

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1138

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 203 (MCL 436.1203), as amended by 2020 PA 106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203. (1) Except as provided in this section and section
2 301, a person shall not sell, deliver, or import alcoholic liquor,
3 including alcoholic liquor for personal use, in this state unless
4 the sale, delivery, or importation is made by the commission, the
5 commission's authorized agent or distributor, an authorized
6 distribution agent approved by order of the commission, a person
7 licensed by the commission, or by prior written order of the
8 commission.

9 (2) Notwithstanding R 436.1011(7) (b) and R 436.1527 of the



1 Michigan Administrative Code and except as provided in subsections
2 (3), (12), (13), (14), (15), and (16), a retailer shall not deliver
3 alcoholic liquor to a consumer in this state at the home or
4 business of the consumer or at any location away from the licensed
5 premises of the retailer. The purpose of this subsection is to
6 exercise this state's authority under section 2 of ~~amendment~~
7 **Amendment** XXI of the ~~constitution~~ **Constitution** of the United
8 States, to maintain the inherent police powers to regulate the
9 transportation and delivery of alcoholic liquor, and to promote a
10 transparent system for the transportation and delivery of alcoholic
11 liquor. The regulation described in this subsection is considered
12 necessary for both of the following reasons:

13 (a) To promote the public health, safety, and welfare.

14 (b) To maintain strong, stable, and effective regulation by
15 having beer and wine sold by retailers to consumers in this state
16 by passing through the 3-tier distribution system established under
17 this act.

18 (3) For purposes of subsection (1), a **qualified** retailer that
19 holds a specially designated merchant license located in this state
20 may use a common carrier to deliver **beer and** wine to a consumer in
21 this state. **A qualified retailer that holds a specially designated**
22 **distributor license located in this state may use a common carrier**
23 **to deliver spirits to a consumer in this state.** A **qualified**
24 retailer that uses a common carrier to deliver **beer, wine, or**
25 **spirits** to a consumer under this subsection shall comply with all
26 of the following:

27 (a) Pay any applicable taxes to the commission and pay any
28 applicable taxes to the department of treasury as directed by the
29 department of treasury. On the request of the department of



1 treasury, a **qualified** retailer shall furnish an affidavit to verify
2 payment.

3 (b) Comply with all laws of this state, including, but not
4 limited to, the prohibition on sales to minors.

5 (c) Verify the age of the individual placing the order by
6 obtaining from him or her a copy of a photo identification issued
7 by this state, another state, or the federal government or by using
8 an identification verification service. The person receiving and
9 accepting the order on behalf of the **qualified** retailer shall
10 record the name, address, date of birth, and telephone number of
11 the individual placing the order on the order form or other
12 verifiable record of a type and generated in a manner approved by
13 the commission and provide a duplicate to the commission.

14 (d) On request of the commission, make available to the
15 commission any document used to verify the age of the individual
16 ordering or receiving the **beer, wine, or spirits** from the **qualified**
17 retailer.

18 (e) Stamp, print, or label on the outside of the shipping
19 container that the package "Contains Alcohol. Must be delivered to
20 a person 21 years of age or older.". The recipient at the time of
21 the delivery shall provide identification verifying his or her age
22 and sign for the delivery.

23 (f) Place a label on the top panel of the shipping container
24 containing the name and address of the individual placing the order
25 and the name of the designated recipient if different from the name
26 of the individual placing the order.

27 (g) **For a qualified retailer that has been issued licenses at**
28 **2 or more locations, the shipment of the wine must be fulfilled**
29 **from the location nearest to the consumer unless that location does**



1 **not have the wine ordered in stock.**

2 (4) For purposes of subsection (1), a direct shipper may sell,
3 deliver, or import wine **other than wine as defined in section**
4 **113(9) (b) or 113a(9) (b)** to consumers in this state by means of any
5 mail order, internet, telephone, computer, device, or other
6 electronic means, or sell directly to a consumer on the winery
7 premises. A direct shipper that sells, delivers, or imports wine to
8 a consumer under this subsection shall comply with all of the
9 following:

10 (a) Hold a direct shipper license.

11 (b) Pay any applicable taxes to the commission and pay any
12 applicable taxes to the department of treasury as directed by the
13 department of treasury. On the request of the department of
14 treasury, a direct shipper shall furnish an affidavit to verify
15 payment.

16 (c) Comply with all laws of this state, including, but not
17 limited to, the prohibition on sales to minors.

18 (d) Verify the age of the individual placing the order by
19 obtaining from him or her a copy of a photo identification issued
20 by this state, another state, or the federal government or by using
21 an identification verification service. The person receiving and
22 accepting the order on behalf of the direct shipper shall record
23 the name, address, date of birth, and telephone number of the
24 individual placing the order on the order form or other verifiable
25 record of a type and generated in a manner approved by the
26 commission and provide a duplicate to the commission.

27 (e) On request of the commission, make available to the
28 commission any document used to verify the age of the individual
29 ordering or receiving the wine from the direct shipper.



1 (f) Stamp, print, or label on the outside of the shipping
2 container that the package "Contains Alcohol. Must be delivered to
3 a person 21 years of age or older.". The recipient at the time of
4 the delivery shall provide photo identification verifying his or
5 her age and sign for the delivery.

6 (g) Place a label on the top panel of the shipping container
7 containing the name and address of the individual placing the order
8 and the name of the designated recipient if different from the name
9 of the individual placing the order. The direct shipper must have
10 received a registration number of approval from the commission for
11 any wine imported into this state. However, the registration number
12 of approval from the commission is not required to be on the
13 invoice or on the label of the wine that the direct shipper sells,
14 delivers, or imports to a consumer in this state.

15 (h) Direct ship not more than 1,500 9-liter cases, or 13,500
16 liters in total, of wine in a calendar year to consumers in this
17 state. If a direct shipper, whether located in this state or
18 outside this state, owns, in whole or in part, or commonly manages
19 1 or more direct shippers, it shall not in combination ship to
20 consumers in this state more than 13,500 liters of wine in the
21 aggregate.

22 (i) Pay wine taxes quarterly and report to the commission
23 quarterly the total amount of wine, by type, brand, and price,
24 shipped to consumers in this state during the preceding calendar
25 quarter, and the order numbers.

26 (j) Authorize and allow the commission and the department of
27 treasury to conduct an audit of the direct shipper's records.

28 (k) Consent and submit to the jurisdiction of the commission,
29 the department of treasury, and the courts of this state concerning



1 enforcement of this section and any related laws, rules, and
2 regulations.

3 **(l) For a direct shipper that is a wine manufacturer as**
4 **described in subsection (10) (b), direct ship only the wine that the**
5 **wine manufacturer has manufactured and registered with the**
6 **commission, wine purchased from another wine manufacturer and**
7 **further manufactured or bottled and registered with the commission,**
8 **or shiners purchased from another manufacturer in compliance with**
9 **section 204a and registered with the commission.**

10 (5) For a delivery of **beer, wine, or spirits** through the use of
11 a common carrier under subsection (3), a person taking the order on
12 behalf of the **qualified** retailer shall comply with subsection
13 (3) (b) to (f). For a sale, delivery, or importation of wine
14 occurring by any means described in subsection (4), a person taking
15 the order on behalf of the direct shipper shall comply with
16 subsection (4) (c) to (g).

17 (6) A person that delivers the wine for a direct shipper under
18 this section shall verify that the individual accepting delivery is
19 21 years of age or older and is the individual who placed the order
20 or the designated recipient, is an individual 21 years of age or
21 older currently occupying or present at the address, or is an
22 individual otherwise authorized through a rule promulgated under
23 this act by the commission to receive alcoholic liquor under this
24 section. If the delivery person, after a diligent inquiry,
25 determines that the purchaser or designated recipient is not 21
26 years of age or older, the delivery person shall return the wine to
27 the direct shipper. A delivery person who returns wine to the
28 direct shipper because the purchaser or designated recipient is not
29 21 years of age or older is not liable for any damages suffered by



1 the purchaser or direct shipper.

2 (7) ~~All~~ **Except as provided in subsection (20), all** spirits for
3 sale, use, storage, or distribution in this state ~~shall~~ **must**
4 originally be purchased by and imported into the state by the
5 commission, or by prior written authority of the commission.

6 (8) This section does not apply to alcoholic liquor brought
7 into this state for personal or household use in an amount
8 permitted by federal law by an individual 21 years of age or older
9 at the time of reentry into this state from outside the territorial
10 limits of the United States if the individual has been outside the
11 territorial limits of the United States for more than 48 hours and
12 has not brought alcoholic liquor into the United States during the
13 preceding 30 days.

14 (9) An individual 21 years of age or older may do either of
15 the following in relation to alcoholic liquor that contains less
16 than 21% alcohol by volume:

17 (a) Personally transport from another state, once in a 24-hour
18 period, not more than 312 ounces of alcoholic liquor for that
19 individual's personal use, notwithstanding subsection (1).

20 (b) Ship or import from another state alcoholic liquor for
21 that individual's personal use if that personal importation is done
22 in compliance with subsection (1).

23 (10) A direct shipper shall not sell, deliver, or import wine
24 **as defined in section 113(9) (a) or 113a(9) (a)** to a consumer unless
25 it applies for and is granted a direct shipper license from the
26 commission. This subsection does not prohibit wine tasting or the
27 selling at retail by a wine maker of wines he or she produced and
28 bottled or wine manufactured for that wine maker by another wine
29 ~~maker, manufacturer,~~ if done in compliance with this act. Only the



1 following persons qualify for the issuance of a direct shipper
2 license:

3 (a) A wine maker **that does not hold a license in another state**
4 **that is the substantial equivalent to a retailer license.**

5 (b) A wine ~~producer and bottler~~ **manufacturer that is** located
6 inside this country but outside of this state ~~holding~~ **and that**
7 **holds** both a federal basic permit issued by the Alcohol and Tobacco
8 Tax and Trade Bureau of the United States Department of Treasury
9 and a license to manufacture wine in its state of domicile.

10 (11) An applicant for a direct shipper license shall submit an
11 application to the commission in a written or electronic format
12 provided by the commission and accompanied by an application and
13 initial license fee of \$100.00. The **initial** application must be
14 accompanied by a copy or other **verifiable** evidence of the existing
15 federal basic permit or license, or both, held by the applicant.
16 The direct shipper may renew its license annually by submission of
17 a license renewal fee of \$100.00 and a completed renewal
18 application. The commission shall use the fees collected under this
19 section to conduct investigations and audits of direct shippers.
20 The failure to renew, or the revocation or suspension of, the
21 applicant's existing Michigan license, federal basic permit, or
22 license to manufacture wine in its state of domicile **or holding the**
23 **substantial equivalent of a retail license not including a direct**
24 **shipper license in a state outside its state of domicile** is grounds
25 for revocation or denial of ~~the~~ **a** direct shipper license. If a
26 direct shipper is found guilty of violating this act or a rule
27 promulgated by the commission, the commission shall notify both the
28 alcoholic liquor control agency in the direct shipper's state of
29 domicile and the Alcohol and Tobacco Tax and Trade Bureau of the



1 United States Department of Treasury of the violation.

2 (12) A retailer that holds a specially designated merchant
3 license, a brewpub, a micro brewer, or an out-of-state entity that
4 is the substantial equivalent of a brewpub or micro brewer may
5 deliver beer and wine to the home or other designated location of a
6 consumer in this state if all of the following conditions are met:

7 (a) The beer or wine, or both, is delivered by the retailer's,
8 brewpub's, or micro brewer's employee.

9 (b) The retailer, brewpub, or micro brewer or its employee who
10 delivers the beer or wine, or both, verifies that the individual
11 accepting delivery is at least 21 years of age.

12 (c) If the retailer, brewpub, or micro brewer or its employee
13 intends to provide service to consumers, the retailer, brewpub, or
14 micro brewer or its employee providing the service has ~~received~~
15 ~~alcohol server training through~~ **successfully completed** a server
16 training program ~~approved by the commission.~~ **as provided for in**
17 **section 906.**

18 (13) A retailer that holds a specially designated merchant
19 license may use a third party that provides delivery service to
20 municipalities in this state that are surrounded by water and
21 inaccessible by motor vehicle to deliver beer and wine to the home
22 or other designated location of that consumer if the delivery
23 service is approved by the commission and agrees to verify that the
24 individual accepting delivery of the beer and wine is at least 21
25 years of age.

26 (14) A retailer that holds a specially designated distributor
27 license may deliver spirits to the home or other designated
28 location of a consumer in this state if all of the following
29 conditions are met:



1 (a) The spirits are delivered by the retailer's employee.

2 (b) The retailer or its employee who delivers the spirits
3 verifies that the individual accepting delivery is at least 21
4 years of age.

5 (c) If the retailer or its employee intends to provide service
6 to consumers, the retailer or its employee providing the service
7 has ~~received alcohol server training through~~ **successfully completed**
8 a server training program ~~approved by the commission.~~ **as provided**
9 **for in section 906.**

10 (15) A **qualified** retailer that holds a specially designated
11 merchant license located in this state may use a third party
12 facilitator service by means of the internet or mobile application
13 to facilitate the sale of beer or wine to be delivered to the home
14 or designated location of a consumer as provided in subsection
15 (12), this subsection, or, for wine only, subsection (3), and a
16 third party facilitator service may deliver beer or wine to a
17 consumer on behalf of a **qualified** retailer that holds a specially
18 designated merchant license located in this state, if all of the
19 following conditions are met:

20 (a) If the third party facilitator service delivers beer or
21 wine under this subsection, the third party facilitator service
22 verifies that the individual accepting the delivery of the beer or
23 wine is at least 21 years of age.

24 (b) A manufacturer, warehouser, wholesaler, outstate seller of
25 beer, outstate seller of wine, **or** supplier of spirits, ~~or outstate~~
26 ~~seller of mixed spirit drink~~ does not have a direct or indirect
27 interest in the third party facilitator service.

28 (c) A manufacturer, warehouser, wholesaler, outstate seller of
29 beer, outstate seller of wine, **or** supplier of spirits, ~~or outstate~~



1 ~~seller of mixed spirit drink~~ does not aid or assist ~~a~~**the** third
2 party facilitator service by gift, loan of money or property of any
3 description, or other valuable thing as defined in section 609, and
4 ~~a~~**the** third party facilitator service does not accept the same.

5 (d) The **qualified** retailer or consumer pays the fees
6 associated with deliveries provided for under this subsection.

7 (e) The third party facilitator service offers services for
8 all brands available at the retail location.

9 (16) A **qualified** retailer that holds a specially designated
10 distributor license located in this state may use a third party
11 facilitator service by means of the internet or mobile application
12 to facilitate the sale of spirits to be delivered to the home or
13 designated location of a consumer as provided in subsection (14) or
14 this subsection, and a third party facilitator service may deliver
15 spirits to a consumer on behalf of a retailer that holds a
16 specially designated distributor license located in this state, if
17 all of the following conditions are met:

18 (a) If the third party facilitator service delivers spirits
19 under this subsection, the third party facilitator service verifies
20 that the individual accepting the delivery of the spirits is at
21 least 21 years of age.

22 (b) A manufacturer, warehouser, wholesaler, outstate seller of
23 beer, outstate seller of wine, **or** supplier of spirits, ~~, or outstate~~
24 ~~seller of mixed spirit drinks~~ does not have a direct or indirect
25 interest in the third party facilitator service.

26 (c) A manufacturer, warehouser, wholesaler, outstate seller of
27 beer, outstate seller of wine, **or** supplier of spirits, ~~, or outstate~~
28 ~~seller of mixed spirit drinks~~ does not aid or assist a third party
29 facilitator service by gift, loan of money or property of any



1 description, or other valuable thing as defined in section 609, and
2 a third party facilitator service does not accept the same.

3 (d) The **qualified** retailer or consumer pays the fees
4 associated with deliveries provided for under this subsection.

5 (e) The third party facilitator service offers services for
6 all brands available at the retail location.

7 (17) A third party facilitator service shall not deliver beer,
8 wine, or spirits to a consumer under subsection (15) or (16), as
9 applicable, and shall not facilitate the sale of beer, wine, or
10 spirits under subsection (15) or (16), as applicable, unless it
11 applies for and is granted a third party facilitator service
12 license by the commission. The commission may charge a reasonable
13 application fee, initial license fee, and annual license renewal
14 fee. The commission shall establish a fee under this subsection by
15 written order.

16 (18) If a third party facilitator service used by a retailer
17 that holds a specially designated merchant or specially designated
18 distributor license under subsection (15) or (16), as applicable,
19 violates this section, the commission shall not treat the third
20 party facilitator service's violation as a violation by the
21 retailer.

22 (19) A common carrier that carries or transports alcoholic
23 liquor into this state to a person in this state shall submit
24 quarterly reports to the commission. A report required under this
25 subsection must include all of the following about each delivery to
26 a consumer in this state during the preceding calendar quarter:

27 (a) The name and business address of the person that ships **the**
28 alcoholic liquor.

29 (b) The name and address of the recipient of **the** alcoholic



1 liquor.

2 (c) The weight of **the** alcoholic liquor delivered to a
3 consignee.

4 (d) The date of the delivery.

5 (20) For purposes of subsection (1), a qualified small
6 distiller or an out-of-state entity that is the substantial
7 equivalent of a qualified small distiller may sell and deliver
8 spirits that it manufactured to a retailer licensed to purchase and
9 sell spirits in this state if all of the following conditions are
10 met:

11 (a) The spirits are sold and delivered by an employee of the
12 qualified small distiller or an out-of-state entity that is the
13 substantial equivalent of a qualified small distiller, not an
14 agent, and are transported and delivered using a vehicle owned by
15 the qualified small distiller or the out-of-state entity that is
16 the substantial equivalent of a qualified small distiller.

17 (b) The qualified small distiller or an out-of-state entity
18 that is the substantial equivalent of a qualified small distiller
19 complies with all applicable state and federal law and applicable
20 regulatory provisions of this act and rules adopted by the
21 commission under this act including, but not limited to, those
22 requirements related to each of the following:

23 (i) Employees that sell and deliver spirits to retailers.

24 (ii) Vehicles used to deliver spirits to retailers.

25 (iii) Uniform pricing established by the commission under
26 section 233.

27 (iv) Labeling and registration of spirits under R 436.1829 of
28 the Michigan Administrative Code.

29 (v) Payment of taxes.



1 **(c) The spirits are not listed in the State of Michigan price**
2 **book.**

3 **(21)** ~~(20)~~—A common carrier described in subsection (19) shall
4 maintain the books, records, and documents supporting a report
5 submitted under subsection (19) for 3 years unless the commission
6 notifies the common carrier in writing that the books, records, and
7 supporting documents may be destroyed. Within 30 days after the
8 commission's request, the common carrier shall make the books,
9 records, and documents available for inspection during normal
10 business hours. Within 30 days after a local law enforcement
11 agency's or local governmental unit's request, the common carrier
12 shall also make the books, records, and documents available for
13 inspection to a local law enforcement agency or local governmental
14 unit where the carrier resides or does business.

15 **(22)** ~~(21)~~—A third party facilitator service that delivers
16 beer, wine, or spirits to a consumer under subsection (15) or (16),
17 as applicable, shall submit quarterly reports to the commission. A
18 report required under this subsection must include all of the
19 following about each delivery to a consumer in this state during
20 the preceding calendar quarter:

21 (a) The name and business address of the person that ships
22 beer, wine, or spirits.

23 (b) The name and address of the recipient of beer, wine, or
24 spirits.

25 (c) The weight of beer, wine, or spirits delivered to a
26 consignee.

27 (d) The date of the delivery.

28 **(23)** ~~(22)~~—A third party facilitator service shall maintain the
29 books, records, and documents supporting a report submitted under



1 subsection ~~(21)~~ **(22)** for 3 years unless the commission notifies the
 2 third party facilitator service in writing that the books, records,
 3 and supporting documents may be destroyed. Within 30 days after the
 4 commission's request, the third party facilitator service shall
 5 make the books, records, and documents available for inspection
 6 during normal business hours. Within 30 days after a local law
 7 enforcement agency's or local governmental unit's request, the
 8 third party facilitator service shall also make the books, records,
 9 and documents available for inspection to a local law enforcement
 10 agency or local governmental unit where the third party facilitator
 11 service resides or does business.

12 **(24)** ~~(23)~~—A report submitted under subsection (19) or ~~(21)~~
 13 **(22)** is subject to disclosure under the freedom of information act,
 14 1976 PA 442, MCL 15.231 to 15.246.

15 **(25)** ~~(24)~~—As used in this section:

16 (a) "Common carrier" means a company that transports goods, on
 17 reasonable request, on regular routes and at set rates.

18 (b) "Computer" means any connected, directly interoperable or
 19 interactive device, equipment, or facility that uses a computer
 20 program or other instructions to perform specific operations
 21 including logical, arithmetic, or memory functions with or on
 22 computer data or a computer program and that can store, retrieve,
 23 alter, or communicate the results of the operations to a person,
 24 computer program, computer, computer system, or computer network.

25 (c) "Computer network" means the interconnection of hardware
 26 or wireless communication lines with a computer through remote
 27 terminals, or a complex consisting of 2 or more interconnected
 28 computers.

29 (d) "Computer program" means a series of internal or external



1 instructions communicated in a form acceptable to a computer that
 2 directs the functioning of a computer, computer system, or computer
 3 network in a manner designed to provide or produce products or
 4 results from the computer, computer system, or computer network.

5 (e) "Computer system" means a set of related, connected or
 6 unconnected, computer equipment, devices, software, or hardware.

7 (f) "Consumer" means an individual who purchases beer, wine,
 8 or spirits for personal consumption and not for resale.

9 (g) "Device" includes, but is not limited to, an electronic,
 10 magnetic, electrochemical, biochemical, hydraulic, optical, or
 11 organic object that performs input, output, or storage functions by
 12 the manipulation of electronic, magnetic, or other impulses.

13 (h) "Diligent inquiry" means a diligent good faith effort to
 14 determine the age of an individual, that includes at least an
 15 examination of an official Michigan operator's or chauffeur's
 16 license, an official Michigan personal identification card, or any
 17 other bona fide picture identification that establishes the
 18 identity and age of the individual.

19 (i) "Direct shipper" means ~~a person who~~ **either of the**
 20 **following:**

21 (i) **A wine manufacturer that** sells, delivers, or imports wine
 22 **other than wine as defined in section 113(9)(b) or 113a(9)(b) it**
 23 **has manufactured, bottled, and registered with the commission,** to
 24 consumers in this state, ~~that he or she produces and bottles or~~
 25 ~~wine that is manufactured by a wine maker for another wine maker~~
 26 ~~and that is transacted or caused to be transacted through the use~~
 27 of any mail order, internet, telephone, computer, device, or other
 28 electronic means, or sells directly to consumers on the winery
 29 premises.



1 (ii) A wine manufacturer that purchases wine other than wine as
 2 defined in section 113(9)(b) or 113a(9)(b) from another wine
 3 manufacturer and further manufactures or bottles the wine or
 4 purchases shiners of wine other than wine as defined in section
 5 113(9)(b) or 113a(9)(b) from another wine manufacturer in
 6 compliance with section 204a, registers the wine with the
 7 commission and sells the wine to consumers in this state that is
 8 transacted or caused to be transacted through the use of any mail
 9 order, internet, telephone, computer, device, or other electronic
 10 means, or sells directly to consumers on the winery premises.

11 (j) "Facilitate" means, subject to subdivision (k),
 12 advertising on behalf of a retailer, by means of the internet or
 13 mobile application, and pursuant to a written or oral agreement,
 14 the brands and prices of beer, wine, or spirits products sold by a
 15 retailer and 1 or more of the following:

16 (i) Assisting the retailer, in any manner, in the arrangement
 17 of delivery as allowed in this section.

18 (ii) Assisting the retailer, in any manner, in the processing
 19 of payment by the consumer for the beer, wine, or spirits.

20 (iii) Transmitting customer information to the retailer.

21 (iv) Assisting the retailer by providing customer service.

22 (v) If the retailer maintains supervision and control over the
 23 day-to-day operation of its business, providing other normal and
 24 customary operational services.

25 (k) "Facilitate" does not include web designing, operating an
 26 internet search engine, or publishing an internet version of a
 27 newspaper.

28 (l) "Identification verification service" means an internet-
 29 based service approved by the commission specializing in age and



1 identity verification.

2 (m) "Mobile application" means a specialized software program
3 downloaded onto a wireless communication device.

4 (n) "Qualified retailer" means a retailer licensed to sell
5 alcoholic liquor for consumption off the premises that complies
6 with all of the following:

7 (i) The retailer maintains physical licensed premises that are
8 open to the general public for face to face sales transactions of
9 alcoholic liquor, packaged food, and other products to consumers.

10 (ii) At least 25% of the retailer's annual gross sales of
11 alcoholic liquor must be from face to face sales transactions with
12 consumers on the premises described in subparagraph (i) unless the
13 retailer's physical licensed premises is less than 15,000 square
14 feet in total.

15 (iii) The retailer holds and maintains either of the following
16 for the premises described in subparagraph (i):

17 (A) A retail food establishment license issued under the food
18 law, 2000 PA 92, MCL 289.1101 to 289.8111. As used in this sub-
19 subparagraph, "retail food establishment" means that term as
20 defined in section 1111 of the food law, 2000 PA 92, MCL 289.1111.

21 (B) An extended retail food establishment license issued under
22 the food law, 2000 PA 92, MCL 289.1101 to 289.8111. As used in this
23 sub-subparagraph, "extended retail food establishment" means that
24 term as defined in section 1107 of the food law, 2000 PA 92, MCL
25 289.1107.

26 (o) "Qualified small distiller" means a small distiller, or an
27 out-of-state entity that is the substantial equivalent of a small
28 distiller, that sells under 3,000 gallons of spirits per calendar
29 year to retailers located in this state or out-of-state entities



1 that are the substantial equivalent of retailers. If a small
2 distiller or an out-of-state entity that is the substantial
3 equivalent of a qualified small distiller manufactures spirits at
4 more than 1 location, the total number of gallons of spirits sold
5 to retailers or out-of-state entities that are the substantial
6 equivalent of retailers from all locations must be combined to
7 determine the 3,000-gallon threshold.

8 (p) ~~(n)~~—"Third party facilitator service" means a person
9 licensed by the commission to do any of the following:

10 (i) Facilitate the sale of beer or wine to a consumer as
11 provided in subsection (15) on behalf of a **qualified** retailer that
12 holds a specially designated merchant license located in this
13 state.

14 (ii) Facilitate the sale of spirits to a consumer as provided
15 in subsection (16) on behalf of a **qualified** retailer that holds a
16 specially designated distributor license located in this state.

17 (iii) Deliver beer or wine to a consumer as provided in
18 subsection (15) on behalf of a **qualified** retailer that holds a
19 specially designated merchant license located in this state.

20 (iv) Deliver spirits to a consumer as provided in subsection
21 (16) on behalf of a **qualified** retailer that holds a specially
22 designated distributor license located in this state.

23 Enacting section 1. This amendatory act does not take effect
24 unless all of the following bills of the 100th Legislature are
25 enacted into law:

26 (a) Senate Bill No. 1139.

27 (b) Senate Bill No. 1140.

