

HOUSE BILL NO. 5410

January 23, 2020, Introduced by Rep. Steven Johnson and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 229, 231, 533, 547, 1201, 1203, and 1207 (MCL 436.1229, 436.1231, 436.1533, 436.1547, 436.2201, 436.2203, and 436.2207), section 229 as amended by 2011 PA 166, section 533 as amended by 2018 PA 386, and section 547 as added by 2011 PA 20; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 229. ~~(1)~~—The commission may license a hotel or merchant,
2 in places that the commission may designate, to sell spirits for



1 consumption off the premises. ~~, notwithstanding section 233(1).~~
 2 ~~Except as otherwise provided in this section, if alcoholic liquor~~
 3 ~~is sold by a specially designated distributor under a license~~
 4 ~~issued under this section, it shall not be sold at less than the~~
 5 ~~minimum retail selling price fixed by the commission and under~~
 6 ~~rules promulgated by the commission.~~

7 ~~(2) The commission may, by rule or order, allow a specially~~
 8 ~~designated distributor to sell alcoholic liquor at less than the~~
 9 ~~minimum retail selling price in order to dispose of inventory at a~~
 10 ~~price and under conditions and procedures established through that~~
 11 ~~rule or order.~~

12 ~~(3) As used in this section and in sections 1201, 1203, and~~
 13 ~~1207, "retail selling price" means the price the commission pays~~
 14 ~~for spirits plus the gross profit established in section 233.~~

15 ~~(4) As used in this section, "minimum retail selling price"~~
 16 ~~means retail selling price plus the specific taxes imposed in~~
 17 ~~sections 1201, 1203, and 1207.~~

18 Sec. 231. The commission may buy, possess, and sell in its own
 19 name all alcoholic liquor for distribution as provided in sections
 20 227. and 229. The commission shall supply ~~such~~ **the** types of
 21 alcoholic liquor ~~as are~~ demanded by the public. However, if **the**
 22 **public demands** a brand ~~so demanded~~ **that** is not manufactured within
 23 the United States or is not readily obtainable within the United
 24 States, ~~then an order for that~~ **the commission shall fill an order**
 25 **for the** brand shall be filled by the commission at the entire
 26 expense of the person placing ~~that~~ **the** order. ~~subject to any gross~~
 27 ~~profit or discounts, or both, provided for in section 233.~~ The
 28 commission may lease or occupy any building or land required for
 29 its operation, and may purchase any warehouse required for its



1 operation, subject to the approval of the state administrative
2 board.

3 Sec. 533. (1) Subject to subsection (12), the commission shall
4 not issue a new specially designated merchant license or transfer
5 an existing specially designated merchant license unless the
6 applicant is an approved type of business. An applicant is not an
7 approved type of business unless the applicant meets 1 or more of
8 the following conditions:

9 (a) The applicant holds and maintains a retail food
10 establishment license issued under the food law, 2000 PA 92, MCL
11 289.1101 to 289.8111. As used in this subdivision, "retail food
12 establishment" means that term as defined in section 1111 of the
13 food law, 2000 PA 92, MCL 289.1111.

14 (b) The applicant holds and maintains an extended retail food
15 establishment license issued under the food law, 2000 PA 92, MCL
16 289.1101 to 289.8111. As used in this subdivision, "extended retail
17 food establishment" means that term as defined in section 1107 of
18 the food law, 2000 PA 92, MCL 289.1107.

19 (c) The applicant holds or the commission approves the
20 issuance of a specially designated distributor license to the
21 applicant.

22 (d) The applicant holds or the commission approves the
23 issuance of a class C license to the applicant.

24 (e) The applicant holds or the commission approves the
25 issuance of a class A hotel license to the applicant.

26 (f) The applicant holds or the commission approves the
27 issuance of a class B hotel license to the applicant.

28 (g) The applicant holds or the commission approves the
29 issuance of a club license to the applicant.



1 (h) The applicant holds or the commission approves the
2 issuance of a tavern license to the applicant.

3 (i) The applicant holds or the commission approves the
4 issuance of a class G-1 license to the applicant.

5 (j) The applicant holds or the commission approves the
6 issuance of a class G-2 license to the applicant.

7 (2) A specially designated distributor may apply for a license
8 as a specially designated merchant.

9 (3) An applicant for a specially designated merchant license
10 not in conjunction with an on-premises license, except as provided
11 in section ~~229(1)~~, **229**, or a person licensed under this act as a
12 specially designated merchant only or a class B hotel may apply for
13 a license as a specially designated distributor.

14 (4) In cities, incorporated villages, or townships, the
15 commission shall issue only 1 specially designated distributor
16 license for each 3,000 of population, or fraction of 3,000. The
17 commission may waive the quota requirement under this subsection if
18 there is no existing specially designated distributor licensee
19 within 2 miles of the applicant, measured along the nearest traffic
20 route.

21 (5) Except as otherwise provided in this section, in cities,
22 incorporated villages, or townships, the commission shall issue
23 only 1 specially designated merchant license for each 1,000 of
24 population, or fraction of 1,000. The quota under this subsection
25 does not apply to any of the following:

26 (a) An applicant for a specially designated merchant license
27 that is an applicant for or the holder of a license listed in
28 subsection (1)(d) to (j).

29 (b) An applicant for or the holder of a specially designated



1 merchant license whose licensed establishment meets 1 or more of
2 the following conditions:

3 (i) Meets both of the following conditions:

4 (A) The licensed establishment is at least 20,000 square feet.

5 (B) The licensed establishment's gross receipts derived from
6 the sale of food are at least 20% of the total gross receipts.

7 (ii) The licensed establishment is also a pharmacy as that term
8 is defined in section 17707 of the public health code, 1978 PA 368,
9 MCL 333.17707.

10 (c) A secondary location permit issued to a specially
11 designated merchant under section 541.

12 (d) A specially designated merchant license issued under
13 subsection (7).

14 (e) A specially designated merchant license issued to a marina
15 under section 539.

16 (6) The commission may waive the quota under subsection (5) if
17 there is no existing specially designated merchant within 2 miles
18 of the applicant, measured along the nearest traffic route.

19 (7) The commission shall waive the quota under subsection (5)
20 if both of the following apply:

21 (a) The applicant applies for the specially designated
22 merchant license within 60 days after January 4, 2017.

23 (b) The applicant is a retail dealer that holds a license
24 issued under section 6(1) of the motor fuels quality act, 1984 PA
25 44, MCL 290.646. The applicant shall include a copy of the license
26 described in this subdivision with the applicant's application
27 under this subsection. As used in this subdivision, "retail dealer"
28 means that term as defined in section 2 of the motor fuels quality
29 act, 1984 PA 44, MCL 290.642.



1 (8) A specially designated merchant license issued under this
2 section may be transferred to an applicant whose proposed operation
3 is located within any local governmental unit in a county in which
4 the specially designated merchant license was located. If the local
5 governmental unit within which the former licensee's premises were
6 located spans more than 1 county, a specially designated merchant
7 license may be transferred to an applicant whose proposed operation
8 is located within any local governmental unit in either county. If
9 a specially designated merchant license is transferred to a local
10 governmental unit other than that local governmental unit within
11 which the specially designated merchant license was originally
12 issued, the commission shall count that transferred specially
13 designated merchant license against the local governmental unit
14 originally issuing the specially designated merchant license.

15 (9) Except as otherwise provided in subsection (10), the quota
16 under subsection (5) does not bar the right of an existing
17 specially designated merchant to renew the specially designated
18 merchant license or transfer the specially designated merchant
19 license. This subsection applies to a specially designated merchant
20 license issued or renewed before, on, or after January 4, 2017.

21 (10) A specially designated merchant license issued after
22 January 4, 2017 to a person described in subsection (5) (a) or (b)
23 or to a specially designated merchant license issued under
24 subsection (6) may not be transferred to another location.

25 (11) An applicant for or the holder of a specially designated
26 merchant license that owns or operates a motor vehicle fuel pump on
27 or adjacent to the licensed premises is not required to meet the
28 conditions under section 541 as that section existed before January
29 4, 2017.



1 (12) For a marina that maintains motor vehicle fuel pumps on
2 or adjacent to the licensed premises, or maintains a financial
3 interest in any motor vehicle fuel pumps, the commission may only
4 issue a special designated merchant license to the marina under
5 section 539.

6 (13) For purposes of this section, population is determined by
7 the latest federal decennial census, by a special census under
8 section 6 of the home rule city act, 1909 PA 279, MCL 117.6, or
9 section 7 of the Glenn Steil state revenue sharing act of 1971,
10 1971 PA 140, MCL 141.907, or by the latest census and corrections
11 published by the United States Department of Commerce, Bureau of
12 the Census, whichever is later.

13 Sec. 547. ~~(1) As used in this section:~~

14 ~~(a) "Private event" means an event where no consideration, as~~
15 ~~defined in section 913, is paid by the guests.~~

16 ~~(b) "Catering permit" means a permit issued by the commission~~
17 ~~to a specially designated distributor, specially designated~~
18 ~~merchant, or holder of a public on-premises license for the sale of~~
19 ~~beer, wine, or spirits, or any combination thereof, that is also~~
20 ~~licensed as a food service establishment or retail food~~
21 ~~establishment under the food law of 2000, 2000 PA 92, MCL 289.1101~~
22 ~~to 289.8111, which permit authorizes the permit holder to sell and~~
23 ~~deliver beer, wine, and spirits in the original sealed container to~~
24 ~~a person for off-premises consumption but only if the sale is not~~
25 ~~by the glass or drink and the permit holder serves the beer, wine,~~
26 ~~or spirits. The permit does not allow the permit holder to deliver,~~
27 ~~but not serve, the beer, wine, or spirits.~~

28 ~~(2) Spirits sold by a specially designated distributor,~~
29 ~~specially designated merchant, or on-premises licensee under a~~



1 ~~eatering permit shall not be sold at less than the minimum retail~~
2 ~~selling price fixed by the commission, including under rules~~
3 ~~promulgated by the commission for specially designated distributors~~
4 ~~under section 229.~~

5 (1) ~~(3)~~—The commission may issue a catering permit to a
6 specially designated distributor, specially designated merchant, or
7 public on-premises licensee, as a supplement to that license, to
8 allow the sale and delivery of beer, wine, or spirits in the
9 original sealed container at locations other than the licensed
10 premises and to require the catering permit holder to serve beer,
11 wine, or spirits at the private event where the alcoholic liquor is
12 not resold to guests. The commission shall not issue a catering
13 permit to an applicant who delivers beer, wine, or spirits but does
14 not serve the beer, wine, or spirits.

15 (2) ~~(4)~~—This section does not limit the number of catering
16 permits the commission may issue within any local unit of
17 government.

18 (3) ~~(5)~~—This section does not prevent a catering permit holder
19 from using the catering permit at multiple locations and events
20 during the same time period.

21 (4) ~~(6)~~—This section does not prohibit a catering permit
22 holder from selling beer, wine, or spirits to a person who has
23 obtained a special license if that catering permit holder serves
24 the beer, wine, or spirits and complies with all catering permit
25 rules promulgated by the commission.

26 (5) ~~(7)~~—An applicant for a catering permit shall apply on a
27 form approved and provided by the commission and pay an application
28 and processing fee of \$70.00 and a catering permit fee of \$100.00
29 on the issuance of the catering permit. The applicant shall also



1 pay the catering permit fee on renewal of the specially designated
2 distributor, specially designated merchant, or on-premises
3 licensee.

4 (6) ~~(8)~~—The person delivering the beer, wine, or spirits under
5 a catering permit shall verify that the individual accepting
6 delivery is at least 21 years of age. The catering permit holder
7 may utilize a third party that provides delivery service to
8 municipalities in this state that are surrounded by water and
9 inaccessible by motor vehicle to deliver beer, wine, or spirits to
10 the designated location of the private event if the delivery
11 service is approved by the commission and agrees to verify that the
12 individual accepting delivery of the beer, wine, or spirits is at
13 least 21 years of age.

14 (7) ~~(9)~~—A catering permit holder providing the service, or an
15 employee of the catering permit holder, shall successfully complete
16 a server training program approved by the commission before
17 providing the service.

18 (8) ~~(10)~~—A catering permit holder delivering the beer, wine,
19 or spirits, or an employee of the catering permit holder, shall
20 have in his or her possession while delivering the beer, wine, or
21 spirits documentation demonstrating that the beer, wine, or spirits
22 being delivered are for a private event being conducted under this
23 section.

24 (9) ~~(11)~~—A catering permit holder who prepares food or drink
25 for direct consumption through service on the premises or elsewhere
26 shall comply with the requirements for food service establishments
27 under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

28 (10) ~~(12)~~—A catering permit holder is subject to all
29 sanctions, liabilities, and penalties provided under this act or



1 under law.

2 (11) As used in this section:

3 (a) "Private event" means an event at which no consideration,
4 as defined in section 913, is paid by the guests.

5 (b) "Catering permit" means a permit issued by the commission
6 to a specially designated distributor, specially designated
7 merchant, or holder of a public on-premises license for the sale of
8 beer, wine, or spirits, or any combination of beer, wine, or
9 spirits, that is also licensed as a food service establishment or
10 retail food establishment under the food law of 2000, 2000 PA 92,
11 MCL 289.1101 to 289.8111, which permit authorizes the permit holder
12 to sell and deliver beer, wine, and spirits in the original sealed
13 container to a person for off-premises consumption but only if the
14 sale is not by the glass or drink and the permit holder serves the
15 beer, wine, or spirits. The permit does not allow the permit holder
16 to deliver, but not serve, the beer, wine, or spirits.

17 Sec. 1201. (1) In addition to any ~~and all~~ taxes imposed by
18 law, ~~there a specific tax~~ is imposed and levied ~~upon and collected~~
19 ~~a specific tax~~ equal to 4% of the retail selling price of spirits.
20 The **commission shall collect the tax** ~~shall be collected by the~~
21 ~~commission~~ at the time of sale by the commission. ~~In the case of~~
22 ~~sales to licensees, the tax shall be computed on the retail selling~~
23 ~~price established by the commission without allowance of discount.~~

24 (2) ~~Upon~~ **On collection of the tax under this section**, the
25 commission shall deposit the entire proceeds in the state treasury,
26 to the credit of the general fund.

27 (3) If **this** section ~~1201~~ is repealed, ~~every a~~ licensee, who
28 has on hand any spirits on the effective date of the repeal, shall
29 file a complete inventory of those spirits with the commission



1 within 20 days after the repeal. The commission shall credit to
 2 ~~such a~~ **the** licensee an amount equal to 4% of the retail selling
 3 price of those spirits on future purchases of spirits from the
 4 commission.

5 Sec. 1203. (1) In addition to any ~~and all~~ taxes imposed by
 6 law, ~~there a~~ **specific tax** is imposed, ~~and~~ levied upon, ~~and~~
 7 ~~collected a specific tax on~~ equal to 4% **of the** retail selling price
 8 of spirits. The **commission shall collect the** tax ~~shall be collected~~
 9 ~~by the commission~~ at the time of sale by the commission. ~~In the~~
 10 ~~ease of~~ **For** sales to licensees, the tax ~~shall~~ **must** be computed on
 11 the retail selling price. ~~established by the commission without~~
 12 ~~allowance of discount.~~

13 (2) ~~Upon~~ **On** collection **of the tax imposed under this section,**
 14 the commission shall deposit the entire proceeds in the state
 15 treasury, to the credit of the state school aid fund established by
 16 ~~sections 8, 10, and~~ **section** 11 of article IX of the state
 17 constitution **of 1963.**

18 Sec. 1207. (1) The legislature finds and declares that there
 19 exists in this state a continuing need for programs to promote
 20 tourism and convention business ~~in order~~ to assist in the
 21 prevention of unemployment and the alleviation of the conditions of
 22 unemployment, to preserve existing jobs, and to create new jobs to
 23 meet the employment demands of population growth. ~~In order to~~ **To**
 24 achieve these purposes, it is necessary to assist and encourage
 25 local units of government to acquire, construct, improve, enlarge,
 26 renew, replace, repair, furnish, and equip convention facilities
 27 and the real property on which they are located.

28 (2) In addition to any other taxes imposed by law, ~~there a~~
 29 **specific tax** is imposed, ~~and~~ levied upon, ~~and collected a specific~~



1 ~~tax~~ equal to 4% of the retail selling price of spirits for
 2 consumption on the premises. The **commission shall collect the** tax
 3 ~~shall be collected by the commission~~ at the time of sale by the
 4 commission. ~~In the case of~~ **For** sales to licensees, the tax shall
 5 **must** be computed on the retail selling price. ~~established by the~~
 6 ~~commission without allowance of discount.~~

7 (3) In addition to any other taxes imposed by law, ~~there a~~
 8 **specific tax** is imposed, ~~and levied upon, and collected a specific~~
 9 ~~tax~~ equal to 4% of the retail selling price of spirits for
 10 consumption off the premises. The **commission shall collect the** tax
 11 ~~shall be collected by the commission~~ at the time of the sale by the
 12 commission.

13 (4) ~~Upon~~ **On** collection, the commission shall deposit the
 14 proceeds of the taxes imposed ~~pursuant to~~ **under** subsections (2) and
 15 (3) in the state treasury to the credit of the convention facility
 16 development fund created by the state convention facility
 17 development act, 1985 PA 106, MCL 207.621 to 207.640, for
 18 distribution and use only in the manner and for the purposes stated
 19 in that act.

20 (5) The tax imposed by this act ~~shall~~ **must** not be levied
 21 during ~~any a~~ period in which the tax imposed ~~pursuant to~~ **under** the
 22 state convention facility development act, 1985 PA 106, MCL 207.621
 23 to 207.640, is not levied.

24 (6) This section ~~shall~~ **does** not ~~be construed as making~~
 25 ~~appropriations.~~ **make an appropriation.**

26 Enacting section 1. Section 233 of the Michigan liquor control
 27 code of 1998, 1998 PA 58, MCL 436.1233, is repealed.

