

# SENATE BILL No. 79

January 24, 2013, Introduced by Senators HANSEN, WALKER, JONES, ROBERTSON, BOOHER, PROOS, NOFS and MARLEAU 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 537 (MCL 436.1537), as amended by 2011 PA 298, and by adding section 415.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 415. (1) THE COMMISSION MAY ISSUE A FARMER'S MARKET  
2 PERMIT TO A SMALL WINE MAKER OR AN OUT-OF-STATE ENTITY THAT IS THE  
3 SUBSTANTIAL EQUIVALENT OF A SMALL WINE MAKER. THE HOLDER OF A  
4 FARMER'S MARKET PERMIT MAY CONDUCT TASTINGS AND SELL, AT RETAIL AT  
5 A FARMER'S MARKET, THE WINE PRODUCED BY THAT SMALL WINE MAKER.

6 (2) THE COMMISSION SHALL CHARGE A FEE FOR A FARMER'S MARKET  
7 PERMIT OF \$25.00 FOR EACH FARMER'S MARKET LOCATION. THE COMMISSION  
8 SHALL NOT LIMIT THE NUMBER OF PERMITS A SMALL WINE MAKER, OR AN  
9 OUT-OF-STATE ENTITY THAT IS SUBSTANTIAL EQUIVALENT OF A SMALL WINE  
10 MAKER, OBTAINS UNDER THIS SECTION, BUT AN APPLICATION FOR A

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1 FARMER'S MARKET PERMIT SHALL ONLY CONTAIN UP TO 5 SEPARATE  
2 LOCATIONS AT 1 TIME. SECTION 503 DOES NOT APPLY TO THE APPLICATION  
3 OR ISSUANCE OF A PERMIT UNDER THIS SUBSECTION OR TO THE LOCATION OF  
4 A FARMER'S MARKET WHERE THE HOLDER OF A FARMER'S MARKET PERMIT  
5 INTENDS TO PARTICIPATE UNDER THIS SECTION.

6 (3) THE COMMISSION SHALL NOT ISSUE A FARMER'S MARKET PERMIT  
7 UNDER THIS SECTION UNLESS THE APPLICANT PROVIDES DOCUMENTATION, IN  
8 A MANNER PRESCRIBED BY THE COMMISSION, THAT THE LOCAL POLICE AGENCY  
9 WHERE THE FARMER'S MARKET IS LOCATED AND THE FARMER'S MARKET  
10 MANAGER AT THAT LOCATION HAVE APPROVED THE PROPOSED ACTIVITY.

11 (4) THE TASTINGS AND SALES PERFORMED UNDER A FARMER'S MARKET  
12 PERMIT SHALL BE LIMITED TO AN EXCLUSIVE AREA, IN A MANNER  
13 PRESCRIBED BY THE COMMISSION, THAT IS UNDER THE CONTROL OF THE  
14 HOLDER OF THE FARMER'S MARKET PERMIT, AS VERIFIED BY THE FARMER'S  
15 MARKET MANAGER.

16 (5) THE TASTINGS AND SALES PERFORMED UNDER A FARMER'S MARKET  
17 PERMIT SHALL BE CONDUCTED BY EMPLOYEES OF THE HOLDER OF THE  
18 FARMER'S MARKET PERMIT WHO HAVE COMPLETED A SERVER TRAINING COURSE  
19 APPROVED BY THE COMMISSION.

20 (6) THE WINE SOLD OR USED FOR TASTINGS SHALL BE FURNISHED FROM  
21 THE STOCK OF THE HOLDER OF THE FARMER'S MARKET PERMIT AND REMOVED  
22 FROM THE FARMER'S MARKET PREMISES IMMEDIATELY AFTER THE FARMER'S  
23 MARKET HAS CONCLUDED.

24 (7) TASTING SAMPLES PROVIDED TO A CUSTOMER SHALL NOT EXCEED 3  
25 SERVINGS OF NOT MORE THAN 2 OUNCES OF WINE IN A 24-HOUR PERIOD OF  
26 TIME.

27 (8) THE COMMISSION SHALL DEVELOP AN APPLICATION FOR AN ANNUAL

1 FARMER'S MARKET PERMIT ALLOWING FOR LICENSED ACTIVITIES UNDER THIS  
2 SECTION. A FARMER'S MARKET MANAGER SHALL VERIFY ON THE APPLICATION  
3 THAT THE LOCATION LISTED ON THE APPLICATION QUALIFIES AS A FARMER'S  
4 MARKET UNDER THIS SECTION.

5 (9) A WHOLESALER SHALL NOT CONDUCT OR PARTICIPATE IN ANY EVENT  
6 ALLOWED BY THIS SECTION.

7 (10) A HOLDER OF A FARMER'S MARKET PERMIT IS CONSIDERED A  
8 MANUFACTURER AS PROVIDED UNDER SECTION 603(15)(A).

9 (11) AS USED IN THIS SECTION:

10 (A) "FARMER'S MARKET" MEANS A GROUP OF FARMERS OR THEIR  
11 DESIGNEES OR A VARIETY OF VENDORS, AS DETERMINED BY THE FARMER'S  
12 MARKET MANAGER OR HIS OR HER DESIGNEE, WHO ASSEMBLES ON A RECURRING  
13 BASIS AT A DEFINED COMMUNITY SPONSORED OR MUNICIPALLY SPONSORED  
14 LOCATION FOR THE PURPOSES OF SELLING, DIRECTLY TO A CONSUMER, FOOD  
15 AND PRODUCTS PRODUCED BY THOSE FARMERS OR THEIR REPRESENTATIVES.

16 (B) "FARMER'S MARKET MANAGER" MEANS THE PERSON RESPONSIBLE FOR  
17 ENFORCING THE MARKET POLICY AND FOR THE DAILY OPERATION AND  
18 MANAGEMENT OF THE FARMER'S MARKET.

19 (C) "FARMER'S MARKET PERMIT" MEANS AN ANNUAL PERMIT ISSUED AS  
20 PART OF AN APPROVED LICENSE TO A SMALL WINE MAKER OR AN OUT-OF-  
21 STATE ENTITY THAT IS THE SUBSTANTIAL EQUIVALENT OF A SMALL WINE  
22 MAKER ALLOWING THAT PERSON TO CONDUCT TASTINGS AND SELL AT RETAIL,  
23 FOR CONSUMPTION OFF THE LICENSED PREMISES, AT A FARMER'S MARKET,  
24 WINE PRODUCED BY THE SMALL WINE MAKER.

25 Sec. 537. (1) The following classes of vendors may sell  
26 alcoholic liquor at retail as provided in this section:

27 (a) Taverns, where beer and wine may be sold for consumption

1 on the premises only.

2 (b) Class C ~~license~~**LICENSEE**, where beer, wine, mixed spirit  
3 drink, and spirits may be sold for consumption on the premises.

4 (c) Clubs, where beer, wine, mixed spirit drink, and spirits  
5 may be sold for consumption on the premises only to bona fide  
6 members where consumption is limited to these members and their  
7 bona fide guests, who are 21 years of age or older.

8 (d) Direct shippers, where wine may be sold and shipped  
9 directly to the consumer.

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

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

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

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

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

25 (j) Brewpubs, where beer manufactured on the premises by the  
26 licensee may be sold for consumption on or off the premises by any  
27 of the following licensees:

1 (i) Class C.

2 (ii) Tavern.

3 (iii) Class A hotel.

4 (iv) Class B hotel.

5 (k) Micro brewers and brewers, where beer produced by the  
6 micro brewer or brewer may be sold to a consumer for consumption on  
7 or off the brewery premises.

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

12 (m) Class G-2 ~~license~~**LICENSEE**, where beer and wine may be  
13 sold for consumption on the premises only to members required to  
14 pay an annual membership fee and consumption is limited to these  
15 members and their bona fide guests.

16 (n) Motorsports event ~~license~~**LICENSEE**, where beer and wine  
17 may be sold for consumption on the premises during sanctioned  
18 motorsports events only.

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

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

26 (q) Nonpublic continuing care retirement center ~~license~~  
27 **LICENSEE**, where beer, wine, mixed spirit drink, mixed wine drink,

1 and spirits may be sold at retail and served on the licensed  
2 premises to residents and bona fide guests accompanying the  
3 resident for consumption only on the licensed premises.

4 **(R) A SMALL WINE MAKER OR AN OUT-OF-STATE ENTITY THAT IS THE**  
5 **SUBSTANTIAL EQUIVALENT OF A SMALL WINE MAKER, THAT HOLDS A FARMER'S**  
6 **MARKET PERMIT, WHERE WINE MAY BE SAMPLED AND SOLD AT A FARMER'S**  
7 **MARKET FOR CONSUMPTION OFF THE LICENSED PREMISES.**

8 (2) A wine maker may sell wine made by that wine maker in a  
9 restaurant for consumption on or off the premises if the restaurant  
10 is owned by the wine maker or operated by another person under an  
11 agreement approved by the commission and located on the premises  
12 where the wine maker is licensed.

13 (3) A wine maker, with the prior written approval of the  
14 commission, may conduct wine tastings of wines made by that wine  
15 maker on the premises where the wine maker is licensed to  
16 manufacture wine. The wine maker may charge for the samples.

17 (4) A wine maker, with the prior written approval of the  
18 commission, may conduct wine tastings of wines made by that wine  
19 maker and may sell the wine made by that wine maker for consumption  
20 off the premises at a location other than the premises where the  
21 wine maker is licensed to manufacture wine, under the following  
22 conditions:

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

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

27 (c) The wine tasting locations are considered licensed

1 premises, and the wine maker may include a charge for the samples.

2 (d) The wine tasting takes place during the legal hours for  
3 the sale of alcoholic liquor by the licensee.

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

6 (5) Notwithstanding section 1025(1), an outstate seller of  
7 beer, an outstate seller of wine, a wine maker, a brewer, a micro  
8 brewer, or a specially designated merchant, or an agent of any of  
9 those persons, who does not hold a license allowing the consumption  
10 of alcoholic liquor on the premises at the same licensed address,  
11 may conduct beer and wine tastings on the licensed premises of a  
12 specially designated merchant under the following conditions:

13 (a) A customer is not charged for the tasting of beer or wine.

14 (b) The tasting samples provided to a customer do not exceed 3  
15 servings at up to 3 ounces per serving of beer or 3 servings at up  
16 to 2 ounces of wine. A customer shall not be provided more than a  
17 total of 3 samples of beer or wine within a 24-hour period per  
18 licensed premises.

19 (c) The specially designated merchant, outstate seller of  
20 beer, outstate seller of wine, wine maker, micro brewer, or brewer  
21 has first obtained an annual beer and wine tasting permit approved  
22 by the commission.

23 (d) The commission is notified, in writing, a minimum of 10  
24 working days before the event, regarding the date, time, and  
25 location of the event.

26 (6) During the time a beer or wine tasting is conducted under  
27 subsection (5), a specially designated merchant, outstate seller of

1 beer, outstate seller of wine, wine maker, micro brewer, or brewer,  
2 or its agent or employee who has successfully completed a server  
3 training program as provided for in section 906, shall devote full  
4 time to the beer and wine tasting activity and shall perform no  
5 other duties, including the sale of alcoholic liquor for  
6 consumption off the licensed premises. Beer and wine used for the  
7 tasting must come from the specially designated merchant's  
8 inventory, and all open bottles must be removed from the premises  
9 on the same business day or resealed and stored in a locked,  
10 separate storage compartment on the licensed premises when not  
11 being used for the activities allowed by the permit.

12 (7) A wholesaler shall not conduct or participate in beer and  
13 wine tastings allowed under a permit issued under subsection (5).

14 (8) A beer and wine tasting under subsection (5) may only be  
15 conducted during the legal hours for the sale of alcoholic liquor  
16 by the licensee.

17 (9) A brandy manufacturer or small distiller, with the prior  
18 written approval of the commission, may conduct tastings of brandy  
19 and spirits made by that brandy manufacturer or small distiller and  
20 may sell the brandy and spirits made by that brandy manufacturer or  
21 small distiller for consumption off the licensed premises at a  
22 location other than the licensed premises where the brandy  
23 manufacturer or small distiller is licensed to manufacture brandy  
24 or spirits under the following conditions:

25 (a) The premises upon which the brandy and spirits tastings  
26 occur conform to local and state sanitation requirements.

27 (b) Payment of a \$100.00 fee per location is made to the



1 commission.

2 (c) The brandy and spirits tasting locations are considered  
3 licensed premises.

4 (d) The brandy and spirits tasting takes place during the  
5 legal hours for the sale of alcoholic liquor by the licensee.

6 (e) The premises and the license comply with and are subject  
7 to all applicable rules promulgated by the commission.

8 Enacting section 1. This amendatory act takes effect 90 days  
9 after the date it is enacted into law.