

SENATE BILL No. 1441

July 28, 2010, Introduced by Senators JANSEN, SWITALSKI and VAN WOERKOM and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 537 and 1025 (MCL 436.1537 and 436.2025), section 537 as amended by 2008 PA 218 and section 1025 as amended by 2008 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 537. (1) The following classes of vendors may sell
2 alcoholic liquors at retail as provided in this section:
3 (a) Taverns where beer and wine may be sold for consumption on
4 the premises only.
5 (b) Class C license where beer, wine, mixed spirit drink, and
6 spirits may be sold for consumption on the premises.
7 (c) Clubs where beer, wine, mixed spirit drink, and spirits

1 may be sold for consumption on the premises only to bona fide
2 members where consumption is limited to these members and their
3 bona fide guests, who have attained the age of 21 years.

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

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

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

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

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

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

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

24 (i) Class C.

25 (ii) Tavern.

26 (iii) Class A hotel.

27 (iv) Class B hotel.

1 (k) Micro brewers and brewers selling less than 200,000
2 barrels of beer per year where beer produced by the micro brewer or
3 brewer may be sold to a consumer for consumption on or off the
4 brewery premises.

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

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

13 (n) Motorsports event license where beer and wine may be sold
14 for consumption on the premises during sanctioned motorsports
15 events only.

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

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

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

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

7 (a) The premises upon which the wine tasting occurs conforms
8 to local and state sanitation requirements.

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

11 (c) The wine tasting locations shall be considered licensed
12 premises.

13 (d) Wine tasting does not take place between the hours of 2
14 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and 12
15 noon on Sunday.

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

18 **(4) NOTWITHSTANDING THE PROVISIONS OF SECTION 1025(1), A STORE**
19 **AFFILIATED WITH A MICHIGAN-BASED GROCERY CHAIN THAT, CHAIN-WIDE,**
20 **HAS A TOTAL OF 48,872 SQUARE FEET OF FLOOR SPACE, THAT IS PUBLICLY**
21 **TRADED ON NASDAQ, THAT IS LICENSED AS A SPECIALLY DESIGNATED**
22 **MERCHANT, AND THAT DOES NOT HOLD A LICENSE ALLOWING THE CONSUMPTION**
23 **OF ALCOHOLIC LIQUOR ON THE PREMISES AT THE SAME LICENSED ADDRESS,**
24 **MAY CONDUCT WINE TASTINGS ON THE LICENSED PREMISES UNDER THE**
25 **FOLLOWING CONDITIONS:**

26 **(A) A CUSTOMER IS NOT CHARGED FOR THE TASTING OF WINE.**

27 **(B) THE TASTING SAMPLES PROVIDED TO A CUSTOMER DO NOT EXCEED 1**

1 OUNCE PER SERVING AND NOT MORE THAN 6 SERVINGS FOR A TOTAL OF 6
2 OUNCES ARE PROVIDED TO A CUSTOMER WITHIN A 24-HOUR PERIOD.

3 (C) THE LICENSEE HAS FIRST OBTAINED A WINE TASTING PERMIT
4 APPROVED BY THE COMMISSION AND PAID A \$50.00 ANNUAL FEE PER
5 LOCATION.

6 (5) DURING THE TIME THE WINE TASTING IS CONDUCTED UNDER
7 SUBSECTION (4), THE LICENSEE, AN AGENT, OR AN EMPLOYEE OF THE
8 LICENSEE WHO HAS SUCCESSFULLY COMPLETED A SERVER TRAINING PROGRAM
9 AS PROVIDED FOR IN SECTION 906 SHALL DEVOTE FULL TIME TO THE WINE
10 TASTING ACTIVITY AND SHALL PERFORM NO OTHER DUTIES, INCLUDING THE
11 SALE OF ALCOHOLIC LIQUOR FOR CONSUMPTION OFF THE LICENSED PREMISES.
12 WINE USED FOR THE TASTING MUST COME FROM THE SPECIALLY DESIGNATED
13 MERCHANT'S INVENTORY, AND ALL OPEN BOTTLES MUST BE REMOVED FROM THE
14 PREMISES ON THE SAME BUSINESS DAY OR RESEALED AND STORED IN A
15 LOCKED, SEPARATE STORAGE COMPARTMENT ON THE LICENSED PREMISES WHEN
16 NOT BEING USED FOR THE ACTIVITIES ALLOWED BY THE PERMIT.

17 (6) A MANUFACTURER, WHOLESALER, OUTSTATE SELLER OF WINE, WINE
18 MAKER, OR SALESPERSON IS PROHIBITED FROM CONDUCTING OR
19 PARTICIPATING IN WINE TASTINGS ALLOWED BY THE PERMIT REQUIRED IN
20 SUBSECTION (4) (C).

21 (7) WINE TASTING UNDER SUBSECTION (4) MAY ONLY BE CONDUCTED
22 DURING THE LEGAL HOURS FOR SALE OF ALCOHOLIC LIQUOR BY THE
23 LICENSEE.

24 Sec. 1025. (1) A vendor shall not give away any alcoholic
25 liquor of any kind or description at any time in connection with
26 his or her business, except manufacturers for consumption on the
27 premises only.

1 (2) Subsection (1) does not prevent either of the following:

2 (a) A vendor of spirits, brewer, mixed spirit drink
3 manufacturer, wine maker, small wine maker, outstate seller of
4 beer, outstate seller of wine, or outstate seller of mixed spirit
5 drink, or a bona fide market research organization retained by 1 of
6 the persons named in this subsection, from conducting samplings or
7 tastings of an alcoholic liquor product before it is approved for
8 sale in this state, if the sampling or tasting is conducted
9 pursuant to prior written approval of the commission.

10 (b) A person from conducting of any sampling or tasting
11 authorized by **SECTION 537 OR** rule of the commission.

12 (3) A vendor shall not sell an alcoholic liquor to a person in
13 an intoxicated condition.

14 (4) Evidence of any breathalyzer or blood alcohol test results
15 obtained in a licensed establishment, or on property adjacent to
16 the licensed premises and under the control or ownership of the
17 licensee, ~~shall~~**IS** not ~~be~~admissible to prove a violation of this
18 section, section 707(1), (2), (3), or (4), or section 801(2). To
19 establish a violation of this section, section 707(1), (2), (3), or
20 (4), or section 801(2), the person's intoxicated condition at the
21 time of the sale or consumption of alcohol must be proven by direct
22 observation by law enforcement or commission enforcement personnel
23 or through other admissible witness statements or corroborating
24 evidence obtained as part of the standard investigation other than
25 breathalyzer or blood alcohol test results.