

Act No. 40
Public Acts of 2018
Approved by the Governor
February 28, 2018
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February 28, 2018
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Brann, Bellino, Lucido, Leutheuser, Liberati and Green

ENROLLED HOUSE BILL No. 5175

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 537 (MCL 436.1537), as amended by 2016 PA 514.

The People of the State of Michigan enact:

Sec. 537. (1) The following classes of vendors may sell alcoholic liquor at retail as provided in this section:

- (a) Taverns, where beer and wine may be sold for consumption on the premises only.
- (b) Class C licensee, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises.

(c) Clubs, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to bona fide members where consumption is limited to these members and their bona fide guests, who are 21 years of age or older.

(d) Direct shippers, where wine may be sold and shipped directly to the consumer.

(e) Hotels of class A, where beer and wine may be sold for consumption on the premises and in the rooms of bona fide registered guests. Hotels of class B where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

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

(g) Specially designated distributors, where spirits and mixed spirit drink may be sold for consumption off the premises only.

(h) Special licensee, where beer and wine or beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only.

(i) Dining cars or other railroad or Pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.

(j) Brewpubs, where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:

(i) Class C.

(ii) Tavern.

(iii) Class A hotel.

(iv) Class B hotel.

(k) Micro brewers and brewers, where beer produced by the micro brewer or brewer may be sold to a consumer for consumption on or off the brewery premises.

(l) Class G-1 licensee, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(m) Class G-2 licensee, where beer and wine may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(n) Motorsports event licensee, where beer and wine may be sold for consumption on the premises during sanctioned motorsports events only.

(o) Wine maker, where wine may be sold by direct shipment, at retail on the licensed premises, and as provided for in subsections (2) and (3).

(p) Small distiller selling not more than 60,000 gallons of spirits manufactured by that licensee to the consumer at retail for consumption on or off the licensed premises in the manner provided for in section 534.

(q) Nonpublic continuing care retirement center license, where beer, wine, mixed spirit drink, mixed wine drink, and spirits may be sold at retail and served on the licensed premises to residents and bona fide guests accompanying the resident for consumption only on the licensed premises.

(r) A small wine maker or an out-of-state entity that is the substantial equivalent of a small wine maker, that holds a farmer's market permit, where wine may be sampled and sold at a farmer's market for consumption off the licensed premises.

(2) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and located on the premises where the wine maker is licensed.

(3) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker on the premises where the wine maker is licensed to manufacture wine. The wine maker may charge for the samples.

(4) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:

(a) The premises on which the wine tasting occurs conform to local and state sanitation requirements.

(b) Payment of a \$100.00 fee per location is made to the commission.

(c) The wine tasting locations are considered licensed premises, and the wine maker may include a charge for the samples.

(d) The wine tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.

(e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.

(5) Notwithstanding section 1025(1), an outstate seller of beer, an outstate seller of wine, a wine maker, a brewer, a micro brewer, or a specially designated merchant, or an agent of any of those persons, that does not hold a license allowing the consumption of alcoholic liquor on the premises at the same licensed address, may conduct beer and wine tastings on the licensed premises of a specially designated merchant under the following conditions:

(a) A customer is not charged for the tasting of beer or wine.

(b) The tasting samples provided to a customer do not exceed 3 servings at up to 3 ounces per serving of beer or 3 servings at up to 2 ounces of wine. A customer shall not be provided more than a total of 3 samples of beer or wine within a 24-hour period per licensed premises.

(c) The specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer has first obtained an annual beer and wine tasting permit approved by the commission.

(d) The commission is notified, in writing, a minimum of 10 working days before the event, regarding the date, time, and location of the event.

(6) During the time a beer or wine tasting is conducted under subsection (5), a specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer, or its agent or employee who has successfully completed a server training program as provided for in section 906, shall devote full time to the beer and wine tasting activity and shall not perform other duties, including the sale of alcoholic liquor for consumption off the licensed premises. Beer and wine used for the tasting must come from the specially designated merchant's inventory, and all open bottles must be removed from the premises on the same business day or resealed and stored in a locked, separate storage compartment on the licensed premises when not being used for the activities allowed by the permit.

(7) A wholesaler shall not conduct or participate in beer and wine tastings allowed under a permit issued under subsection (5).

(8) A beer and wine tasting under subsection (5) may only be conducted during the legal hours for the sale of alcoholic liquor by the licensee.

(9) A brandy manufacturer or small distiller, with the prior written approval of the commission, may conduct tastings of brandy and spirits made by that brandy manufacturer or small distiller and may sell the brandy and spirits made by that brandy manufacturer or small distiller for consumption off the licensed premises at a location other than the licensed premises where the brandy manufacturer or small distiller is licensed to manufacture brandy or spirits under the following conditions:

(a) The premises on which the brandy and spirits tastings occur conform to local and state sanitation requirements.

(b) The brandy manufacturer or small distiller pays the commission a \$100.00 fee per location.

(c) The brandy and spirits tasting locations are considered licensed premises.

(d) The brandy and spirits tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.

(e) The premises and the license comply with and are subject to all applicable rules promulgated by the commission.

(10) An eligible merchant may fill and sell growlers with beer for consumption off the premises under the following conditions:

(a) The premises where the filling of growlers takes place comply with the requirements for food service establishments under the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(b) The growler is sealed and has a label affixed to it that includes at least the brand name of the beer, the class of the beer, the net contents of the container, and the name of the retailer filling the growler. The label conditions described in this subdivision do not apply to either of the following:

(i) A brewpub described in subsection (1)(j), but only as to beer that the brewpub produces.

(ii) A micro brewer or brewer described in subsection (1)(k).

(c) The eligible merchant or his or her agent or employee shall not fill a growler in advance of the sale.

(d) The eligible merchant or his or her agent or employee shall only use containers that have a capacity of 5 gallons or more to fill a growler.

(e) The beer to be dispensed has received a registration number from the commission and has been approved for sale by the commission.

(f) The eligible merchant complies with all applicable rules promulgated by the commission.

(11) As used in this section:

(a) "Eligible merchant" means a person that holds a specially designated merchant license.

(b) "Growler" means any clean, refillable, resealable container that is exclusively intended, and used only, for the sale of beer for consumption off the premises and that has a liquid capacity that does not exceed 1 gallon.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor