

# SENATE BILL No. 387

May 2, 1989, Introduced by Senators BARCIA, DI NELLO, KELLY, ARTHURHULTZ, MILLER and O'BRIEN and referred to the Committee on Regulatory Affairs.

A bill to amend sections 19, 24, and 40 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 19 as amended by Act No. 192 of the Public Acts of 1986, section 24 as amended by Act No. 153 of the Public Acts of 1981, and section 40 as amended by Act No. 209 of the Public Acts of 1980, being sections 436.19, 436.24, and 436.40 of the Michigan Compiled Laws; and to add sections 2aa, 31b, and 31c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 19, 24, and 40 of Act No. 8 of the  
2 Public Acts of the Extra Session of 1933, section 19 as amended  
3 by Act No. 192 of the Public Acts of 1986, section 24 as amended  
4 by Act No. 153 of the Public Acts of 1981, and section 40 as  
5 amended by Act No. 209 of the Public Acts of 1980, being sections  
6 436.19, 436.24, and 436.40 of the Michigan Compiled Laws, are

1 amended and sections 2aa, 31b, and 31c are added to read as  
2 follows:

3 SEC. 2AA. "BREW PUB" MEANS A PERSON LICENSED BY THE COMMIS-  
4 SION TO MANUFACTURE BEER AND WHO SELLS NOT MORE THAN 2,000 BAR-  
5 RELS PER YEAR FOR CONSUMPTION ONLY ON THE PREMISES.

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

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

12 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or  
13 fraction of a barrel, production annually with a maximum fee of  
14 \$1,000.00, and in addition \$50.00 for each motor vehicle used in  
15 delivery to retail licensees. A fee increase shall not apply to  
16 a manufacturer of less than 15,000 barrels production per year.

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

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

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

25 (f) Dining cars or other railroad or pullman cars selling  
26 alcoholic liquor, \$100.00 per train.

1 (g) Wholesale vendors other than manufacturers of beer,  
2 \$300.00 for the first motor vehicle used in delivery to retail  
3 licensees and \$50.00 for each additional motor vehicle used in  
4 delivery to retail licensees.

5 (h) Watercraft, licensed to carry passengers, selling alco-  
6 holic liquor, a minimum fee of \$100.00 and a maximum fee of  
7 \$500.00 per year computed on the basis of \$1.00 per person per  
8 passenger capacity.

9 (i) Specially designated merchants, for selling beer or wine  
10 for consumption off the premises only, but not at wholesale,  
11 \$100.00 for each location regardless of the fact that the loca-  
12 tion may be a part of a system or chain of merchandising.

13 (j) Specially designated distributors licensed by the com-  
14 mission to distribute alcoholic liquor other than wine and beer  
15 in the original package for the commission for consumption off  
16 the premises, \$150.00 per year; and \$3.00 additional fee for each  
17 \$1,000.00 or major fraction of that amount in excess of  
18 \$25,000.00 of the total retail value of merchandise purchased  
19 under each license from the liquor control commission during the  
20 previous calendar year.

21 (k) Hotels of class A selling beer and wine, a minimum fee  
22 of \$250.00 and for all bedrooms in excess of 20, \$1.00 for each  
23 additional bedroom, but not to exceed \$500.00.

24 (l) Hotels of class B selling beer, wine, and spirits, a  
25 minimum fee of \$600.00 and for all bedrooms in excess of 20,  
26 \$3.00 for each additional bedroom. If a hotel of class B sells  
27 beer, wine, and spirits in more than 1 public bar, the fee shall

1 entitle the hotel to sell in only 1 public bar, other than a  
2 bedroom, and a license shall be secured for each additional  
3 public bar, other than a bedroom, the fee for which shall be  
4 \$350.00.

5 (m) Taverns, selling beer and wine, \$250.00.

6 (n) Class C license selling beer, wine, and spirits,  
7 \$600.00. If a class C licensee sells beer, wine, and spirits in  
8 more than 1 bar, a fee of \$350.00 shall be paid for each addi-  
9 tional bar. In municipally owned or supported facilities in  
10 which nonprofit organizations operate concession stands, a fee of  
11 \$100.00 shall be paid for each additional bar.

12 (o) Clubs selling beer, wine, and spirits, \$300.00 for clubs  
13 having 150 or less duly accredited members and \$1.00 for each  
14 additional member. The membership list for the purpose only of  
15 determining the license fees to be paid under this section shall  
16 be the accredited list of members as determined by a sworn affi-  
17 davit 30 days before the closing of the license year. This sec-  
18 tion shall not prevent the commission from checking a membership  
19 list and making its own determination from the list or  
20 otherwise. The list of members and additional members shall not  
21 be required of a club paying the maximum fee. The maximum fee  
22 shall not exceed \$750.00 for any 1 club.

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

25 (q) Special licenses, a fee of \$50.00 per day, except that  
26 the fee for that license or permit issued to any bona fide  
27 nonprofit association, duly organized and in continuous existence

1 for 1 year before the filing of its application, shall be  
2 \$25.00. Not more than 5 special licenses may be granted to any  
3 organization, including an auxiliary of the organization, in a  
4 calendar year.

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

8 (s) Brandy manufacturer, \$100.00.

9 (T) BREWPUB, \$100.00.

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

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

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

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

19 (c) Clubs where beer, wine, and spirits may be sold for con-  
20 sumption on the premises only to bona fide members, who have  
21 attained the age of 21 years.

22 (d) Hotels of class A where beer and wine may be sold for  
23 consumption on the premises and in the rooms of bona fide regis-  
24 tered guests.

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

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

3 (f) Specially designated distributors where alcoholic  
4 liquor, except wine and beer, may be sold for consumption off the  
5 premises only.

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

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

12 (I) BREWPUBS WHERE BEER MANUFACTURED ON THE PREMISES BY THE  
13 LICENSEE MAY BE SOLD ONLY FOR CONSUMPTION ON THE PREMISES BY ANY  
14 OF THE FOLLOWING LICENSEES:

15 (i) CLASS "C".

16 (ii) TAVERN.

17 (iii) CLASS "A" HOTEL.

18 (iv) CLASS "B" HOTEL.

19 SEC. 31B. (1) SUBJECT TO SECTION 31C, THE COMMISSION SHALL  
20 ISSUE A BREWPUB LICENSE TO A PERSON WHO IS LICENSED AS A RESTAU-  
21 RANT UNDER PART 129 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE  
22 PUBLIC ACTS OF 1978, BEING SECTIONS 333.12901 TO 333.12922 OF THE  
23 MICHIGAN COMPILED LAWS, AND AT THE TIME OF APPLICATION FOR THE  
24 BREWPUB LICENSE IS LICENSED AS 1 OR MORE OF THE FOLLOWING:

25 (A) CLASS "C".

26 (B) TAVERN.

1 (C) CLASS "A" HOTEL.

2 (D) CLASS "B" HOTEL.

3 (2) A PERSON SHALL NOT, DIRECTLY OR INDIRECTLY, HAVE AN  
4 INTEREST IN MORE THAN 1 BREWPUB.

5 (3) A BREWPUB IS CONSIDERED A MANUFACTURER OF BEER FOR PUR-  
6 POSES OF R 436.1605, R 436.1607, AND R 436.1611 OF THE MICHIGAN  
7 ADMINISTRATIVE CODE.

8 SEC. 31C. (1) THE COMMISSION SHALL GRANT A BREWPUB LICENSE  
9 TO A PERSON WHO DOES BOTH OF THE FOLLOWING:

10 (A) PAYS THE FEE AS PRESCRIBED IN SECTION 19.

11 (B) PROVIDES EVIDENCE TO THE COMMISSION THAT NOT LESS THAN  
12 25% OF THE GROSS SALES OF THE RESTAURANT DURING THE 1-YEAR LICEN-  
13 SURE PERIOD ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC  
14 BEVERAGES PREPARED FOR CONSUMPTION ON THE PREMISES.

15 (2) THE COMMISSION SHALL RENEW A BREWPUB LICENSE OF A PERSON  
16 WHO DOES BOTH OF THE FOLLOWING:

17 (A) PAYS THE FEE AS PRESCRIBED IN SECTION 19.

18 (B) PROVIDES EVIDENCE TO THE COMMISSION THAT NOT LESS THAN  
19 20% OF THE GROSS SALES OF THE RESTAURANT DURING THE 1-YEAR LICEN-  
20 SURE PERIOD ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC  
21 BEVERAGES PREPARED FOR CONSUMPTION ON THE PREMISES.

22 (3) THE COMMISSION SHALL REVOKE A BREWPUB LICENSE IF, DURING  
23 THE 1-YEAR LICENSURE PERIOD, LESS THAN 20% OF THE GROSS SALES OF  
24 THE RESTAURANT ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC  
25 BEVERAGES PREPARED FOR CONSUMPTION ON THE PREMISES.

26 Sec. 40. (1) There shall be levied and collected by the  
27 commission on all beer manufactured or sold in this state a tax

1 at the rate of \$6.30 per barrel if the beer is sold in bulk or in  
2 different quantities. The tax shall be paid by the brewer OR  
3 BREWPUB if manufactured in this state, or by the wholesaler or  
4 the person from whom purchased if manufactured outside this  
5 state, whichever is designated by the commission. The commission  
6 shall establish by rule a method for the collection of the tax  
7 imposed in this subsection. The rules shall be promulgated pur-  
8 suant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306  
9 of the Public Acts of 1969, as amended, being sections 24.201 to  
10 ~~24.315~~ 24.328 of the Michigan Compiled Laws.

11 (2) The tax ~~prescribed in~~ IMPOSED UNDER subsection (1)  
12 shall not be collected with respect to beer which is consumed on  
13 the premises of the manufacturer or which is damaged in the pro-  
14 cess of brewing, packaging, and storage and is not offered for  
15 sale, EXCEPT THAT BEER SOLD BY A BREWPUB FOR CONSUMPTION ON THE  
16 PREMISES SHALL BE SUBJECT TO THE TAX IMPOSED UNDER  
17 SUBSECTION (1).

18 (3) The tax imposed under subsection (1) shall be rebated to  
19 the person who paid the tax upon satisfactory proof being fur-  
20 nished to the commission that the beer was shipped outside of  
21 this state for sale and consumption outside this state.

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

24 (5) The commission may promulgate a rule which designates  
25 the states, the laws, or the rules of other states which require  
26 a licensed wholesaler of beer to pay an additional fee for the  
27 right to purchase, import, or sell beer manufactured in this



1 state; which deny the issuance of a license authorizing the  
2 importation of beer to any licensed wholesaler of beer in that  
3 state who may make application for the license; which prohibit  
4 licensed wholesalers of beer in that state from possessing or  
5 selling beer purchased in this state, unless the person from whom  
6 purchased has secured a license and paid a fee in that state, if  
7 the seller neither transports the beer into the state nor sells  
8 the beer in the state; or which impose any higher taxes or  
9 inspection fees upon beer manufactured in this state when trans-  
10 porting into or sold in that state, than is imposed upon beer  
11 manufactured and sold within that state. The rule shall prohibit  
12 all licensees from purchasing, receiving, possessing, or selling  
13 any beer manufactured in any state designated in the rule. The  
14 rule shall become effective 90 days after its adoption. Any  
15 licensee or person adversely affected by the rule shall be enti-  
16 tled to review by certiorari to the proper court the question as  
17 to whether the commission has acted illegally or in excess of  
18 authority in making its finding with respect to any state.