

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)
Act 58 of 1998

***** 436.1113 THIS SECTION IS REPEALED BY ACT 269 OF 2005 EFFECTIVE WHEN CONDITIONS APPLIED BY ENACTING SECTION 2(1) OF ACT 269 OF 2005 ARE MET: See compiler's note following section *****

***** 436.1113.amended THIS AMENDED SECTION IS EFFECTIVE AUGUST 23, 2021 *****

436.1113.amended Definitions; T to W.

Sec. 113. (1) "Tasting room" means any of the following locations:

(a) A location on the manufacturing premises of a brewer or micro brewer where the brewer or micro brewer may provide samples of or sell at retail for consumption on or off the premises, or both, beer it manufactures.

(b) A location on or off the manufacturing premises of a wine maker or small wine maker where the wine maker or small wine maker may provide samples of or sell at retail for consumption on or off the premises, or both, shiners, wine it manufactured, or, for a small wine maker only, wine it bottled.

(c) A location on or off the manufacturing premises of a distiller or small distiller where the distiller or small distiller may provide samples of or sell at retail for consumption on or off the premises, or both, spirits it manufactured.

(d) A location on the manufacturing premises of a mixed spirit drink manufacturer where the mixed spirit drink manufacturer may provide samples of or sell at retail for consumption on or off the premises, or both, mixed spirit drinks it manufactured.

(e) A location on or off the manufacturing premises of a brandy manufacturer where the brandy manufacturer may provide samples of or sell at retail for consumption on or off the premises, or both, brandy it manufactured.

(2) "Tavern" means any place licensed to sell at retail beer, wine, or mixed spirit drink for consumption on the premises only.

(3) "Vehicle" means any means of transportation by land, by water, or by air.

(4) "Vendor" means a person licensed by the commission to sell alcoholic liquor.

(5) "Vendor of spirits" means a person selling spirits to the commission.

(6) "Warehouse" means a premises or place primarily constructed, used, or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of a warehousing business, or for both.

(7) "Warehouser" means a licensee authorized by the commission to store alcoholic beverages, but prohibited from making sales or deliveries to retailers unless the licensee is also the holder of a wholesaler or manufacturer license issued by the commission.

(8) "Wholesaler" means a person that is licensed by the commission and sells beer, wine, or mixed spirit drink only to retailers or other licensees, and that sells sacramental wine as provided in section 301. A wholesaler includes a person that may also act as a master distributor unless prohibited from doing so by its supplier or manufacturer in a written agreement required by either section 305(3)(i) or 403(3)(i) and, by mutual agreement with an outstate seller of beer, wine, or mixed spirit drink, can be authorized by the outstate seller of beer, wine, or mixed spirit drink to do, in the manner prescribed by the commission, either or both of the following:

(a) Register with this state the labels of the outstate seller of beer, wine, or mixed spirit drink.

(b) On behalf of the outstate seller of beer, wine, or mixed spirit drink collect excise taxes levied by this state and remit the taxes to the commission.

(9) "Wine" means a product manufactured by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including cider made from apples or pears, or both, that contains at least 1/2 of 1% of alcohol by volume, or mead or honey wine made from honey, fermented fruit juices other than grapes, and mixed wine drinks.

(10) "Wine maker" means a person licensed by the commission to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, to sell that wine to a retailer, and as provided for in section 537.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005;—Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010;—Am. 2018, Act 405, Imd. Eff. Dec. 19, 2018;—Am. 2021, Act 19, Eff. Aug. 23, 2021.

Constitutionality: In *Granholm v Heald*, 544 US 460 (2005), the United States Supreme Court held that Michigan laws regulating direct shipment of alcohol to in-state consumers discriminated against interstate commerce in violation of clause 3 of section 8 of article 1

of the United States Constitution, and that the powers granted to states under the 21st Amendment to the United States Constitution do not authorize violation of other constitutional provisions.

Compiler's note: Enacting sections 2 and 3 of Act 269 of 2005 provide:

"Enacting section 2. (1) If any provision of section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, as amended by this amendatory act, is held to be unconstitutional by a court of competent jurisdiction and the allowable time for filing an appeal has expired or the appellant has exhausted all of his or her avenues of appeal, section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, is repealed.

"(2) Section 113a of the Michigan liquor control code of 1998, 1998 PA 58, as added by this amendatory act, shall not take effect unless section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, is held unconstitutional or repealed pursuant to subsection (1).

"Enacting section 3. If an appellate court declares this amendatory act unconstitutional, then it is the intent of the legislature that a good faith effort be made to amend section 305 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1305, to make it less burdensome for a small winery to terminate an agreement with a wholesaler."