 dies, the commission may approve the operation of the establish-
19 ment by a personal representative or independent personal repre-
20 sentative duly appointed by the proper court, pending the settle-
21 ment of the estate of the deceased licensee. The commission may
22 approve a receiver or trustee appointed by a proper court to
23 operate the licensed establishment of a licensee of the
24 commission. The commission may grant a part-year license for a
25 proportionate part of the license fee specified in section 19.
26 In a resort area the commission shall grant a license for as
27 short a period as 3 months. A license may be transferred with

1 the consent of the commission. A class C or specially designated
2 distributor license obtained other than by transfer shall not be
3 transferred within 3 years after its issuance except if the
4 licensee clearly and convincingly shows that unusual hardship
5 will result if the transfer is not consented to by the
6 commission. Except as provided in section 17b, an application
7 for a license to sell beer, MIXED SPIRIT DRINK, and wine or spir-
8 its for consumption on the premises, except in a city having a
9 population of 1,000,000 or more, shall be approved by the local
10 legislative body in which the applicant's place of business is
11 located before the license is granted by the commission, except
12 that in the case of an application for renewal of an existing
13 license, if an objection to a renewal has not been filed with the
14 commission by the local legislative body not less than 30 days
15 before the date of expiration of the license, the approval of the
16 local legislative body shall not be required. The commission
17 shall provide the local legislative body and the local chief of
18 police with the name, home and business addresses, and home and
19 business phone numbers to accomplish the local legislative
20 reviews of new and transferred license applications called for in
21 this subsection. Upon request of the local legislative body
22 after due notice and proper hearing by the local legislative body
23 and the commission, the commission shall revoke the license of a
24 licensee granted a license to sell beer, MIXED SPIRIT DRINK,
25 wine, or spirits for consumption on the premises, or the commis-
26 sion shall revoke any permit issued by the commission which is

1 held in conjunction with a license to sell beer, MIXED SPIRIT
2 DRINK, wine, or spirits for consumption on the premises.

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

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

25 (a) The Michigan state fairgrounds.

26 (b) The Upper Peninsula state fairgrounds.

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

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

8 (e) Land which was owned or leased by the federal govern-
9 ment, used as a military installation, and transferred to this
10 state before January 1, 1980 pursuant to Act No. 151 of the
11 Public Acts of 1978, being sections 3.551 to 3.561 of the
12 Michigan Compiled Laws. Two additional licenses may be issued
13 pursuant to this subdivision for establishments located on this
14 state land without regard to or effect on the quota provisions of
15 section 19c in the local governmental unit in which the license
16 will be issued. A person issued a license pursuant to this sub-
17 division may renew the license and transfer ownership of the
18 license, without regard to or effect on the quota provisions of
19 section 19c, if title to the property covered by the license is
20 transferred from the state to another person or to another gov-
21 ernmental unit. The commission shall not transfer a license
22 issued under this subdivision to another location. Before the
23 issuance of a license, and annually thereafter before the issu-
24 ance of a license for a new licensing period, the applicant for a
25 license shall submit to the commission a certificate from the
26 department or agency charged with control of the land setting
27 forth that the issuance of a license is not incompatible with the

1 objects and purposes entrusted to that department or agency under
2 the law establishing control of the land in the department or
3 agency. This subsection shall not prohibit the issuance of a
4 license pursuant to section 17h.

5 (f) Property owned by the Michigan state waterways commis-
6 sion and leased to persons under the harbor development act, Act
7 No. 79 of the Public Acts of 1988, being sections 281.1251 to
8 281.1268 of the Michigan Compiled Laws. A license may be issued
9 under this subdivision to a lessee without regard to the quota
10 provisions of section 19c, but the license shall not be issued
11 without the written approval of the Michigan state waterways com-
12 mission or its designee. A license issued under this subdivision
13 shall not be transferable as to ownership or location, and, if
14 the licensee goes out of business, the license shall be surren-
15 dered to the liquor control commission.

16 (6) This act shall not prohibit a hotel, which is or was the
17 holder of a license authorizing the retail sale of alcoholic
18 liquor for consumption on the premises, from applying for and
19 receiving, under this act, any other and different type of
20 license authorizing the retail sale of alcoholic liquor for con-
21 sumption on the premises, nor shall the application for the
22 license be considered a new application for a license, so long as
23 the total number of public licenses for consumption on the
24 premises shall not exceed the authorized total established in
25 this act and the sale of alcoholic liquor is approved by the
26 electors. The commission may divide the state into 3 zones and
27 establish for each zone an anniversary date for renewal of

1 full-year retail licenses in the licensing year. The commission
2 shall promulgate rules pursuant to the administrative procedures
3 act of 1969, Act No. 306 of the Public Acts of 1969, as amended,
4 being sections 24.201 to 24.328 of the Michigan Compiled Laws,
5 for the effective administration of the renewal of licenses.

6 (7) The commission, with the written approval of the depart-
7 ment of natural resources in the case of the Michigan state fair-
8 grounds and the department of agriculture, in the case of the
9 Upper Peninsula state fairgrounds, may issue without regard to
10 the quota provision of section 19c a tavern license to a person
11 as concessionaire leasing or renting a portion of either the
12 Upper Peninsula state fairgrounds or the state fairgrounds, or
13 both, to service the licensed area in use for recreational or
14 exhibition purposes, other than at the time of the annual state
15 fair, under section 6 of the Michigan exposition and fairgrounds
16 act, Act No. 361 of the Public Acts of 1978, being
17 section 285.166 of the Michigan Compiled Laws, and the annual
18 Upper Peninsula state fair, under section 2 of Act No. 89 of the
19 Public Acts of 1927, as amended, being section 285.142 of the
20 Michigan Compiled Laws. A license issued under this subsection
21 is not transferable.

22 (8) Notwithstanding section 3, a collector, who is 21 years
23 of age or older, of ceramic commemorative bottles containing
24 alcoholic liquor and which bear an unbroken federal tax stamp or
25 seal may sell or trade the bottles to other such collectors of
26 the bottles without obtaining a license pursuant to this act.
27 All sales conducted pursuant to this subsection shall be for the

1 purpose of exchanging ceramic commemorative bottles between
2 private collectors of the bottles and shall not be for the pur-
3 pose of selling alcoholic liquor for personal consumption. A
4 sale or exchange conducted pursuant to this subsection shall not
5 occur in any of the following ways:

6 (a) In connection with the business of a holder of an alco-
7 holic liquor license.

8 (b) In connection with any other business.

9 Sec. 18a. The sale of beer, MIXED SPIRIT DRINK, and wine
10 between the hours of 2:00 a.m. and 12:00 midnight on Sunday may
11 be prohibited in any county, city, village, or township, by a
12 majority vote of the electors voting at a regular state
13 election. Not oftener than once in every 4 years, upon the
14 filing of a petition with the county, city, village, or township
15 clerk, as the case may be, requesting the submission of the ques-
16 tion of the Sunday sale of beer, MIXED SPIRIT DRINK, and wine,
17 the clerk shall submit such question at the next regular state
18 election held in such county, city, village or township:

19 Provided, That said petition is filed 60 days prior to said regu-
20 lar state election. In case of a county, city or township such
21 petition shall be signed by a number of the registered and quali-
22 fied electors thereof which shall be not less than 35 per centum
23 of the total number of votes cast for all candidates for the
24 office of secretary of state in such county, city or township at
25 the last general election held for such purpose, and in case of a
26 village such petition shall be signed by a number of the
27 registered and qualified electors thereof which shall not be less

1 than 35 per centum of the total number of votes cast for all
2 candidates for the office of president of such village at the
3 last village election held for such purpose. The question of the
4 Sunday sale of beer, MIXED SPIRIT DRINK, and wine shall be sub-
5 mitted by ballot in substantially the following form:

6 "Shall the sale of beer, MIXED SPIRIT DRINK, and wine within
7 (the county, city, village, or township as the case may be)
8 between the hours of 2:00 a.m. and 12:00 midnight on Sunday be
9 prohibited?

10 Yes

11 No"

12 All votes on the question shall be taken, counted and can-
13 vassed in the same manner as votes cast in county or city or vil-
14 lage or township election, as the case may be, are taken, counted
15 and canvassed. Ballots shall be furnished by the election com-
16 mission or similar body of the respective counties, cities or
17 villages or townships. In case a majority of the electors voting
18 at any such election shall vote in favor thereof, the sale of
19 beer, MIXED SPIRIT DRINK, and wine within such county, city, vil-
20 lage, or township between the hours of 2:00 a.m. and 12:00 mid-
21 night on Sunday shall be prohibited.

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

25 (a) Manufacturers of spirits, but not including makers,
26 blenders, and rectifiers of wines containing 21% of alcohol or
27 less by volume, \$10,000.00.

1 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
2 fraction of a barrel, production annually with a maximum fee of
3 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
4 delivery to retail licensees. A fee increase shall not apply to
5 a manufacturer of less than 15,000 barrels production per year.

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

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

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

14 (F) OUTSTATE SELLER OF MIXED SPIRIT DRINK, DELIVERING OR
15 SELLING MIXED SPIRIT DRINK IN THIS STATE, \$300.00.

16 (G) ~~(f)~~ Dining cars or other railroad or pullman cars
17 selling alcoholic liquor, \$100.00 per train.

18 (H) ~~(g)~~ Wholesale vendors other than manufacturers of
19 beer, \$300.00 for the first motor vehicle used in delivery to
20 retail licensees and \$50.00 for each additional motor vehicle
21 used in delivery to retail licensees.

22 (I) ~~(h)~~ Watercraft, licensed to carry passengers, selling
23 alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of
24 \$500.00 per year computed on the basis of \$1.00 per person per
25 passenger capacity.

26 (J) ~~(i)~~ Specially designated merchants, for selling beer
27 or wine for consumption off the premises only, but not at

1 wholesale, \$100.00 for each location regardless of the fact that
2 the location may be a part of a system or chain of
3 merchandising.

4 (K) ~~(j)~~ Specially designated distributors licensed by the
5 commission to distribute alcoholic liquor other than wine, MIXED
6 SPIRIT DRINK, and beer in the original package for the commission
7 for consumption off the premises, \$150.00 per year; and \$3.00
8 additional fee for each \$1,000.00 or major fraction of that
9 amount in excess of \$25,000.00 of the total retail value of mer-
10 chandise purchased under each license from the liquor control
11 commission during the previous calendar year.

12 (L) ~~(k)~~ Hotels of class A selling beer, MIXED SPIRIT
13 DRINK, and wine, a minimum fee of \$250.00 and for all bedrooms in
14 excess of 20, \$1.00 for each additional bedroom, but not to
15 exceed \$500.00.

16 (M) ~~(l)~~ Hotels of class B selling beer, wine, MIXED SPIRIT
17 DRINKS, and spirits, a minimum fee of \$600.00 and for all bed-
18 rooms in excess of 20, \$3.00 for each additional bedroom. If a
19 hotel of class B sells beer, wine, MIXED SPIRIT DRINKS, and spir-
20 its in more than 1 public bar, the fee shall entitle the hotel to
21 sell in only 1 public bar, other than a bedroom, and a license
22 shall be secured for each additional public bar, other than a
23 bedroom, the fee for which shall be \$350.00.

24 (N) ~~(m)~~ Taverns, selling beer, MIXED SPIRIT DRINK, and
25 wine, \$250.00.

26 (O) ~~(n)~~ Class C license selling beer, wine, MIXED SPIRIT
27 DRINKS, and spirits, \$600.00. If a class C licensee sells beer,

1 wine, MIXED SPIRIT DRINKS, and spirits in more than 1 bar, a fee
2 of \$350.00 shall be paid for each additional bar. In municipally
3 owned or supported facilities in which nonprofit organizations
4 operate concession stands, a fee of \$100.00 shall be paid for
5 each additional bar.

6 (P) ~~(e)~~ Clubs selling beer, wine, MIXED SPIRIT DRINKS, and
7 spirits, \$300.00 for clubs having 150 or less duly accredited
8 members and \$1.00 for each additional member. The membership
9 list for the purpose only of determining the license fees to be
10 paid under this section shall be the accredited list of members
11 as determined by a sworn affidavit 30 days before the closing of
12 the license year. This section shall not prevent the commission
13 from checking a membership list and making its own determination
14 from the list or otherwise. The list of members and additional
15 members shall not be required of a club paying the maximum fee.
16 The maximum fee shall not exceed \$750.00 for any 1 club.

17 (Q) ~~(p)~~ Warehouses, to be fixed by the commission with a
18 minimum fee for each warehouse of \$50.00.

19 (R) ~~(q)~~ Special licenses, a fee of \$50.00 per day, except
20 that the fee for that license or permit issued to any bona fide
21 nonprofit association, duly organized and in continuous existence
22 for 1 year before the filing of its application, shall be
23 \$25.00. Not more than 5 special licenses may be granted to any
24 organization, including an auxiliary of the organization, in a
25 calendar year.

1 (S) ~~(r)~~ Airlines licensed to carry passengers in this
2 state, which sell, offer for sale, provide, or transport
3 alcoholic liquor, \$600.00.

4 (T) ~~(s)~~ Brandy manufacturer, \$100.00.

5 (U) MIXED SPIRIT DRINK MANUFACTURER, \$100.00.

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

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

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

1 (3) In addition to the resort licenses authorized in
2 subsection (2), the commission may issue not more than 10
3 additional licenses per year for each of the years 1988, 1989,
4 1990, 1991, 1992, and 1993 to establishments whose business and
5 operation, as determined by the commission, is designed to
6 attract and accommodate tourists and visitors to the resort area,
7 and whose primary purpose is not for the sale of alcoholic
8 liquor. In counties having a population of less than 50,000, as
9 determined by the last federal decennial census or as determined
10 pursuant to subsection (10), the commission shall not require
11 the establishments to have dining facilities to seat more than 50
12 persons. The commission may cancel the license if the resort is
13 no longer active or no longer qualifies for the license. Before
14 January 16 of each year the commission shall transmit to the leg-
15 islature a report giving details as to the number of applications
16 received under this subsection; the number of licenses granted
17 and to whom; the number of applications rejected and the reasons;
18 and the number of the licenses revoked, suspended, or other dis-
19 ciplinary action taken and against whom and the grounds for revo-
20 cation, suspension, or disciplinary action.

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

1 (a) The establishment's business and operation, as
2 determined by the commission, is designed to attract and accommo-
3 date tourists and visitors to the resort area.

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

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

9 (5) In governmental units having a population of 50,000 per-
10 sons or less, as determined by the last federal decennial census
11 or as determined pursuant to subsection (10), in which the quota
12 of specially designated distributor licenses, as provided by com-
13 mission rule, has been exhausted, the commission may issue not
14 more than 10 additional specially designated distributor licenses
15 per year for each of the years 1988, 1989, 1990, 1991, 1992, and
16 1993 to established merchants whose business and operation, as
17 determined by the commission, is designed to attract and accommo-
18 date tourists and visitors to the resort area. A specially des-
19 igned distributor license issued pursuant to this subsection
20 may be issued at a location within 2,640 feet of existing spe-
21 cially designated distributor license locations. A specially
22 designated distributor license issued pursuant to this subsection
23 shall not bar another specially designated distributor licensee
24 from transferring location to within 2,640 feet of said licensed
25 location.

26 (6) In addition to any licenses for the sale of alcoholic
27 liquor for consumption on the premises that may be available in

1 the local governmental unit under subsection (1), and the resort
2 licenses authorized in subsections (2), (3), and (4), and not-
3 withstanding section 17(4), the commission may issue not more
4 than 5 additional special purpose licenses in any calendar year
5 for the sale of beer, MIXED SPIRIT DRINK, and wine for consump-
6 tion on the premises. A special purpose license issued pursuant
7 to this subsection shall be issued only for events which are to
8 be held from May 1 to September 30, are artistic in nature, and
9 which are to be held on the campus of a public university with an
10 enrollment of 30,000 or more students. A special purpose license
11 shall be valid for 30 days or for the duration of the event for
12 which it is issued, whichever is less. The fee for a special
13 purpose license shall be \$50.00. A special purpose license may
14 be issued only to a corporation which IS ALL OF THE FOLLOWING:

15 (a) Is a nonprofit corporation organized pursuant to the
16 nonprofit corporation act, Act No. 162 of the Public Acts of
17 1982, being sections 450.2101 to 450.3192 of the Michigan
18 Compiled Laws.

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

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

24 (7) In issuing a resort license under subsection (3), (4),
25 or (5) the commission shall consider economic development factors
26 of the area in the issuance of licenses to establishments
27 designed to stimulate and promote the resort and tourist

1 industry. The commission shall not transfer a resort license
2 issued under subsection (3), (4), or (5) to another location, and
3 if the licensee goes out of business the license shall be surren-
4 dered to the commission.

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

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

22 (10) For purposes of implementing this section a special
23 state census of a local governmental unit may be taken at the
24 expense of the local governmental unit by the federal bureau of
25 census or the secretary of state under section 6 of Act No. 279
26 of the Public Acts of 1909, as amended, being section 117.6 of
27 the Michigan Compiled Laws. The special census shall be

1 initiated by resolution of the governing body of the local
2 governmental unit involved. The secretary of state may promul-
3 gate additional rules necessary for implementing this section
4 pursuant to the administrative procedures act of 1969, Act
5 No. 306 of the Public Acts of 1969, being sections 24.201 to
6 24.328 of the Michigan Compiled Laws.

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

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

13 Sec. 19d. (1) A retail vendor licensed under this act to
14 sell for consumption on the premises may apply for a license as a
15 specially designated merchant. A specially designated distribu-
16 tor may apply for a license as a specially designated merchant.
17 Except as provided in section 31(5), a warehouseman, MIXED SPIRIT
18 DRINK MANUFACTURER, wholesaler, outstate seller of beer, outstate
19 seller of wine, OUTSTATE SELLER OF MIXED SPIRIT DRINK, or vendor
20 of spirits shall not be licensed as a specially designated mer-
21 chant or a specially designated distributor or permitted to sell
22 or deliver to the consumer any quantity of alcoholic liquor at
23 retail.

24 (2) A specially designated distributor or specially desig-
25 nated merchant or any other holder of a retailer license shall
26 not hold a MIXED SPIRIT DRINK MANUFACTURER, wholesale, warehouse,

1 outstate seller of beer, OUTSTATE SELLER OF MIXED SPIRIT DRINK,
2 or outstate seller of wine license.

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

8 (4) A wholesaler may sell or deliver beer and alcoholic
9 liquor to hospitals, military establishments, governments of fed-
10 eral Indian reservations, and churches requiring sacramental
11 wines and may sell to the wholesaler's own employees to a limit
12 of 2 cases of 24 12-ounce units or its equivalent of malt bever-
13 age per week, or 1 case of 12 1-liter units or its equivalent of
14 wine OR MIXED SPIRIT DRINK per week.

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

21 (2) If the legislative body of a county has authorized the
22 sale of spirits for consumption on the premises on Sunday, by
23 resolution approved by a majority of the legislative body voting
24 on that resolution, the spirits may be sold after 12 noon in an
25 establishment licensed under this act in which the gross receipts
26 derived from the sale of food and other goods and services exceed
27 50% of the total gross receipts. With respect to an action taken

1 by the legislative body, or, if the legislative body fails to
 2 act, a petition may be filed with the county clerk requesting the
 3 submission of the question of the sale of spirits for consumption
 4 on the premises in addition to beer, MIXED SPIRIT DRINK, and wine
 5 on Sunday. The petition shall be signed by a number of the reg-
 6 istered and qualified electors of a county which shall be not
 7 less than 8% of the total number of votes cast for all candidates
 8 for the office of secretary of state in the county at the last
 9 general election held for that purpose. The question shall not
 10 be submitted to the electors of a county more than once every 4
 11 years.

12 The county clerk shall submit the question at the next regu-
 13 lar state election held in the county if the petitions are filed
 14 not less than 60 days before the election. The question of the
 15 sale of spirits for consumption on the premises, in addition to
 16 beer, MIXED SPIRIT DRINK, and wine, on Sunday shall be submitted
 17 by ballot in substantially the following form:

18 "Shall the sale of spirits for consumption on the premises
 19 be permitted on Sunday, in an establishment licensed under the
 20 liquor control act in which the gross receipts derived from the
 21 sale of food or other goods and services exceed 50% of the total
 22 gross receipts within the county of under the provi-
 23 sions of the law governing the sale of spirits for consumption?

24 Yes

25 No "

26 (3) If the legislative body of a county has authorized the
 27 sale of spirits for consumption off the premises on Sunday, by

1 resolution approved by a majority of the legislative body voting
2 on the resolution, spirits may be sold after 12 noon in a retail
3 establishment licensed under this act. With respect to an action
4 taken by the legislative body, or, if the legislative body fails
5 to act, a petition may be filed with the county clerk requesting
6 the submission of the question of the sale of spirits for con-
7 sumption off the premises, in addition to beer, MIXED SPIRIT
8 DRINK, and wine, in a retail establishment licensed under this
9 act on Sunday. The petition shall be signed by a number of the
10 registered and qualified electors of a county which shall be not
11 less than 8% of the total number of votes cast for all candidates
12 for the office of secretary of state in the county at the last
13 general election held for that purpose. The question shall not
14 be submitted to the electors of a county more than once every 4
15 years. The county clerk shall submit the question at the next
16 regular state election held in the county if the petitions are
17 filed not less than 60 days before the election. The question of
18 the sale of spirits for consumption off the premises, in addition
19 to beer, MIXED SPIRIT DRINK, and wine, in a retail establishment
20 licensed under this act on Sunday shall be submitted by ballot in
21 substantially the following form:

22 "Shall the sale of spirits for consumption off the premises
23 be permitted, on Sunday, in a retail establishment licensed under
24 the liquor control act within the county of under the
25 provisions of the law governing the sale of spirits for
26 consumption?

1 Yes

2 No "

3 (4) Votes on a question submitted pursuant to this section
4 shall be taken, counted, and canvassed in the same manner as
5 votes cast in county elections are taken, counted, and
6 canvassed. A ballot shall be furnished by the election commis-
7 sion or similar body of the respective county. If a majority of
8 the electors voting at an election vote in favor of the proposal,
9 spirits may be sold in the county under this act for consumption
10 on the premises or by a retail establishment for consumption off
11 the premises, in addition to beer, MIXED SPIRIT DRINK, and wine,
12 on Sunday. The sale shall not be permitted in a city, village,
13 or township in which the sale of spirits is prohibited under this
14 act. A violation of this section is a misdemeanor. This section
15 shall not apply to spirits served to a bona fide guest in the
16 residence of a person or sold or furnished for medicinal purposes
17 as provided for in this act.

18 (5) A licensee enumerated under section 19 or any other
19 person shall not sell at retail, and a person shall not knowingly
20 and ~~wilfully~~ WILLFULLY buy, alcoholic liquor between the hours
21 of 9 p.m. on December 24 and 7 a.m. on December 26. If December
22 26 falls on Sunday, the hours of closing shall be determined pur-
23 suant to this act. The legislative body of a city, village, or
24 township, by resolution or ordinance, may prohibit the sale of
25 alcoholic liquor on Sunday or a legal holiday, primary election
26 day, general election day, or municipal election day.

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

6 (2) This section does not prevent a vendor of spirits,
7 brewer, wine maker, MIXED SPIRIT DRINK MANUFACTURER, small wine
8 maker, outstate seller of beer, outstate seller of wine, OUTSTATE
9 SELLER OF MIXED SPIRIT DRINK, or a bona fide market research
10 organization retained by 1 of the persons named in this subsec-
11 tion, from conducting samplings or tastings of an alcoholic
12 liquor product before it is approved for sale in this state, if
13 the sampling or tasting is conducted pursuant to prior written
14 approval of the commission.

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

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

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

23 (2) Except as otherwise provided in this act, before the
24 approval and granting, or renewal, of a license, the following
25 licensees or applicants for such licenses shall make, execute,
26 and deliver to the commission a bond executed by a surety company
27 authorized to do business in the state, or in the discretion of

1 the commission, by approved personal surety running to the people
2 of the state, in the following amounts:

3 (a) A manufacturer of beer, a manufacturer of wine, A MIXED
4 SPIRIT DRINK MANUFACTURER, an outstate seller of beer, A WHOLE-
5 SALER OF MIXED SPIRIT DRINK, and an outstate seller of wine, a
6 bond in an amount equal to 1/12 of the total beer, MIXED SPIRIT
7 DRINK, or wine excise taxes paid to the state in the last calen-
8 dar year, or a bond in the sum of \$1,000.00, whichever is great-
9 er, for the faithful performance of the conditions of the license
10 issued and for compliance with this act. A surety shall not
11 cancel a bond issued under this subdivision except upon 30 days'
12 written notice to the commission.

13 (b) A special license authorizing the sale of beer, MIXED
14 SPIRIT DRINK, and wine or spirits for consumption on the
15 premises, a bond in the sum of \$1,000.00. A bond issued under
16 this subdivision shall remain in effect for 60 days after the
17 expiration of the special license. A bond shall not be required
18 for a church or school.

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

25 (4) Except as otherwise provided in this section, an indi-
26 vidual who suffers damage or is personally injured by a minor or
27 visibly intoxicated person by reason of the unlawful selling,

1 giving, or furnishing of alcoholic liquor to the minor or visibly
2 intoxicated person, if the unlawful sale is proven to be a proximate
3 cause of the damage, injury, or death, or the spouse, child,
4 parent, or guardian of that individual, shall have a right of
5 action in his or her name against the person who by selling,
6 giving, or furnishing the alcoholic liquor has caused or contributed
7 to the intoxication of the person or who has caused or contributed
8 to the damage, injury, or death. In an action pursuant
9 to this section, the plaintiff shall have the right to recover
10 actual damages in a sum of not less than \$50.00 in each case in
11 which the court or jury determines that intoxication was a proximate
12 cause of the damage, injury, or death.

13 (5) An action under this section shall be instituted within
14 2 years after the injury or death. A plaintiff seeking damages
15 under this section shall give written notice to all defendants
16 within 120 days after entering an attorney-client relationship
17 for the purpose of pursuing a claim under this section. Failure
18 to give written notice within the time specified shall be grounds
19 for dismissal of a claim as to any defendants that did not
20 receive such notice unless sufficient information for determining
21 that a retail licensee might be liable under this section was not
22 known and could not reasonably have been known within the 120
23 days. In the event of the death of either party, the right of
24 action under this section shall survive to or against his or her
25 personal representative. In each action by a husband, wife,
26 child, or parent, the general reputation of the relation of
27 husband and wife or parent and child shall be prima facie

1 evidence of the relation, and the amount recovered by either the
2 husband, wife, parent, or child shall be his or her sole and sep-
3 arate property. The damages, together with the costs of the
4 action, shall be recovered in an action under this section. If
5 the parents of the individual who suffered damage or who was per-
6 sonally injured are entitled to damages under this section, the
7 father and mother may sue separately, but recovery by 1 is a bar
8 to action by the other.

9 (6) An action under this section against a retail licensee
10 shall not be commenced unless the minor or the alleged intoxi-
11 cated person is a named defendant in the action and is retained
12 in the action until the litigation is concluded by trial or
13 settlement.

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

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

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

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

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

15 (12) Except as otherwise provided for under this section and
16 section 22h, a civil action under subsection (4) against a retail
17 licensee shall be subject to the revised judicature act of 1961,
18 ACT NO. 236 OF THE PUBLIC ACTS OF 1961, being sections 600.101 to
19 600.9947 of the Michigan Compiled Laws.

20 Sec. 24. The following classes of vendors may sell alco-
21 holic liquors at retail as provided in this section:

22 (a) Taverns where beer, MIXED SPIRIT DRINK, and wine may be
23 sold for consumption on the premises only.

24 (b) Class C license where beer, wine, MIXED SPIRIT DRINK,
25 and spirits may be sold for consumption on the premises.

1 (c) Clubs where beer, wine, MIXED SPIRIT DRINK, and spirits
2 may be sold for consumption on the premises only to bona fide
3 members, who have attained the age of 21 years.

4 (d) Hotels of class A where beer, MIXED SPIRIT DRINK, and
5 wine may be sold for consumption on the premises and in the rooms
6 of bona fide registered guests.

7 Hotels of class B where beer, wine, MIXED SPIRIT DRINK, and
8 spirits may be sold for consumption on the premises and in the
9 rooms of bona fide registered guests.

10 (e) Specially designated merchants, where beer, MIXED SPIRIT
11 DRINK, and wine may be sold for consumption off the premises
12 only.

13 (f) Specially designated distributors where ~~alcoholic~~
14 ~~liquor, except wine and beer,~~ SPIRITS may be sold for consump-
15 tion off the premises only.

16 (g) Special licenses where beer, MIXED SPIRIT DRINK, and
17 wine or beer, wine, MIXED SPIRIT DRINK, and spirits may be sold
18 for consumption on the premises only.

19 (h) Dining cars or other railroad or pullman cars, water-
20 craft, or aircraft, where alcoholic liquor may be sold for con-
21 sumption on the premises only, subject to rules promulgated by
22 the commission.

23 Sec. 26b. ~~That alcoholic~~ ALCOHOLIC liquor may be served
24 by any hotel licensed individually under the provisions of this
25 act in the room of a bona fide guest. ~~thereof.~~ No spirits
26 shall be consumed in any place licensed under this act to sell.

1 beer, ~~and/or~~ MIXED SPIRIT DRINK, OR wine and not licensed to
2 sell spirits.

3 Sec. 29. (1) A vendor shall not give away any alcoholic
4 liquor of any kind or description at any time in connection with
5 his or her business except manufacturers for consumption on the
6 premises only. This subsection does not prevent a vendor of
7 spirits, brewer, MIXED SPIRIT DRINK MANUFACTURER, wine maker,
8 small wine maker, outstate seller of beer, outstate seller of
9 wine, OUTSTATE SELLER OF MIXED SPIRIT DRINK, or a bona fide
10 market research organization retained by 1 of the persons named
11 in this subsection, from conducting samplings or tastings of an
12 alcoholic liquor product before it is approved for sale in this
13 state, if the sampling or tasting is conducted pursuant to prior
14 written approval of the commission, nor does this subsection pre-
15 vent the conducting of any sampling or tasting authorized by rule
16 of the commission.

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

19 Sec. 30. Except as provided in section 31a, a manufacturer,
20 MIXED SPIRIT DRINK MANUFACTURER, warehouseman, wholesaler, out-
21 state seller of beer, outstate seller of wine, OUTSTATE SELLER OF
22 MIXED SPIRIT DRINK, or vendor of spirits shall not aid or assist
23 any other vendor by gift, loan of money or property of any
24 description, or other valuable thing, or by the giving of premi-
25 ums or rebates, and a vendor shall not accept the same. However,
26 if manufacturers of spirits reduce the price of their products,
27 the manufacturer of spirits may refund the amount of the price

1 reductions to specially designated distributor licensees in a
2 manner prescribed by the commission.

3 Sec. 30d. (1) A manufacturer and outstate seller of wine
4 shall grant to each of its wholesalers a sales territory within
5 which the wholesaler shall be a distributor of the specified
6 brand or brands of the manufacturer or outstate seller of wine.
7 The territory shall be the territory agreed upon between the
8 wholesaler and manufacturer or outstate seller of wine. A manu-
9 facturer or outstate seller of wine may grant the right to sell a
10 specified brand or brands in a sales territory to more than 1
11 wholesaler.

12 (2) A manufacturer ~~or~~ OF A MIXED WINE DRINK, MIXED SPIRIT
13 DRINK MANUFACTURER, outstate seller of a mixed wine drink, OR
14 OUTSTATE SELLER OF MIXED SPIRIT DRINK shall grant to each of its
15 wholesalers an exclusive sales territory in which the wholesaler
16 shall be a distributor of the specified brand or brands of the
17 manufacturer or outstate seller. ~~—of mixed wine drinks.~~ The
18 territory shall be the territory agreed upon between the whole-
19 saler and manufacturer ~~or~~ OF A MIXED WINE DRINK, MIXED SPIRIT
20 DRINK MANUFACTURER, outstate seller of mixed wine drinks, OR OUT-
21 STATE SELLER OF MIXED SPIRIT DRINK.

22 Sec. 31. (1) Except as provided in section 31a, a manufac-
23 turer, MIXED SPIRIT DRINK MANUFACTURER, warehouseman, wholesaler,
24 outstate seller of beer, outstate seller of wine, OUTSTATE SELLER
25 OF MIXED SPIRIT DRINK, or vendor of spirits shall not have any
26 financial interest, directly or indirectly, in the establishment,

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

3 (2) Except as provided in section 31a, a manufacturer, MIXED
4 SPIRIT DRINK MANUFACTURER, warehouseman, wholesaler, outstate
5 seller of beer, outstate seller of wine, OUTSTATE SELLER OF MIXED
6 SPIRIT DRINK, or vendor of spirits or a stockholder of a manufac-
7 turer, MIXED SPIRIT DRINK MANUFACTURER, warehouseman, wholesal-
8 er, outstate seller of beer, outstate seller of wine, OUTSTATE
9 SELLER OF MIXED SPIRIT DRINK, or vendor of spirits shall not have
10 an interest by ownership in fee, leasehold, mortgage, or other-
11 wise, directly or indirectly, in the establishment, maintenance,
12 operation, or promotion of the business of any other vendor.

13 (3) Except as provided in section 31a, a manufacturer, MIXED
14 SPIRIT DRINK MANUFACTURER, warehouseman, wholesaler, outstate
15 seller of beer, outstate seller of wine, OUTSTATE SELLER OF MIXED
16 SPIRIT DRINK, or vendor of spirits shall not have an interest
17 directly or indirectly by interlocking directors in a corporation
18 or by interlocking stock ownership in a corporation in the estab-
19 lishment, maintenance, operation, or promotion of the business of
20 any other vendor.

21 (4) Except as provided in section 31a, a person shall not
22 buy the stocks of a manufacturer, MIXED SPIRIT DRINK
23 MANUFACTURER, warehouseman, wholesaler, outstate seller of beer,
24 outstate seller of wine, OUTSTATE SELLER OF MIXED SPIRIT DRINK,
25 or vendor of spirits and place the stock in any portfolio under
26 an arrangement, written trust agreement, or form of investment
27 trust agreement and issue participating shares based upon the

1 portfolio, trust agreement, or investment trust agreement, and
2 sell the participating shares within this state.

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

7 (6) A wine maker, with the prior written approval of the
8 commission, may conduct wine tastings of wines made by that wine
9 maker and may sell the wine made by that wine maker for consump-
10 tion off the premises at a location other than the premises where
11 the wine maker is licensed to manufacture wine, under the follow-
12 ing conditions:

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

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

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

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

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

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

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

2 Sec. 32. ~~Compliance with act, necessity.~~ No person,
3 directly or indirectly, himself OR HERSELF or by his OR HER
4 clerk, agent or ~~employee~~ EMPLOYEE shall manufacture, manufacture
5 for sale, sell, offer or keep for sale, barter, furnish, or
6 import, import for sale, transport for hire, or transport, or
7 possess any wine, spirits, alcohol, ~~and/or~~ MIXED SPIRIT DRINK,
8 OR alcoholic liquor unless such person shall have fully complied
9 with the provisions of this act.

10 Sec. 34. ~~Public highways, public parks and places of~~
11 ~~amusement.~~ No alcoholic liquor shall be consumed on the public
12 highways. ~~No alcoholic~~ ALCOHOLIC liquor, except beer, ~~and/or~~
13 wine, OR MIXED SPIRIT DRINK, shall NOT be consumed in public
14 parks and places of amusement not licensed to sell for consump-
15 tion on the premises.

16 Sec. 49a. (1) A refund or credit of the tax on wine OR
17 MIXED SPIRIT DRINK paid pursuant to section 16a and the tax on
18 beer paid pursuant to section 40 shall be made by the commission
19 to a brewer, or a wine maker, or an outstate seller of beer, or
20 an outstate seller of wine, OUTSTATE SELLER OF MIXED SPIRIT
21 DRINK, or a wholesaler, or a retail licensee who paid the tax if
22 the wine, ~~or~~ beer, or ~~both,~~ MIXED SPIRIT DRINK was sold to a
23 military installation or an Indian reservation in this state; or
24 if the wine, ~~or~~ beer, or ~~both,~~ MIXED SPIRIT DRINK is lost,
25 made unmarketable, or condemned by order of the commission as the
26 result of a fire, flood, casualty, or other occurrence. A refund
27 or credit shall not be made as the result of theft.

1 (2) A refund or credit of the taxes as provided in
2 subsection (1) shall be made for damaged wine, ~~or~~ beer, or
3 ~~both~~ MIXED SPIRIT DRINK only if:

4 (a) At the time of the fire, flood, casualty, or other
5 occurrence, the wine, ~~or~~ beer, or ~~both~~ MIXED SPIRIT DRINK
6 was being held for sale by the vendor claiming the refund or
7 credit.

8 (b) The refund or credit of the amount claimed, or any part
9 of the amount claimed, has not or will not be claimed for the
10 same wine, ~~or~~ beer, or ~~both~~ MIXED SPIRIT DRINK under any
11 other law or rule.

12 (c) The vendor claiming the refund or credit is not indemni-
13 fiable by any valid claim of insurance or otherwise for the tax
14 on the wine, ~~or~~ beer, or ~~both~~ MIXED SPIRIT DRINK covered by
15 the claim.

16 (d) The amount claimed for a refund or credit is more than
17 \$250.00; or the refund or credit is claimed for defective wine,
18 ~~or~~ beer, or ~~both~~ MIXED SPIRIT DRINK for which the commission
19 has authorized a manufacturer, an outstate seller of beer, an
20 outstate seller of wine, AN OUTSTATE SELLER OF MIXED SPIRIT DRINK
21 or a wholesaler to make an exchange, have replaced, or be
22 reimbursed.

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

26 (3) A claim for a refund or credit of the tax as provided in
27 subsection (1), except for damage occurring between January 1,

1 1980 and April 20, 1982, shall be made not later than 3 months
2 after EITHER OF THE FOLLOWING:

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

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

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

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

13 (b) The address where the wine, ~~or~~ beer, or ~~both~~, MIXED
14 SPIRIT DRINK was lost, made unmarketable, or condemned, if dif-
15 ferent from the business address.

16 (c) The address of the military installation or Indian res-
17 ervation to which the wine, ~~or~~ beer, or ~~both~~, MIXED SPIRIT
18 DRINK was sold.

19 (d) The kind of wine, ~~or~~ beer, or ~~both~~ MIXED SPIRIT
20 DRINK.

21 (e) The size of bottles or containers.

22 (f) The number of bottles or containers.

23 (g) The total amount of wine, ~~or~~ beer, or ~~both~~ MIXED
24 SPIRIT DRINK that was sold or damaged. The amount shall be
25 stated in liters for wine and MIXED SPIRIT DRINK AND barrels for
26 beer, or portions thereof.

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

4 (i) A statement that the vendor has not been indemnified by
5 a valid claim of insurance or otherwise for the tax on the wine,
6 ~~or~~ beer, or ~~both~~, MIXED SPIRIT DRINK covered by the claim.

7 (j) Evidence that the tax on the wine, ~~or~~ beer, or ~~both~~,
8 MIXED SPIRIT DRINK has been paid.

9 (k) Evidence that the wine, ~~or~~ beer, or ~~both~~, MIXED
10 SPIRIT DRINK was lost, made unmarketable, or condemned by reason
11 of damage sustained as the result of a fire, flood, casualty, or
12 other occurrence.

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

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

17 (5) The vendor claiming the refund or credit for damaged
18 wine, ~~or~~ beer, or ~~both~~, MIXED SPIRIT DRINK shall support a
19 claim with any evidence, such as an inventory, statement,
20 invoice, bill, record, or label, relating to the quantity of
21 wine, ~~or~~ beer, or ~~both~~, MIXED SPIRIT DRINK on hand at the
22 time of the fire, flood, casualty, or other disaster and alleged
23 to have been lost, made unmarketable, or condemned as a result of
24 the damage.

25 (6) Before or after a tax refund or credit has been made for
26 damaged wine, ~~or~~ beer, or ~~both~~ MIXED SPIRIT DRINK, the wine,
27 ~~or~~ beer, or ~~both~~, MIXED SPIRIT DRINK upon which the refund or

1 credit is based shall be removed from this state or destroyed
2 under the supervision of the commission.

3 (7) This section applies to wine, ~~or~~ beer, or ~~both,~~
4 MIXED SPIRIT DRINK that was damaged as the result of a fire,
5 flood, casualty, or other occurrence which occurred after
6 December 31, 1979.

7 (8) In addition to the provisions of this section, the tax
8 paid on wine OR MIXED SPIRIT DRINK pursuant to section 16a shall
9 be rebated to the person who paid the tax upon satisfactory proof
10 being furnished to the commission that the wine OR MIXED SPIRIT
11 DRINK was shipped outside of this state for sale and consumption
12 outside this state.

13 Sec. 56. Spirits for consumption on the premises, in addi-
14 tion to beer, MIXED SPIRIT DRINK, and wine, may be sold by res-
15 taurants, hotels, and establishments, approved by the commission
16 under this act, in the following cities, villages, or townships,
17 when the legislative body of such a city, village, or township
18 shall, by resolution of a majority vote of the members elect,
19 vote in favor thereof. A petition may be filed with the city,
20 village, or township clerk requesting the submission of the ques-
21 tion of sale of spirits for consumption on the premises, in addi-
22 tion to beer, MIXED SPIRIT DRINK, and wine. In case of a city or
23 township the petition shall be signed by a number of the regis-
24 tered and qualified electors which shall be not less than 35% of
25 the total number of votes cast for all candidates for the office
26 of secretary of state in that city or township at the last
27 general election held for that purpose. In case of a village the

1 petition shall be signed by a number of the registered and
2 qualified electors which shall not be less than 35% of the total
3 number of votes cast for all candidates for the office of presi-
4 dent of the village at the last village election held for that
5 purpose. The question shall not be submitted to the electors of
6 a city, village, or township more often than once in every 2
7 years. The city, village, or township clerk shall within 10 days
8 after the filing with the clerk of the petition, give notice of
9 the filing by publication of notice setting forth the essential
10 facts of the petition in a newspaper published or in general cir-
11 culation in the city, village, or township. The city, village,
12 or township clerk shall submit the question at the next regular
13 state election held in the city, village or township if the peti-
14 tions are filed at least 60 days before the election. With
15 respect to newly incorporated cities or villages, class C licens-
16 es in any such a city or village shall continue to be licensed
17 by the commission until the question of the sale of spirits for
18 consumption on the premises, in addition to beer, MIXED SPIRIT
19 DRINK, and wine, is submitted to the electors of the city or vil-
20 lage as herein provided. The question of the sale of spirits for
21 consumption on the premises, in addition to beer, MIXED SPIRIT
22 DRINK, and wine, shall be submitted by ballot in substantially
23 the following form:

24 "Shall the sale of spirits in addition to beer, MIXED SPIRIT
25 DRINK, and wine be permitted for consumption on the premises
26 within the city, village, or township of under the
27 provisions of the law governing same?

1 Yes

2 No"

3 All votes on the question shall be taken, counted, and can-
4 vassed in the same manner as votes cast in city, village, or
5 township elections as the case may be, are taken, counted, and
6 canvassed. Ballots shall be furnished by the election commission
7 or similar body of the respective cities, villages, or
8 townships. In case a majority of the electors voting at such an
9 election shall vote in favor thereof, spirits may be sold in that
10 city, village, or township, pursuant to this act, for consumption
11 on the premises, in addition to beer, MIXED SPIRIT DRINK, and
12 wine.

13 At any time within 18 months after such an election has
14 resulted in a tie vote, the question shall be resubmitted to the
15 electors upon the filing of a petition with the legislative body
16 of the city, village, or township. The petition shall be signed
17 by a number of electors not less than that required by this sec-
18 tion for the calling of an election on an original petition. The
19 question shall be resubmitted to the electors by the city, vil-
20 lage, or township clerk at the next regular election if that
21 election occurs not less than 30 days, nor more than 60 days,
22 after the filing of the petition, or at a special election called
23 for that purpose and to be held within not less than 30 nor more
24 than 60 days after the filing of the petition.

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

1 Sec. 56a. Whenever spirits for consumption on the premises,
2 in addition to beer, MIXED SPIRIT DRINK, and wine, may be sold by
3 restaurants, hotels and establishments, approved by the commis-
4 sion, in any city, village or township, and a part of or the
5 whole of such city, village or township shall become annexed to
6 and a part of any city or village which does not, at the time of
7 annexation, permit such sales, class C licensees in any such
8 annexed area shall continue to be licensed by the commission
9 until the next regular or city or village election subsequent to
10 the effective date of this amendatory act, at which election,
11 without the necessity of the filing of a petition, the question
12 of the sale of spirits for consumption on the premises, in addi-
13 tion to beer, MIXED SPIRIT DRINK, and wine, shall be submitted to
14 the electors of the city or village to which the territory has
15 been annexed. The form of the ballot, the voting and canvassing
16 of votes and the effect thereof shall be as provided in section
17 56 of this act. The fact that a vote has been taken upon such
18 question either in the annexing municipality or the annexed area,
19 or in both, within 4 years preceding the annexation shall not be
20 a bar to submission of the question as herein provided.

21 Sec. 56b. (1) When the question of the sale of spirits for
22 consumption on the premises is submitted to and approved by the
23 electors of a city, village, or township, and immediately after
24 certification of the results of the election, all currently
25 approved licensed establishments for consumption of beer, MIXED
26 SPIRIT DRINK, and wine on the premises, in the city, village, or
27 township, shall be licensed to serve spirits in addition to beer,

1 MIXED SPIRIT DRINK, and wine for consumption on the premises upon
2 application to and approval by the Michigan liquor control com-
3 mission and payment of the applicable license fee as specified in
4 section 19.

5 (2) A township having incorporated villages within its
6 boundaries may submit to the voters in the unincorporated portion
7 of the township the question of sale of spirits for consumption
8 on the premises and the will of the electors outside of the
9 incorporated villages shall decide the question for the unincor-
10 porated portion of the township.