

Act No. 47
Public Acts of 2014
Approved by the Governor
March 25, 2014
Filed with the Secretary of State
March 25, 2014
EFFECTIVE DATE: March 25, 2014

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Senator Hune

ENROLLED SENATE BILL No. 505

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 609 (MCL 436.1609), as amended by 2010 PA 175.

The People of the State of Michigan enact:

Sec. 609. (1) Except as provided in this section and sections 605 and 1029, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not aid or assist any other vendor by gift, loan of money or property of any description, or other valuable thing, or by the giving of premiums or rebates, and a vendor shall not accept the same. However, if manufacturers of spirits reduce the price of their products, the manufacturer of spirits may refund the amount of the price reductions to specially designated distributor licensees in a manner prescribed by the commission.

(2) A manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may, in a manner consistent with rules, regulations, and orders made by the commission, provide another licensee with advertising items that promote the brands and prices of alcoholic liquor produced by the manufacturer; sold by the outstate seller of beer, the outstate seller of wine, or the outstate seller of mixed spirit drink; or distributed by the wholesaler. Except as otherwise provided under subsection (3) or (4), the advertising items shall not have any use or value beyond the actual advertising of brands and prices of the alcoholic liquor.

(3) Except for those orders that were approved for specific sponsorships or festivals, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may provide goods and services to another licensee that were approved by the commission pursuant to rules or orders adopted prior to January 1, 2014 and the following advertising items:

(a) Alcoholic liquor recipes literature.

- (b) Calendars and matchbooks.
- (c) Removable tap markers or signs.
- (d) Table tents.
- (e) Shelf talkers.
- (f) Bottle neckers.
- (g) Cooler stickers.
- (h) Buttons, blinking and nonblinking.
- (i) Menu clip-ons.
- (j) Mirrors.
- (k) Napkin holders.
- (l) Spirits cold shot tap machines.
- (m) Alcoholic liquor drink menus.

(4) A retailer shall not use or possess, at its licensed premises, advertising items that have a use or value beyond the actual advertising of brands and prices of alcoholic liquor except for those allowed in subsection (3) or as otherwise provided in this subsection. A retailer may possess and use brand logoed barware that advertises spirits as long as those items are purchased from a manufacturer of spirits, vendor of spirits, salesperson, broker, or barware retailer. A retailer may possess and use brand logoed barware that advertises beer or wine as long as those items are purchased from a barware retailer. A retailer shall maintain the receipts of all purchased brand logoed barware for at least 3 years and shall make those receipts available for inspection by the commission as provided in section 217. Beginning in the 2015 licensing year, a retailer shall disclose, in a manner as prescribed by the commission on the application for renewal of an existing license, if any barware was purchased by the retailer during the immediately preceding license year.

(5) In addition to the penalties provided under section 903, a manufacturer of beer or wine, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink that provides or sells barware and is not authorized to provide or sell barware is subject to a fine in an amount of up to \$2,500.00 as determined by the commission. Multiple violations resulting from the same incident may be treated as a single violation for purposes of issuance of any penalty imposed under this act.

(6) An on-premises retailer that hosts an on-premises brand promotional event conducted by a wholesaler or supplier has 14 days after the event to remove from the premises any brand logoed merchandise from the event to maintain compliance with this section.

(7) This act and rules promulgated under this act do not prevent a retailer that holds an off-premises license only from purchasing brand logoed inventory and selling that inventory to its customers.

(8) Not sooner than 18 months after the effective date of the amendatory act that added this subsection, the commission may, by rule, add an item to or remove an item from the definition of barware. The commission shall not add or remove more than 1 item per rule and shall not promulgate more than 1 rule at a time on the definition of barware. The commission shall not issue a rule that adds refrigerator systems, draft systems, or furniture to the definition of barware. A rule, regulation, or order adopted after January 1, 2014 that is not adopted in accordance with this subsection and that is not consistent with this section or is in conflict with this section is void and unenforceable.

(9) As used in this section:

(a) "Barware" means the following brand logoed items:

- (i) Trays.
- (ii) Coasters.
- (iii) Napkins.
- (iv) Shirts.
- (v) Hats.
- (vi) Pitchers.
- (vii) Drinkware that is intended to be reused.
- (viii) Bar mats.
- (ix) Buckets.
- (x) Bottle openers.
- (xi) Stir rods.
- (xii) Patio umbrellas.
- (xiii) Any packaging used to hold and deliver the alcoholic liquor purchased by the retailer.
- (xiv) Any other items that have been added by the commission pursuant to subsection (8).

(b) "Barware retailer" means a person that offers brand logoed barware for sale to retailers, whether or not it is in their ordinary course of business, and that is not licensed as, or directly or indirectly affiliated with, a manufacturer of beer or wine, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink. For purposes of this subdivision, a licensing agreement that authorizes use of a brand logo does not constitute a direct or indirect affiliation.

(c) "Broker" means a person, other than an individual, that is licensed by the commission and that is employed or otherwise retained by a manufacturer of spirits or a vendor of spirits to sell, promote, or otherwise assist in the sale or promotion of spirits.

(d) "Indirectly affiliated" means, for purposes of this section only, that a person owns 5% or more of the voting interest of another person.

(e) "Other valuable thing" means any goods, services, or intangible goods that are given, loaned, leased, or sold to another licensee that have value regardless of whether the value is nominal and includes, but is not limited to, goods, services, or intangible goods that provided any benefit, regardless of how nominal, to the licensee other than advertising the brands and prices of alcoholic liquor produced by the manufacturer, sold by the outstate seller of beer, the outstate seller of wine, or the outstate seller of mixed spirit drink, or distributed by the wholesaler, except those goods, services, or intangible goods approved by rule or order of the commission prior to January 1, 2014.

(f) "Salesperson" means a person who is employed by a vendor of spirits or a broker and who is licensed by the commission to sell, deliver, or promote, or otherwise assist in the sale of, spirits in this state.

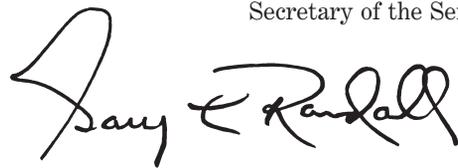
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 97th Legislature are enacted into law:

- (a) Senate Bill No. 504.
- (b) Senate Bill No. 506.
- (c) Senate Bill No. 507.
- (d) Senate Bill No. 650.
- (e) House Bill No. 4277.
- (f) House Bill No. 4709.
- (g) House Bill No. 4710.
- (h) House Bill No. 4711.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor