

Act No. 109  
Public Acts of 2020  
Approved by the Governor  
July 1, 2020  
Filed with the Secretary of State  
July 1, 2020  
EFFECTIVE DATE: July 1, 2020

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Reps. Wentworth, Hall, Cambensy, Garza and Wendzel

# **ENROLLED HOUSE BILL No. 5345**

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending section 409 (MCL 436.1409), as amended by 2014 PA 48.

*The People of the State of Michigan enact:*

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

(2) Beginning on and after February 1, 2015, the tax under this section must be paid by the brewer or brewpub if the beer is manufactured in this state or if the beer is manufactured outside this state the tax must be paid by the wholesaler assigned to distribute that beer and the tax must be levied and collected on the number of barrels the wholesaler actually sold to licensed retailers in this state. A brewer may designate a wholesaler to pay the tax on behalf of the brewer. If a brewer designates a wholesaler to pay the tax on its behalf, the brewer shall notify the commission of the designation and provide the commission with a copy of its brewer's report of operations that it filed with the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury for each calendar year.

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

(4) The tax levied under subsection (1) must not be collected on beer that is consumed on the premises of the manufacturer or is damaged in the process of brewing, packaging, storage, and distribution and is not offered for sale, except that beer sold by a brewpub for consumption on the premises or beer produced and consumed on the premises of a micro brewer is subject to the tax levied under subsection (1).

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

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

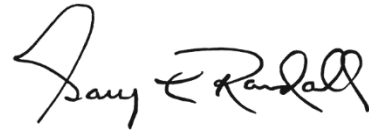
(7) The commission may promulgate a rule that designates the states or the laws or the rules of other states that require a licensed wholesaler of beer to pay an additional fee for the right to purchase, import, or sell beer manufactured in this state; that denies the issuance of a license authorizing the importation of beer to any wholesaler of beer in that state who applies for the license; that prohibits wholesalers of beer in that state from possessing or selling beer purchased in this state, unless the person from whom the beer was purchased has secured a license and paid a fee in that state, if the seller does not transport the beer into the state and does not sell the beer in the state; or that imposes any higher taxes or inspection fees on beer manufactured in this state when transporting the beer into or selling the beer in that state than taxes or fees imposed on beer manufactured and sold within that state. A rule promulgated under this subsection must prohibit all licensees from purchasing, receiving, possessing, or selling any beer manufactured in any state designated in the rule. A rule promulgated under this subsection becomes effective as provided in section 47 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.247. Any licensee or person adversely affected by a rule promulgated under this subsection is entitled to review by leave to a court of competent jurisdiction regarding the question as to whether the commission acted illegally or in excess of its authority in making its finding under this subsection with respect to any state.

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

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

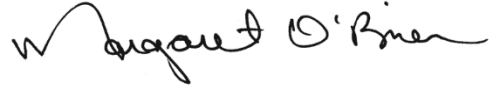
- (a) House Bill No. 5341.
- (b) House Bill No. 5342.
- (c) House Bill No. 5343.
- (d) House Bill No. 5344.
- (e) House Bill No. 5346.
- (f) House Bill No. 5347.
- (g) House Bill No. 5348.
- (h) House Bill No. 5349.
- (i) House Bill No. 5350.
- (j) House Bill No. 5351.
- (k) House Bill No. 5352.
- (l) House Bill No. 5353.
- (m) House Bill No. 5354.
- (n) House Bill No. 5355.
- (o) House Bill No. 5400.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved \_\_\_\_\_

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Governor