

# SENATE BILL NO. 711

January 09, 2020, Introduced by Senator BUMSTEAD 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 109 (MCL 436.1109), as amended by 2018 PA 409, and by adding section 504.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 109. (1) "Manufacture" means to distill, rectify,  
2 ferment, brew, make, produce, filter, mix, concoct, process, or  
3 blend an alcoholic liquor or to complete a portion of 1 or more of  
4 these activities. Manufacture does not include bottling or the  
5 mixing or other preparation of drinks for serving by those persons

1 authorized under this act to serve alcoholic liquor for consumption  
2 on the licensed premises. In addition, manufacture does not include  
3 attaching a label to a shiner. All containers or packages of  
4 alcoholic liquor must state clearly the name, city, and state of  
5 the bottler.

6 (2) "Manufacturer" means a person that manufactures alcoholic  
7 liquor, whether located in or out of this state, including, but not  
8 limited to, a distiller, a small distiller, a rectifier, a mixed  
9 spirit drink manufacturer, a mixed wine drink manufacturer, a wine  
10 maker, a small wine maker, a brewer, and a micro brewer.

11 (3) "Manufacturing premises" means the licensed premises of a  
12 manufacturer where the manufacturer manufactures alcoholic liquor  
13 or, for a small wine maker only, bottles wine.

14 (4) "Master distributor" means a wholesaler that acts in the  
15 same or similar capacity as a brewer, wine maker, outstate seller  
16 of wine, or outstate seller of beer for a brand or brands of beer  
17 or wine to other wholesalers on a regular basis in the normal  
18 course of business.

19 (5) "Micro brewer" means a brewer that manufactures in total  
20 less than 60,000 barrels of beer per year and that may sell the  
21 beer manufactured to consumers at the licensed brewery premises for  
22 consumption on or off the licensed brewery premises and to  
23 retailers as provided in section 203. In determining the 60,000-  
24 barrel threshold, all brands and labels of a brewer, whether  
25 manufactured in this state or outside this state, must be combined  
26 and all facilities for the manufacturing of beer that are owned or  
27 controlled by the same person must be treated as a single facility.

28 (6) "Minor" means an individual less than 21 years of age.

29 (7) "Mixed spirit drink" means a drink manufactured and

1 packaged or sold by a mixed spirit drink manufacturer or sold by an  
2 outstate seller of mixed spirit drink to a wholesaler that contains  
3 10% or less alcohol by volume consisting of spirits mixed with  
4 nonalcoholic beverages or flavoring or coloring materials and that  
5 may also contain 1 or more of the following:

6 (a) Water.

7 (b) Fruit juices.

8 (c) Fruit adjuncts.

9 (d) Sugar.

10 (e) Carbon dioxide.

11 (f) Preservatives.

12 (8) "Mixed spirit drink manufacturer" means ~~any~~**a** person  
13 licensed under this act to manufacture mixed spirit drink in this  
14 state and to sell mixed spirit drink at retail in accordance with  
15 section 537 or to a wholesaler. For purposes of rules promulgated  
16 by the commission, a mixed spirit drink manufacturer ~~shall be~~**is**  
17 treated as a wine manufacturer but is subject to the rules  
18 applicable to spirits for manufacturing and labeling.

19 (9) "Mixed wine drink" means a drink or similar product  
20 marketed as a wine cooler that contains less than 7% alcohol by  
21 volume, consists of wine and plain, sparkling, or carbonated water,  
22 and contains any 1 or more of the following:

23 (a) Nonalcoholic beverages.

24 (b) Flavoring.

25 (c) Coloring materials.

26 (d) Fruit juices.

27 (e) Fruit adjuncts.

28 (f) Sugar.

29 (g) Carbon dioxide.

1 (h) Preservatives.

2 (10) "Outstate seller of beer" means a person licensed by the  
3 commission to sell beer that has not been manufactured in this  
4 state, **or beer that the person purchased from a limited production**  
5 **manufacturer**, to a wholesaler in this state in accordance with  
6 rules promulgated by the commission. **As used in this subsection,**  
7 **"limited production manufacturer" means a person licensed under**  
8 **section 504.**

9 (11) "Outstate seller of mixed spirit drink" means a person  
10 licensed by the commission to sell mixed spirit drink that has not  
11 been manufactured in this state to a wholesaler in this state in  
12 accordance with rules promulgated by the commission. For purposes  
13 of rules promulgated by the commission, an outstate seller of mixed  
14 spirit drink ~~shall be~~ **is** treated as an outstate seller of wine but  
15 is subject to the rules applicable to spirits for manufacturing and  
16 labeling.

17 (12) "Outstate seller of wine" means a person licensed by the  
18 commission to sell wine that has not been manufactured in this  
19 state to a wholesaler in this state in accordance with rules  
20 promulgated by the commission and to sell sacramental wine as  
21 provided in section 301.

22 **Sec. 504. (1) The commission may issue a limited production**  
23 **manufacturer license to a person that purchases beer from another**  
24 **brewer, micro brewer, or out-of-state equivalent of a brewer or**  
25 **micro brewer for purposes of taking ownership of the beer and**  
26 **performing any of the manufacturing process as described in section**  
27 **109(1) .**

28 (2) **The commission shall charge an initial and renewal license**  
29 **fee for a license under this section of \$1,000.00.**

1           (3) Notwithstanding section 204, a brewer, micro brewer, or  
2 out-of-state equivalent of a brewer or micro brewer may sell beer  
3 to a limited production manufacturer and a limited production  
4 manufacturer may buy beer from a brewer, micro brewer, or an out-  
5 of-state equivalent of a brewer or micro brewer if all of the  
6 following conditions are met:

7           (a) The out-of-state equivalent of a brewer or micro brewer  
8 relinquishes ownership of the beer to the purchasing limited  
9 production manufacturer.

10           (b) The limited production manufacturer modifies the beer by  
11 performing all or part of the manufacturing process as described in  
12 section 109(1).

13           (c) The brewer, micro brewer, or out-of-state equivalent of a  
14 brewer or micro brewer notifies the commission in writing of the  
15 sale and the amount of beer being sold to a purchasing limited  
16 production manufacturer before each sale. The notification must be  
17 in the form required by the commission.

18           (d) The brewer, micro brewer, or out-of-state equivalent of a  
19 brewer or micro brewer and the limited production manufacturer  
20 maintain records of the sale, in the manner required by the  
21 commission, for 3 years.

22           (4) A limited production manufacturer may only sell beer to a  
23 wholesaler or a person located outside of this state regardless of  
24 whether the person is licensed under this act. Notwithstanding  
25 section 109(10) or R 436.1609(2) of the Michigan Administrative  
26 Code, beer sold by a limited production manufacturer to a person  
27 located outside of this state that holds an outstate seller of beer  
28 license may be sold to a wholesaler in this state by the outstate  
29 seller of beer.

1           (5) A limited production manufacturer must not be licensed as  
2 or hold a financial interest in another licensed supplier except  
3 for purposes of purchasing beer in the manner allowed in this  
4 section.

5           (6) A limited production manufacturer shall not hold a license  
6 in the wholesaler tier or retailer tier as provided in section  
7 603(13).

8           (7) Except as otherwise provided in this section, a limited  
9 production manufacturer shall comply with all provisions of this  
10 act that apply to the activities of a brewer, including, but not  
11 limited to, sections 401, 403, 409, 603, and 609.

12           (8) A limited production manufacturer shall not self-  
13 distribute.

14           (9) Before selling beer in this state to a wholesaler, a  
15 limited production manufacturer shall register the beer and receive  
16 a registration number of approval under R 436.1611 of the Michigan  
17 Administrative Code.

18           (10) A limited production manufacturer must be the holder of a  
19 federal brewer's notice issued by the United States Department of  
20 Treasury, Alcohol and Tobacco Tax and Trade Bureau in accordance  
21 with 27 CFR 25.61 to 25.85.

22           (11) As used in this section:

23           (a) "Limited production manufacturer" means a person licensed  
24 under this section.

25           (b) "Supplier" means that term as defined in section 603.