

**SUBSTITUTE FOR
HOUSE BILL NO. 5345**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 409 (MCL 436.1409), as amended by 2014 PA 48.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 409. (1) Except as provided in this section, the
2 commission shall levy and collect a tax on all beer manufactured or
3 sold in this state at the rate of \$6.30 per barrel if the beer is
4 sold in bulk or in different quantities. Before February 1, 2015,
5 the tax ~~shall~~**must** be paid by the brewer or brewpub if manufactured
6 in this state or by the wholesaler or the person from whom
7 purchased if manufactured outside this state, whichever is
8 designated by the commission.

9 (2) Beginning on and after February 1, 2015, the tax ~~shall~~



1 **under this section must** be paid by the brewer or brewpub if the
 2 beer is manufactured in this state or if the beer is manufactured
 3 outside this state the tax ~~shall~~**must** be paid by the wholesaler
 4 assigned to distribute that beer and the tax ~~shall~~**must** be levied
 5 and collected on the number of barrels the wholesaler actually sold
 6 to licensed retailers in this state. A brewer may designate a
 7 wholesaler to pay the tax on behalf of the brewer. If a brewer
 8 designates a wholesaler to pay the tax on its behalf, the brewer
 9 shall notify the commission of the designation and provide the
 10 commission with a copy of its brewer's report of operations that it
 11 filed with the ~~alcohol~~**Alcohol** and ~~tobacco tax~~**Tobacco Tax** and
 12 ~~trade bureau~~**Trade Bureau** of the United States ~~department~~
 13 **Department** of ~~treasury~~**Treasury** for each calendar year.

14 (3) The commission shall establish by rule a method for the
 15 collection of the tax levied under subsection (1) and reporting
 16 requirements for wholesalers, brewers, brewpubs, and outstate
 17 sellers of beer to verify the remission of taxes to this state. ~~The~~
 18 **Except as otherwise provided in this subsection, the** commission
 19 shall not require that the tax be paid in less than monthly
 20 intervals. **Beginning March 15, 2020, the commission shall not**
 21 **require that the tax be paid in less than quarterly intervals.** The
 22 rules ~~shall~~**under this section must** be promulgated pursuant to the
 23 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 24 24.328.

25 (4) The tax levied ~~in~~**under** subsection (1) ~~shall~~**must** not be
 26 collected on beer that is consumed on the premises of the
 27 manufacturer or is damaged in the process of brewing, packaging,
 28 storage, and distribution and is not offered for sale, except that
 29 beer sold by a brewpub for consumption on the premises or beer



1 produced and consumed on the premises of a micro brewer is subject
2 to the tax levied under subsection (1).

3 (5) The tax levied under subsection (1) ~~shall~~**must** be rebated
4 to the person that paid the tax if ~~that~~**the** person provides
5 satisfactory proof to the commission that the beer was shipped
6 outside of this state for sale and consumption outside this state.

7 (6) For the purposes of the tax levied under subsection (1), a
8 barrel of beer contains 31 gallons.

9 (7) The commission may promulgate a rule that designates the
10 states or the laws or the rules of other states that require a
11 licensed wholesaler of beer to pay an additional fee for the right
12 to purchase, import, or sell beer manufactured in this state; that
13 denies the issuance of a license authorizing the importation of
14 beer to any wholesaler of beer in that state who applies for the
15 license; that prohibits wholesalers of beer in that state from
16 possessing or selling beer purchased in this state, unless the
17 person from whom the beer was purchased has secured a license and
18 paid a fee in that state, if the seller does not transport the beer
19 into the state and does not sell the beer in the state; or that
20 imposes any higher taxes or inspection fees ~~upon~~**on** beer
21 manufactured in this state when transporting the beer into or
22 selling the beer in that state than taxes or fees imposed ~~upon~~**on**
23 beer manufactured and sold within that state. A rule promulgated
24 under this subsection ~~shall~~**must** prohibit all licensees from
25 purchasing, receiving, possessing, or selling any beer manufactured
26 in any state designated in the rule. A rule promulgated under this
27 subsection becomes effective as provided in section 47 of the
28 administrative procedures act of 1969, 1969 PA 306, MCL 24.247. Any
29 licensee or person adversely affected by a rule promulgated under



1 this subsection is entitled to review by leave to a court of
 2 competent jurisdiction regarding the question as to whether the
 3 commission acted illegally or in excess of its authority in making
 4 its finding under this subsection with respect to any state.

5 (8) Regardless of whether the tax was remitted to this state
 6 by the eligible brewer or a designated wholesaler, an eligible
 7 brewer may claim a credit or request a refund, in a manner as
 8 determined by the commission, against the tax levied under
 9 subsection (1) in the amount of \$2.00 per barrel for the first
 10 30,000 barrels. As used in this subsection, "eligible brewer" means
 11 a brewer, whether or not located in this state, or brewpub that
 12 manufactures not more than ~~50,000~~ **60,000** barrels of beer during the
 13 tax year for which the credit is claimed. In determining the number
 14 of barrels for purposes of the credit, all brands and labels of a
 15 brewer ~~shall~~ **must** be combined and all facilities for the production
 16 of beer that are owned or controlled by the same person ~~shall be~~ **is**
 17 treated as a single facility.

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

- 21 (a) House Bill No. 5341.
- 22 (b) House Bill No. 5342.
- 23 (c) House Bill No. 5343.
- 24 (d) House Bill No. 5344.
- 25 (e) House Bill No. 5346.
- 26 (f) House Bill No. 5347.
- 27 (g) House Bill No. 5348.
- 28 (h) House Bill No. 5349.
- 29 (i) House Bill No. 5350.



- 1 (j) House Bill No. 5351.
- 2 (k) House Bill No. 5352.
- 3 (l) House Bill No. 5353.
- 4 (m) House Bill No. 5354.
- 5 (n) House Bill No. 5355.
- 6 (o) House Bill No. 5400.

