

SENATE BILL No. 349

May 24, 2019, Introduced by Senators VANDERWALL, VICTORY, HERTEL, STAMAS, WOJNO, MACDONALD, BUMSTEAD, BIZON, HORN and ZORN 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 233 (MCL 436.1233).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 233. (1) The commission shall establish uniform prices
 2 for the sale of alcoholic liquor ~~in state liquor stores and by~~
 3 specially designated distributors. ~~The~~ **EXCEPT AS OTHERWISE PROVIDED**
 4 **IN THIS SECTION, THE** prices ~~shall~~ **MUST** return a gross profit to the
 5 commission of not less than 51% and not greater than 65%. If
 6 alcoholic liquor purchased by the commission has not met sales
 7 standards established by the commission for a period of 6 months,
 8 the commission may sell the alcoholic liquor at a price to be
 9 approved by the state administrative board.

10 (2) Notwithstanding subsection (1), the commission may
 11 establish by rule prices for the sale of alcoholic liquor to

1 hospitals, charitable institutions, and military establishments
2 located in this state.

3 ~~(3) There shall be allowed a discount of 17% deducted from the~~
4 ~~sale price established by the commission on the sale of~~ **SPECIALLY**
5 **DESIGNATED DISTRIBUTORS AND ON-PREMISES LICENSEES ARE ENTITLED TO A**
6 **17% DISCOUNT FROM THE UNIFORM PRICE DESCRIBED UNDER SUBSECTION (1)**
7 **ON alcoholic liquor made by the** ~~PURCHASED FROM THIS~~ state. ~~liquor~~
8 ~~stores to specially designated distributors and establishments~~
9 ~~licensed to sell for consumption on the premises.~~

10 **(4) NOT LATER THAN FEBRUARY 1, 2020 AND EACH FEBRUARY 1**
11 **THEREAFTER, A SMALL DISTILLER OR AN OUT-OF-STATE ENTITY THAT IS THE**
12 **SUBSTANTIAL EQUIVALENT OF A SMALL DISTILLER MAY FILE AN APPLICATION**
13 **WITH THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT TO BE**
14 **CERTIFIED AS A QUALIFIED SMALL DISTILLER. AN APPLICATION UNDER THIS**
15 **SUBSECTION MUST BE ON A FORM PRESCRIBED AND FURNISHED BY THE**
16 **DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT. THE DEPARTMENT OF**
17 **AGRICULTURE AND RURAL DEVELOPMENT MAY CHARGE A REASONABLE**
18 **CERTIFICATION FEE.**

19 **(5) BEGINNING JANUARY 1, 2021, FOR EACH BOTTLE OF SPIRITS**
20 **PRODUCED BY A QUALIFIED SMALL DISTILLER OF WHICH AT LEAST 40% OF**
21 **THE BASE DISTILLATE IS DISTILLED FROM GRAIN GROWN AND HARVESTED IN**
22 **THIS STATE AS DETERMINED BY THE DEPARTMENT OF AGRICULTURE AND RURAL**
23 **DEVELOPMENT, THE PRICE FOR EACH BOTTLE MUST RETURN A GROSS PROFIT**
24 **TO THE COMMISSION OF 32.5%.**

25 **(6) THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT SHALL**
26 **CERTIFY THAT AN APPLICANT UNDER SUBSECTION (4) IS A QUALIFIED SMALL**
27 **DISTILLER IF THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT**

1 DETERMINES THAT THE BASE DISTILLATE OF THE SMALL DISTILLER OR THE
2 OUT-OF-STATE ENTITY THAT IS THE SUBSTANTIAL EQUIVALENT OF A SMALL
3 DISTILLER IS AT LEAST 40% DISTILLED FROM DISTILLED GRAIN GROWN AND
4 HARVESTED IN THIS STATE.

5 (7) NOT LATER THAN OCTOBER 1, 2020 AND EACH OCTOBER 1
6 THEREAFTER, THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT
7 SHALL SUBMIT A REPORT TO THE COMMISSION. A REPORT UNDER THIS
8 SUBSECTION MUST INCLUDE THE NAME OF EACH QUALIFIED SMALL DISTILLER
9 CERTIFIED UNDER SUBSECTION (6).

10 (8) A QUALIFIED SMALL DISTILLER CERTIFICATE EXPIRES ON
11 FEBRUARY 1 FOLLOWING THE DATE OF ISSUANCE.

12 (9) A SMALL DISTILLER OR AN OUT-OF-STATE ENTITY THAT IS THE
13 SUBSTANTIAL EQUIVALENT OF A SMALL DISTILLER THAT SUPPLIES FALSE
14 INFORMATION TO THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT
15 OR THE COMMISSION UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR
16 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
17 NOT MORE THAN \$3,000.00, OR BOTH. A SMALL DISTILLER OR AN OUT-OF-
18 STATE ENTITY THAT IS THE SUBSTANTIAL EQUIVALENT OF A SMALL
19 DISTILLER THAT SUPPLIES FALSE INFORMATION AS DESCRIBED IN THIS
20 SUBSECTION SHALL PAY THE COMMISSION THE DIFFERENCE BETWEEN THE
21 GROSS PROFIT THE COMMISSION WOULD HAVE RECEIVED UNDER SUBSECTION
22 (1) IF THE SMALL DISTILLER OR THE OUT-OF-STATE ENTITY THAT IS THE
23 SUBSTANTIAL EQUIVALENT OF A SMALL DISTILLER WAS NOT A QUALIFIED
24 SMALL DISTILLER, AS DETERMINED BY THE COMMISSION.

25 (10) A QUALIFIED SMALL DISTILLER SHALL KEEP A COMPLETE AND
26 ACCURATE SET OF RECORDS AND ACCOUNTS OF ALL TRANSACTIONS PERTAINING
27 TO THE OPERATION OF ITS DISTILLERY, INCLUDING, BUT NOT LIMITED TO,

1 RECORDS AND ACCOUNTS OF ALL DISTILLED GRAIN RECEIVED IN OR
2 WITHDRAWN FROM THE DISTILLERY, ALL ACKNOWLEDGMENT FORMS AND
3 MICHIGAN CERTIFICATION OF ORIGINATION STATEMENTS IN THE QUALIFIED
4 SMALL DISTILLER'S POSSESSION, COPIES OF ALL CONTRACTS, AND
5 ACKNOWLEDGMENT FORMS RETURNED TO AND SETTLED BY THE QUALIFIED SMALL
6 DISTILLER. THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT AND
7 THE COMMISSION MAY EXAMINE THE RECORDS AND ACCOUNTS PERTAINING TO
8 THE QUALIFIED SMALL DISTILLER'S DISTILLED GRAIN HANDLING BUSINESS
9 AT ANY TIME DURING NORMAL BUSINESS HOURS.

10 (11) AS USED IN THIS SECTION:

11 (A) "ACKNOWLEDGMENT FORM" MEANS A SCALE WEIGHT TICKET, A LOAD
12 SLIP, OR ANY OTHER EVIDENCE OF DEPOSIT ISSUED BY A SMALL DISTILLER,
13 AN OUT-OF-STATE ENTITY THAT IS THE SUBSTANTIAL EQUIVALENT OF A
14 SMALL DISTILLER, OR THE AUTHORIZED REPRESENTATIVE OF A SMALL
15 DISTILLER OR OUT-OF-STATE ENTITY THAT IS THE SUBSTANTIAL EQUIVALENT
16 OF A SMALL DISTILLER TO A DEPOSITOR THAT IDENTIFIES THE DISTILLED
17 GRAIN BEING TRANSFERRED FROM POSSESSION OF THE DEPOSITOR TO THE
18 POSSESSION OF THE SMALL DISTILLER OR THE OUT-OF-STATE ENTITY THAT
19 IS THE SUBSTANTIAL EQUIVALENT OF A SMALL DISTILLER.

20 (B) "DEPOSITOR" MEANS EITHER OF THE FOLLOWING:

21 (i) A PERSON THAT DELIVERS DISTILLED GRAIN TO A SMALL
22 DISTILLER OR AN OUT-OF-STATE ENTITY THAT IS THE SUBSTANTIAL
23 EQUIVALENT OF A SMALL DISTILLER FOR STORAGE, PROCESSING, SHIPMENT,
24 OR SALE AND THAT HAS TITLE TO DISTILLED GRAIN AT THE TIME OF
25 DELIVERY.

26 (ii) A PERSON THAT OWNS OR THAT IS THE LEGAL HOLDER OF AN
27 ACKNOWLEDGMENT FORM ISSUED BY A DEPOSITOR FOR DISTILLED GRAIN.

1 (C) "DISTILLED GRAIN" MEANS ANY OF THE FOLLOWING:

2 (i) DRY BARLEY.

3 (ii) MALTED BARLEY.

4 (iii) OATS.

5 (iv) A SMALL GRAIN.

6 (v) A CEREAL GRAIN.

7 (vi) POTATO.

8 (vii) CORN.

9 (viii) FRUIT.

10 (ix) SUGAR BEETS.

11 (x) HONEY.

12 (D) "MICHIGAN CERTIFICATION OF ORIGINATION STATEMENT" MEANS A
13 SIGNED STATEMENT FROM A DEPOSITOR OR PRODUCER ON AN ACKNOWLEDGEMENT
14 FORM THAT DEPOSITED DISTILLED GRAIN WAS GROWN AND HARVESTED IN THIS
15 STATE.

16 (E) "QUALIFIED SMALL DISTILLER" MEANS A SMALL DISTILLER OR AN
17 OUT-OF-STATE ENTITY THAT IS THE SUBSTANTIAL EQUIVALENT OF A SMALL
18 DISTILLER CERTIFIED BY THE DEPARTMENT OF AGRICULTURE AND RURAL
19 DEVELOPMENT UNDER THIS SECTION AS HAVING AT LEAST 40% OF THE BASE
20 DISTILLATE OF THE SMALL DISTILLER OR THE OUT-OF-STATE ENTITY THAT
21 IS THE SUBSTANTIAL EQUIVALENT OF A SMALL DISTILLER DISTILLED FROM
22 DISTILLED GRAIN GROWN AND HARVESTED IN THIS STATE.