

Act No. 80  
Public Acts of 2020  
Approved by the Governor  
April 2, 2020  
Filed with the Secretary of State  
April 2, 2020  
EFFECTIVE DATE: April 2, 2020

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Senator Bumstead

# ENROLLED SENATE BILL No. 711

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 109 (MCL 436.1109), as amended by 2018 PA 409, and by adding section 504.

*The People of the State of Michigan enact:*

Sec. 109. (1) “Manufacture” means to distill, rectify, ferment, brew, make, produce, filter, mix, concoct, process, or blend an alcoholic liquor or to complete a portion of 1 or more of these activities. Manufacture does not include bottling or the mixing or other preparation of drinks for serving by those persons authorized under this act to serve alcoholic liquor for consumption on the licensed premises. In addition, manufacture does not include attaching a label to a shiner. All containers or packages of alcoholic liquor must state clearly the name, city, and state of the bottler.

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

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

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

(5) “Micro brewer” means a brewer that manufactures in total less than 60,000 barrels of beer per year and that may sell the beer manufactured to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers as provided in section 203. In determining the 60,000-barrel threshold,

all brands and labels of a brewer, whether manufactured in this state or outside this state, must be combined and all facilities for the manufacturing of beer that are owned or controlled by the same person must be treated as a single facility.

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

(7) "Mixed spirit drink" means a drink manufactured and packaged or sold by a mixed spirit drink manufacturer or sold by an outstate seller of mixed spirit drink to a wholesaler that contains 10% or less alcohol by volume consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials and that may also contain 1 or more of the following:

- (a) Water.
- (b) Fruit juices.
- (c) Fruit adjuncts.
- (d) Sugar.
- (e) Carbon dioxide.
- (f) Preservatives.

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

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

- (a) Nonalcoholic beverages.
- (b) Flavoring.
- (c) Coloring materials.
- (d) Fruit juices.
- (e) Fruit adjuncts.
- (f) Sugar.
- (g) Carbon dioxide.
- (h) Preservatives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

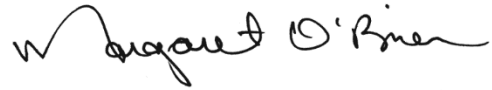
(10) A limited production manufacturer must be the holder of a federal brewer's notice issued by the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau in accordance with 27 CFR 25.61 to 25.85.

(11) As used in this section:

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

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor