

SENATE BILL NO. 444

May 13, 2021, Introduced by Senators VICTORY, DALEY, LASATA, HORN, BUMSTEAD, BIZON, ZORN, RUNESTAD, MACDONALD, OUTMAN, WOJNO, BULLOCK, VANDERWALL, HERTEL, GEISS, SANTANA, BAYER and STAMAS and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 233 (MCL 436.1233), as amended by 2020 PA 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 233. (1) The commission shall establish uniform prices
2 for the sale of alcoholic liquor by specially designated
3 distributors. ~~The~~ **Except as otherwise provided in this section, the**
4 prices must return a gross profit to the commission of not less
5 than 51% and not greater than 65%. If alcoholic liquor purchased by
6 the commission has not met sales standards established by the

1 commission for 6 months, the commission may sell the alcoholic
2 liquor at a price to be approved by the state administrative board.

3 (2) Notwithstanding subsection (1), the commission may
4 establish by rule prices for the sale of alcoholic liquor to
5 hospitals, charitable institutions, and military establishments
6 located in this state.

7 (3) Except as otherwise provided in this subsection, specially
8 designated distributors and on-premises licensees are entitled to a
9 17% discount from the uniform prices described in subsection (1) on
10 alcoholic liquor purchased from this state. Beginning ~~with the~~
11 ~~enactment date of the amendatory act that added this sentence~~ **July**
12 **1, 2020** until ~~12 months after the enactment date,~~ **July 1, 2021**, on-
13 premises licensees are entitled to a 23% discount from the uniform
14 prices described in subsection (1) on alcoholic liquor purchased
15 from this state.

16 (4) **Not later than February 1, 2022 and each February 1**
17 **thereafter, a small distiller or an out-of-state entity that is the**
18 **substantial equivalent of a small distiller may file an application**
19 **with the department of agriculture and rural development to be**
20 **certified as a qualified small distiller. An application under this**
21 **subsection must be on a form prescribed and furnished by the**
22 **department of agriculture and rural development. The department of**
23 **agriculture and rural development may charge a reasonable**
24 **certification fee.**

25 (5) **Beginning January 1, 2023, for each bottle of spirits**
26 **produced by a qualified small distiller of which at least 40% of**
27 **the base distillate is distilled from grain grown and harvested in**
28 **this state as determined by the department of agriculture and rural**
29 **development, the price for each bottle must return a gross profit**

1 to the commission of 32.5%.

2 (6) The department of agriculture and rural development shall
3 certify that an applicant under subsection (4) is a qualified small
4 distiller if the department of agriculture and rural development
5 determines that the base distillate of the small distiller or the
6 out-of-state entity that is the substantial equivalent of a small
7 distiller is at least 40% distilled from distilled grain grown and
8 harvested in this state.

9 (7) Not later than October 1, 2022, and each October 1
10 thereafter, the department of agriculture and rural development
11 shall submit a report to the commission. A report under this
12 subsection must include the name of each qualified small distiller
13 certified under subsection (6).

14 (8) A qualified small distiller certificate expires on
15 February 1 following the date of issuance.

16 (9) A small distiller or an out-of-state entity that is the
17 substantial equivalent of a small distiller that supplies false
18 information to the department of agriculture and rural development
19 or the commission under this section is guilty of a misdemeanor
20 punishable by imprisonment for not more than 1 year or a fine of
21 not more than \$3,000.00, or both. A small distiller or an out-of-
22 state entity that is the substantial equivalent of a small
23 distiller that supplies false information as described in this
24 subsection shall pay the commission the difference between the
25 gross profit the commission would have received under subsection
26 (1) if the small distiller or the out-of-state entity that is the
27 substantial equivalent of a small distiller was not a qualified
28 small distiller, as determined by the commission.

29 (10) A qualified small distiller shall keep a complete and

1 accurate set of records and accounts of all transactions pertaining
2 to the operation of its distillery, including, but not limited to,
3 records and accounts of all distilled grain received in or
4 withdrawn from the distillery, all acknowledgment forms and
5 Michigan certification of origination statements in the qualified
6 small distiller's possession, copies of all contracts, and
7 acknowledgment forms returned to and settled by the qualified small
8 distiller. The department of agriculture and rural development and
9 the commission may examine the records and accounts pertaining to
10 the qualified small distiller's distilled grain handling business
11 at any time during normal business hours.

12 (11) As used in this section:

13 (a) "Acknowledgment form" means a scale weight ticket, a load
14 slip, or any other evidence of deposit issued by a small distiller,
15 an out-of-state entity that is the substantial equivalent of a
16 small distiller, or the authorized representative of a small
17 distiller or out-of-state entity that is the substantial equivalent
18 of a small distiller to a depositor that identifies the distilled
19 grain being transferred from possession of the depositor to the
20 possession of the small distiller or the out-of-state entity that
21 is the substantial equivalent of a small distiller.

22 (b) "Depositor" means either of the following:

23 (i) A person that delivers distilled grain to a small distiller
24 or an out-of-state entity that is the substantial equivalent of a
25 small distiller for storage, processing, shipment, or sale and that
26 has title to distilled grain at the time of delivery.

27 (ii) A person that owns or that is the legal holder of an
28 acknowledgment form issued by a depositor for distilled grain.

29 (c) "Distilled grain" means any of the following:

- 1 (i) Dry barley.
- 2 (ii) Malted barley.
- 3 (iii) Oats.
- 4 (iv) A small grain.
- 5 (v) A cereal grain.
- 6 (vi) Potato.
- 7 (vii) Corn.
- 8 (viii) Fruit.
- 9 (ix) Sugar beets.
- 10 (x) Honey.

11 (d) "Michigan certification of origination statement" means a
12 signed statement from a depositor or producer on an acknowledgement
13 form that deposited distilled grain was grown and harvested in this
14 state.

15 (e) "Qualified small distiller" means a small distiller or an
16 out-of-state entity that is the substantial equivalent of a small
17 distiller certified by the department of agriculture and rural
18 development under this section as having at least 40% of the base
19 distillate of the small distiller or the out-of-state entity that
20 is the substantial equivalent of a small distiller distilled from
21 distilled grain grown and harvested in this state.