

HOUSE BILL No. 5873

September 14, 2016, Introduced by Rep. Hooker 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 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~~ **FOLLOWING RATES** per barrel
4 if the beer is sold in bulk or in different quantities: -
5 **(A) THROUGH DECEMBER 31, 2016, \$6.30 PER BARREL.**
6 **(B) BEGINNING JANUARY 1, 2017, \$21.70 PER BARREL.**
7 **(C) BEGINNING WITH THE RATE EFFECTIVE JANUARY 1, 2018 AND**
8 **JANUARY 1 OF EACH EVEN YEAR THEREAFTER, THE COMMISSION SHALL**
9 **DETERMINE THE PER BARREL RATE BY MULTIPLYING THE RATE IN EFFECT**
10 **DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR BY THE INFLATION**
11 **RATE AND ROUNDING THE PRODUCT TO THE NEAREST 1/10 OF A CENT.**

1 (2) Before February 1, 2015, the tax ~~shall~~**MUST** be paid by the
2 brewer or brewpub if manufactured in this state or by the
3 wholesaler or the person from whom purchased if manufactured
4 outside this state, whichever is designated by the commission.

5 (3) ~~(2)~~ Beginning on and after February 1, 2015, the tax ~~shall~~
6 **MUST** be paid by the brewer or brewpub if the beer is manufactured
7 in this state or if the beer is manufactured outside this state the
8 tax ~~shall~~**MUST** be paid by the wholesaler assigned to distribute
9 ~~that~~**THE** beer and the tax ~~shall~~**MUST** be levied and collected on the
10 number of barrels the wholesaler actually sold to licensed
11 retailers in this state. A brewer may designate a wholesaler to pay
12 the tax on behalf of the brewer. If a brewer designates a
13 wholesaler to pay the tax on its behalf, the brewer shall notify
14 the commission of the designation and provide the commission with a
15 copy of its brewer's report of operations that it filed with the
16 ~~alcohol and tobacco tax~~**ALCOHOL AND TOBACCO TAX** and ~~trade bureau~~
17 **TRADE BUREAU** of the United States ~~department of treasury~~**DEPARTMENT**
18 **OF TREASURY** for each calendar year.

19 (4) ~~(3)~~ The commission shall establish by rule a method for
20 the collection of the tax levied under subsection (1) and reporting
21 requirements for wholesalers, brewers, brewpubs, and outstate
22 sellers of beer to verify the remission of taxes to this state. The
23 commission shall not require that the tax be paid in less than
24 monthly intervals. The rules ~~shall~~**MUST** be promulgated ~~pursuant to~~
25 **UNDER** the administrative procedures act of 1969, 1969 PA 306, MCL
26 24.201 to 24.328.

27 (5) ~~(4)~~ The tax levied in subsection (1) ~~shall~~**MUST** not be

1 collected on beer that is consumed on the premises of the
 2 manufacturer or is damaged in the process of brewing, packaging,
 3 storage, and distribution and is not offered for sale. ~~7-except~~
 4 ~~that~~ **HOWEVER**, beer sold by a brewpub for consumption on the
 5 premises or beer produced and consumed on the premises of a micro
 6 brewer is subject to the tax levied under subsection (1).

7 (6) ~~(5)~~ The tax levied under subsection (1) ~~shall~~ **MUST** be
 8 rebated to the person that paid the tax if ~~that~~ **THE** person provides
 9 satisfactory proof to the commission that the beer was shipped
 10 outside of this state for sale and consumption outside this state.

11 (7) ~~(6)~~ For the purposes of the tax levied under subsection
 12 (1), a barrel of beer contains 31 gallons.

13 (8) ~~(7)~~ The commission may promulgate a rule that ~~designates~~
 14 ~~the states or the laws or the rules of other states that require a~~
 15 ~~licensed~~ **PROHIBITS ALL LICENSEES FROM PURCHASING, RECEIVING,**
 16 **POSSESSING, OR SELLING ANY BEER MANUFACTURED IN THE FOLLOW STATES:**

17 (A) **ANY STATE THAT REQUIRES A** wholesaler of beer to pay an
 18 additional fee for the right to purchase, import, or sell beer
 19 manufactured in this state. ~~7~~

20 (B) **ANY STATE** that denies the issuance of a license
 21 authorizing the importation of beer to ~~any~~ **A** wholesaler of beer in
 22 that state ~~who~~ **THAT** applies for the license. ~~7~~

23 (C) **ANY STATE** that prohibits wholesalers of beer in that state
 24 from possessing or selling beer purchased in this state, unless the
 25 person from whom the beer was purchased has secured a license and
 26 paid a fee in that state, if the seller does not transport the beer
 27 into the state and does not sell the beer in the state. ~~7-07~~

1 **(D) ANY STATE** that imposes any higher taxes or inspection fees
2 upon beer manufactured in this state when transporting the beer
3 into or selling the beer in that state than taxes or fees imposed
4 upon beer manufactured and sold within that state. ~~A rule~~
5 ~~promulgated under this subsection shall prohibit all licensees from~~
6 ~~purchasing, receiving, possessing, or selling any beer manufactured~~
7 ~~in any state designated in the rule.~~

8 **(9)** A rule promulgated under ~~this~~ subsection **(8)** becomes
9 effective as provided in section 47 of the administrative
10 procedures act of 1969, 1969 PA 306, MCL 24.247. ~~Any~~ **A** licensee or
11 person adversely affected by a rule promulgated under ~~this~~
12 subsection **(8)** is entitled to review by leave ~~to~~ **BY** a court of
13 competent jurisdiction ~~regarding the question as to~~ **OF** whether the
14 commission acted illegally or in excess of its authority in making
15 its finding under ~~this~~ subsection **(8)** with respect to any state.

16 **(10)** ~~(8)~~ Regardless of whether the tax was remitted to this
17 state by the eligible brewer or a designated wholesaler, an
18 eligible brewer may claim a credit or request a refund, in a manner
19 as determined by the commission, against the tax levied under
20 subsection (1) in the amount of \$2.00 per barrel for the first
21 30,000 barrels. As used in this subsection, "eligible brewer" means
22 a brewer, whether or not located in this state, or brewpub that
23 manufactures not more than 50,000 barrels of beer during the tax
24 year for which the credit is claimed. In determining the number of
25 barrels for purposes of the credit, all brands and labels of a
26 brewer ~~shall~~ **MUST** be combined and all facilities for the production
27 of beer that are owned or controlled by the same person ~~shall~~ **MUST**

1 be treated as a single facility.

2 (11) BEGINNING JANUARY 1, 2017, THE LEGISLATURE SHALL
3 APPROPRIATE REVENUE GENERATED FROM THE TAX UNDER SUBSECTION (1)
4 FROM AN INCREASE IN THE PER BARREL RATE ABOVE \$6.30 IN THE
5 FOLLOWING PERCENTAGES:

6 (A) TO THE OFFICE OF RECOVERY ORIENTED SYSTEMS OF CARE IN THE
7 DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR SUBSTANCE USE DISORDER
8 TREATMENT AND REHABILITATION SERVICES, 60%.

9 (B) TO THE DEPARTMENT OF STATE POLICE FOR ENFORCEMENT OF
10 UNDERAGE DRINKING LAWS, DRUNK DRIVING, AND SMUGGLING OF ALCOHOLIC
11 LIQUOR, 1%.

12 (C) TO THE OFFICE OF HIGHWAY SAFETY PLANNING IN THE DEPARTMENT
13 OF STATE POLICE FOR GRANTS TO LOCAL LAW ENFORCEMENT AGENCIES
14 PROVIDING PREVENTION AND ENFORCEMENT OF UNDERAGE DRINKING LAWS, 3%.

15 (D) TO THE COMMISSION FOR THE ENFORCEMENT OF THIS ACT, 4%.

16 (E) TO THE STATE COURT ADMINISTRATIVE OFFICE TO SUPPORT DRUG
17 TREATMENT COURTS AND DWI/SOBRIETY COURTS UNDER CHAPTER 10A OF THE
18 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.1060 TO
19 600.1084, AND VETERANS TREATMENT COURTS UNDER CHAPTER 12 OF THE
20 REVISED JUDICATURE ACT, 1961 PA 236, MCL 600.1200 TO 600.1212, 4%.

21 (F) TO THE DEPARTMENT OF CORRECTIONS FOR TREATMENT OF
22 PRISONERS UNDER ITS JURISDICTION, 3%.

23 (G) TO THE CHILDREN'S TRUST FUND CREATED IN 1982 PA 249, MCL
24 21.171 TO 21.172, FOR EARLY CHILDHOOD AND PREVENTION AND EDUCATION,
25 5.5%.

26 (H) TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS FOR
27 PREVENTION, TREATMENT, AND RECOVERY SUPPORT SERVICES FOR VETERANS

1 AND THEIR FAMILIES, 4%.

2 (I) TO THE DEPARTMENT OF NATURAL RESOURCES FOR ALCOHOL AND
3 DRUG ENFORCEMENT, 0.5%.

4 (J) TO THE DEPARTMENT OF STATE FOR PREVENTION, ENFORCEMENT,
5 AND OVERSIGHT OF IGNITION INTERLOCK, 1%.

6 (K) TO THE DEPARTMENT OF EDUCATION FOR FUND INFRASTRUCTURE
7 FOR MODEL CURRICULUM FOR AND COUNSELING SERVICES TO SUPPORT
8 INTERVENTION, TREATMENT, AND RECOVERY SUPPORT, 3%.

9 (L) TO THE BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES
10 ADMINISTRATION WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
11 TO PREVENT FETAL ALCOHOL SPECTRUM DISORDER, 4%.

12 (M) TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO CONTRACT
13 WITH GOVERNMENTAL OR PRIVATE ORGANIZATIONS THAT PROVIDE SUBSTANCE
14 USE DISORDER PREVENTION SERVICES OR SUBSTANCE USE DISORDER
15 TREATMENT AND REHABILITATION SERVICES, OR BOTH, 7%.

16 (12) THE MONEY APPROPRIATED UNDER SUBSECTION (11) MAY NOT BE
17 USED TO SUPPLANT PREVIOUSLY APPROPRIATED MONEY.

18 (13) THE DIRECTOR OF THE OFFICE OF RECOVERY ORIENTED SYSTEMS
19 OF CARE WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL
20 ESTABLISH AN OVERSIGHT COMMITTEE TO REVIEW THE DISTRIBUTION OF
21 MONEY APPROPRIATED UNDER SUBSECTION (1). THE OVERSIGHT COMMITTEE
22 SHALL MAKE RECOMMENDATIONS TO THE LEGISLATURE REGARDING THE FUNDING
23 UNDER SUBSECTION (2). THE OVERSIGHT COMMITTEE CONSISTS OF THE
24 FOLLOWING MEMBERS:

25 (A) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
26 REPRESENTATIVES.

27 (B) ONE MEMBER APPOINTED BY THE SENATE MAJORITY LEADER.

1 (C) ONE MEMBER APPOINTED BY THE CHAIRPERSON OF THE COMMISSION.

2 (D) THE DIRECTOR OF THE OFFICE OF RECOVERY ORIENTED SYSTEMS OF
3 CARE OR HIS OR HER DESIGNEE.

4 (E) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

5 (i) ONE MEMBER REPRESENTING THE MICHIGAN PREVENTION
6 ASSOCIATION.

7 (ii) ONE MEMBER REPRESENTING THE TREATMENT PROVIDER COMMUNITY,
8 NOMINATED BY THE OFFICE OF RECOVERY ORIENTED SYSTEMS OF CARE.

9 (iii) ONE MEMBER REPRESENTING THE RECOVERY COMMUNITY NOMINATED
10 BY MICHIGAN RECOVERY VOICES.

11 (iv) ONE MEMBER REPRESENTING THE MICHIGAN ASSOCIATION OF
12 CHIEFS OF POLICE.

13 (v) ONE MEMBER OF THE IMPAIRED DRIVING ACTION TEAM OF THE
14 OFFICE OF HIGHWAY SAFETY WITHIN THE DEPARTMENT OF STATE POLICE.

15 (14) AS USED IN THIS SECTION:

16 (A) "CONSUMER PRICE INDEX" MEANS THE UNITED STATES CONSUMER
17 PRICE INDEX FOR ALL URBAN CONSUMERS AS DEFINED AND REPORTED BY THE
18 UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

19 (B) "INFLATION RATE" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE
20 CONSUMER PRICE INDEX, AS DETERMINED BY THE COMMISSION, COMPARING
21 THE 2 MOST RECENT OCTOBER 1 THROUGH SEPTEMBER 30 PERIODS THAT ARE
22 IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE RATE PRESCRIBED
23 UNDER SUBSECTION (1) (C), CONVERTED TO DECIMALS. IF THE ANNUAL
24 PERCENTAGE CHANGE IS NEGATIVE, THE INFLATION RATE IS ZERO.

25 (C) "SUBSTANCE USE DISORDER PREVENTION SERVICES" MEANS THAT
26 TERM AS DEFINED IN SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA
27 258, MCL 330.1100D.

1 (D) "SUBSTANCE USE DISORDER TREATMENT AND REHABILITATION
2 SERVICES" MEANS THAT TERM AS DEFINED IN SECTION 100D OF THE MENTAL
3 HEALTH CODE, 1974 PA 258, MCL 330.1100D.