

**SUBSTITUTE FOR  
SENATE BILL NO. 1138**

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending section 203 (MCL 436.1203), as amended by 2020 PA 106.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 203. (1) Except as provided in this section and section  
2 301, a person shall not sell, deliver, or import alcoholic liquor,  
3 including alcoholic liquor for personal use, in this state unless  
4 the sale, delivery, or importation is made by the commission, the  
5 commission's authorized agent or distributor, an authorized  
6 distribution agent approved by order of the commission, a person  
7 licensed by the commission, or by prior written order of the  
8 commission.

9           (2) Notwithstanding R 436.1011(7) (b) and R 436.1527 of the



1 Michigan Administrative Code and except as provided in subsections  
2 (3), (12), (13), (14), (15), and (16), a retailer shall not deliver  
3 alcoholic liquor to a consumer in this state at the home or  
4 business of the consumer or at any location away from the licensed  
5 premises of the retailer. The purpose of this subsection is to  
6 exercise this state's authority under section 2 of ~~amendment~~  
7 **Amendment** XXI of the ~~constitution~~ **Constitution** of the United  
8 States, to maintain the inherent police powers to regulate the  
9 transportation and delivery of alcoholic liquor, and to promote a  
10 transparent system for the transportation and delivery of alcoholic  
11 liquor. The regulation described in this subsection is considered  
12 necessary for both of the following reasons:

13 (a) To promote the public health, safety, and welfare.

14 (b) To maintain strong, stable, and effective regulation by  
15 having beer and wine sold by retailers to consumers in this state  
16 by passing through the 3-tier distribution system established under  
17 this act.

18 (3) For purposes of subsection (1), a **qualified** retailer that  
19 holds a specially designated merchant license located in this state  
20 may use a common carrier to deliver wine **other than wine as defined**  
21 **in section 113(9)(b) or 113a(9)(b)** to a consumer in this state. A  
22 **qualified** retailer that uses a common carrier to deliver wine to a  
23 consumer under this subsection shall comply with all of the  
24 following:

25 (a) Pay any applicable taxes to the commission and pay any  
26 applicable taxes to the department of treasury as directed by the  
27 department of treasury. On the request of the department of  
28 treasury, a **qualified** retailer shall furnish an affidavit to verify  
29 payment.



1 (b) Comply with all laws of this state, including, but not  
2 limited to, the prohibition on sales to minors.

3 (c) Verify the age of the individual placing the order by  
4 obtaining from him or her a copy of a photo identification issued  
5 by this state, another state, or the federal government or by using  
6 an identification verification service. The person receiving and  
7 accepting the order on behalf of the **qualified** retailer shall  
8 record the name, address, date of birth, and telephone number of  
9 the individual placing the order on the order form or other  
10 verifiable record of a type and generated in a manner approved by  
11 the commission and provide a duplicate to the commission.

12 (d) On request of the commission, make available to the  
13 commission any document used to verify the age of the individual  
14 ordering or receiving the wine from the **qualified** retailer.

15 (e) Stamp, print, or label on the outside of the shipping  
16 container that the package "Contains Alcohol. Must be delivered to  
17 a person 21 years of age or older.". The recipient at the time of  
18 the delivery shall provide identification verifying his or her age  
19 and sign for the delivery.

20 (f) Place a label on the top panel of the shipping container  
21 containing the name and address of the individual placing the order  
22 and the name of the designated recipient if different from the name  
23 of the individual placing the order.

24 **(g) For a qualified retailer that has been issued licenses at**  
25 **2 or more locations, the shipment of the wine must be fulfilled**  
26 **from the location nearest to the consumer unless that location does**  
27 **not have the wine ordered in stock.**

28 (4) For purposes of subsection (1), a direct shipper may sell,  
29 deliver, or import wine **other than wine as defined in section**



1 **113(9)(b) or 113a(9)(b)** to consumers in this state by means of any  
2 mail order, internet, telephone, computer, device, or other  
3 electronic means, or sell directly to a consumer on the winery  
4 premises. A direct shipper that sells, delivers, or imports wine to  
5 a consumer under this subsection shall comply with all of the  
6 following:

7 (a) Hold a direct shipper license.

8 (b) Pay any applicable taxes to the commission and pay any  
9 applicable taxes to the department of treasury as directed by the  
10 department of treasury. On the request of the department of  
11 treasury, a direct shipper shall furnish an affidavit to verify  
12 payment.

13 (c) Comply with all laws of this state, including, but not  
14 limited to, the prohibition on sales to minors.

15 (d) Verify the age of the individual placing the order by  
16 obtaining from him or her a copy of a photo identification issued  
17 by this state, another state, or the federal government or by using  
18 an identification verification service. The person receiving and  
19 accepting the order on behalf of the direct shipper shall record  
20 the name, address, date of birth, and telephone number of the  
21 individual placing the order on the order form or other verifiable  
22 record of a type and generated in a manner approved by the  
23 commission and provide a duplicate to the commission.

24 (e) On request of the commission, make available to the  
25 commission any document used to verify the age of the individual  
26 ordering or receiving the wine from the direct shipper.

27 (f) Stamp, print, or label on the outside of the shipping  
28 container that the package "Contains Alcohol. Must be delivered to  
29 a person 21 years of age or older.". The recipient at the time of



1 the delivery shall provide photo identification verifying his or  
2 her age and sign for the delivery.

3 (g) Place a label on the top panel of the shipping container  
4 containing the name and address of the individual placing the order  
5 and the name of the designated recipient if different from the name  
6 of the individual placing the order. The direct shipper must have  
7 received a registration number of approval from the commission for  
8 any wine imported into this state. However, the registration number  
9 of approval from the commission is not required to be on the  
10 invoice or on the label of the wine that the direct shipper sells,  
11 delivers, or imports to a consumer in this state.

12 (h) Direct ship not more than 1,500 9-liter cases, or 13,500  
13 liters in total, of wine in a calendar year to consumers in this  
14 state. If a direct shipper, whether located in this state or  
15 outside this state, owns, in whole or in part, or commonly manages  
16 1 or more direct shippers, it shall not in combination ship to  
17 consumers in this state more than 13,500 liters of wine in the  
18 aggregate.

19 (i) Pay wine taxes quarterly and report to the commission  
20 quarterly the total amount of wine, by type, brand, and price,  
21 shipped to consumers in this state during the preceding calendar  
22 quarter, and the order numbers.

23 (j) Authorize and allow the commission and the department of  
24 treasury to conduct an audit of the direct shipper's records.

25 (k) Consent and submit to the jurisdiction of the commission,  
26 the department of treasury, and the courts of this state concerning  
27 enforcement of this section and any related laws, rules, and  
28 regulations.

29 **(l) For a direct shipper that is a wine manufacturer as**



1 described in subsection (10) (b), direct ship only the wine that the  
 2 wine manufacturer has manufactured and registered with the  
 3 commission, wine purchased from another wine manufacturer and  
 4 further manufactured or bottled and registered with the commission,  
 5 or shiners purchased from another manufacturer in compliance with  
 6 section 204a and registered with the commission.

7 (5) For a delivery of wine through the use of a common carrier  
 8 under subsection (3), a person taking the order on behalf of the  
 9 **qualified** retailer shall comply with subsection (3) (b) to (f). For  
 10 a sale, delivery, or importation of wine occurring by any means  
 11 described in subsection (4), a person taking the order on behalf of  
 12 the direct shipper shall comply with subsection (4) (c) to (g).

13 (6) A person that delivers the wine for a direct shipper under  
 14 this section shall verify that the individual accepting delivery is  
 15 21 years of age or older and is the individual who placed the order  
 16 or the designated recipient, is an individual 21 years of age or  
 17 older currently occupying or present at the address, or is an  
 18 individual otherwise authorized through a rule promulgated under  
 19 this act by the commission to receive alcoholic liquor under this  
 20 section. If the delivery person, after a diligent inquiry,  
 21 determines that the purchaser or designated recipient is not 21  
 22 years of age or older, the delivery person shall return the wine to  
 23 the direct shipper. A delivery person who returns wine to the  
 24 direct shipper because the purchaser or designated recipient is not  
 25 21 years of age or older is not liable for any damages suffered by  
 26 the purchaser or direct shipper.

27 (7) ~~All~~ **Except as provided in subsection (20), all** spirits for  
 28 sale, use, storage, or distribution in this state ~~shall~~ **must**  
 29 originally be purchased by and imported into the state by the



1 commission, or by prior written authority of the commission.

2 (8) This section does not apply to alcoholic liquor brought  
3 into this state for personal or household use in an amount  
4 permitted by federal law by an individual 21 years of age or older  
5 at the time of reentry into this state from outside the territorial  
6 limits of the United States if the individual has been outside the  
7 territorial limits of the United States for more than 48 hours and  
8 has not brought alcoholic liquor into the United States during the  
9 preceding 30 days.

10 (9) An individual 21 years of age or older may do either of  
11 the following in relation to alcoholic liquor that contains less  
12 than 21% alcohol by volume:

13 (a) Personally transport from another state, once in a 24-hour  
14 period, not more than 312 ounces of alcoholic liquor for that  
15 individual's personal use, notwithstanding subsection (1).

16 (b) Ship or import from another state alcoholic liquor for  
17 that individual's personal use if that personal importation is done  
18 in compliance with subsection (1).

19 (10) A direct shipper shall not sell, deliver, or import wine  
20 **as defined in section 113(9) (b) or 113a(9) (a)** to a consumer unless  
21 it applies for and is granted a direct shipper license from the  
22 commission. This subsection does not prohibit wine tasting or the  
23 selling at retail by a wine maker of wines he or she produced and  
24 bottled or wine manufactured for that wine maker by another wine  
25 ~~maker,~~ **manufacturer**, if done in compliance with this act. Only the  
26 following persons qualify for the issuance of a direct shipper  
27 license:

28 (a) A wine maker **that does not hold a license in another state**  
29 **that is the substantial equivalent to a retailer license.**



1 (b) A wine ~~producer and bottler~~ **manufacturer that is** located  
2 inside this country but outside of this state ~~holding and that~~  
3 **holds** both a federal basic permit issued by the Alcohol and Tobacco  
4 Tax and Trade Bureau of the United States Department of Treasury  
5 and a license to manufacture wine in its state of domicile.

6 (11) An applicant for a direct shipper license shall submit an  
7 application to the commission in a written or electronic format  
8 provided by the commission and accompanied by an application and  
9 initial license fee of \$100.00. The **initial** application must be  
10 accompanied by a copy or other **verifiable** evidence of the existing  
11 federal basic permit or license, or both, held by the applicant.  
12 The direct shipper may renew its license annually by submission of  
13 a license renewal fee of \$100.00 and a completed renewal  
14 application. The commission shall use the fees collected under this  
15 section to conduct investigations and audits of direct shippers.  
16 The failure to renew, or the revocation or suspension of, the  
17 applicant's existing Michigan license, federal basic permit, or  
18 license to manufacture wine in its state of domicile **or holding the**  
19 **substantial equivalent of a retail license not including a direct**  
20 **shipper license in a state outside its state of domicile** is grounds  
21 for revocation or denial of ~~the~~ a direct shipper license. If a  
22 direct shipper is found guilty of violating this act or a rule  
23 promulgated by the commission, the commission shall notify both the  
24 alcoholic liquor control agency in the direct shipper's state of  
25 domicile and the Alcohol and Tobacco Tax and Trade Bureau of the  
26 United States Department of Treasury of the violation.

27 (12) A retailer that holds a specially designated merchant  
28 license, a brewpub, a micro brewer, or an out-of-state entity that  
29 is the substantial equivalent of a brewpub or micro brewer may





1 deliver beer and wine to the home or other designated location of a  
2 consumer in this state if all of the following conditions are met:

3 (a) The beer or wine, or both, is delivered by the retailer's,  
4 brewpub's, or micro brewer's employee.

5 (b) The retailer, brewpub, or micro brewer or its employee who  
6 delivers the beer or wine, or both, verifies that the individual  
7 accepting delivery is at least 21 years of age.

8 (c) If the retailer, brewpub, or micro brewer or its employee  
9 intends to provide service to consumers, the retailer, brewpub, or  
10 micro brewer or its employee providing the service has ~~received~~  
11 ~~alcohol server training through~~ **successfully completed** a server  
12 training program ~~approved by the commission.~~ **as provided for in**  
13 **section 906.**

14 (13) A retailer that holds a specially designated merchant  
15 license may use a third party that provides delivery service to  
16 municipalities in this state that are surrounded by water and  
17 inaccessible by motor vehicle to deliver beer and wine to the home  
18 or other designated location of that consumer if the delivery  
19 service is approved by the commission and agrees to verify that the  
20 individual accepting delivery of the beer and wine is at least 21  
21 years of age.

22 (14) A retailer that holds a specially designated distributor  
23 license may deliver spirits to the home or other designated  
24 location of a consumer in this state if all of the following  
25 conditions are met:

26 (a) The spirits are delivered by the retailer's employee.

27 (b) The retailer or its employee who delivers the spirits  
28 verifies that the individual accepting delivery is at least 21  
29 years of age.



1 (c) If the retailer or its employee intends to provide service  
 2 to consumers, the retailer or its employee providing the service  
 3 has ~~received alcohol server training through~~ **successfully completed**  
 4 a server training program ~~approved by the commission.~~ **as provided**  
 5 **for in section 906.**

6 (15) A **qualified** retailer that holds a specially designated  
 7 merchant license located in this state may use a third party  
 8 facilitator service by means of the internet or mobile application  
 9 to facilitate the sale of beer or wine to be delivered to the home  
 10 or designated location of a consumer as provided in subsection  
 11 (12), this subsection, or, for wine only, subsection (3), and a  
 12 third party facilitator service may deliver beer or wine to a  
 13 consumer on behalf of a **qualified** retailer that holds a specially  
 14 designated merchant license located in this state, if all of the  
 15 following conditions are met:

16 (a) If the third party facilitator service delivers beer or  
 17 wine under this subsection, the third party facilitator service  
 18 verifies that the individual accepting the delivery of the beer or  
 19 wine is at least 21 years of age.

20 (b) A manufacturer, warehouse, wholesaler, outstate seller of  
 21 beer, outstate seller of wine, **or** supplier of spirits, ~~or outstate~~  
 22 ~~seller of mixed spirit drink~~ does not have a direct or indirect  
 23 interest in the third party facilitator service.

24 (c) A manufacturer, warehouse, wholesaler, outstate seller of  
 25 beer, outstate seller of wine, **or** supplier of spirits, ~~or outstate~~  
 26 ~~seller of mixed spirit drink~~ does not aid or assist ~~a~~ **the** third  
 27 party facilitator service by gift, loan of money or property of any  
 28 description, or other valuable thing as defined in section 609, and  
 29 ~~a~~ **the** third party facilitator service does not accept the same.



1 (d) The **qualified** retailer or consumer pays the fees  
2 associated with deliveries provided for under this subsection.

3 (e) The third party facilitator service offers services for  
4 all brands available at the retail location.

5 (16) A **qualified** retailer that holds a specially designated  
6 distributor license located in this state may use a third party  
7 facilitator service by means of the internet or mobile application  
8 to facilitate the sale of spirits to be delivered to the home or  
9 designated location of a consumer as provided in subsection (14) or  
10 this subsection, and a third party facilitator service may deliver  
11 spirits to a consumer on behalf of a retailer that holds a  
12 specially designated distributor license located in this state, if  
13 all of the following conditions are met:

14 (a) If the third party facilitator service delivers spirits  
15 under this subsection, the third party facilitator service verifies  
16 that the individual accepting the delivery of the spirits is at  
17 least 21 years of age.

18 (b) A manufacturer, warehouser, wholesaler, outstate seller of  
19 beer, outstate seller of wine, **or** supplier of spirits, ~~or outstate~~  
20 ~~seller of mixed spirit drinks~~ does not have a direct or indirect  
21 interest in the third party facilitator service.

22 (c) A manufacturer, warehouser, wholesaler, outstate seller of  
23 beer, outstate seller of wine, **or** supplier of spirits, ~~or outstate~~  
24 ~~seller of mixed spirit drinks~~ does not aid or assist a third party  
25 facilitator service by gift, loan of money or property of any  
26 description, or other valuable thing as defined in section 609, and  
27 a third party facilitator service does not accept the same.

28 (d) The **qualified** retailer or consumer pays the fees  
29 associated with deliveries provided for under this subsection.



1 (e) The third party facilitator service offers services for  
2 all brands available at the retail location.

3 (17) A third party facilitator service shall not deliver beer,  
4 wine, or spirits to a consumer under subsection (15) or (16), as  
5 applicable, and shall not facilitate the sale of beer, wine, or  
6 spirits under subsection (15) or (16), as applicable, unless it  
7 applies for and is granted a third party facilitator service  
8 license by the commission. The commission may charge a reasonable  
9 application fee, initial license fee, and annual license renewal  
10 fee. The commission shall establish a fee under this subsection by  
11 written order.

12 (18) If a third party facilitator service used by a retailer  
13 that holds a specially designated merchant or specially designated  
14 distributor license under subsection (15) or (16), as applicable,  
15 violates this section, the commission shall not treat the third  
16 party facilitator service's violation as a violation by the  
17 retailer.

18 (19) A common carrier that carries or transports alcoholic  
19 liquor into this state to a person in this state shall submit  
20 quarterly reports to the commission. A report required under this  
21 subsection must include all of the following about each delivery to  
22 a consumer in this state during the preceding calendar quarter:

23 (a) The name and business address of the person that ships **the**  
24 alcoholic liquor.

25 (b) The name and address of the recipient of **the** alcoholic  
26 liquor.

27 (c) The weight of **the** alcoholic liquor delivered to a  
28 consignee.

29 (d) The date of the delivery.



1 (20) For purposes of subsection (1), a qualified small  
2 distiller or an out-of-state entity that is the substantial  
3 equivalent of a qualified small distiller may sell and deliver  
4 spirits that it manufactured to a retailer licensed to purchase and  
5 sell spirits in this state if all of the following conditions are  
6 met:

7 (a) The spirits are sold and delivered by an employee of the  
8 qualified small distiller or an out-of-state entity that is the  
9 substantial equivalent of a qualified small distiller, not an  
10 agent, and are transported and delivered using a vehicle owned by  
11 the qualified small distiller or the out-of-state entity that is  
12 the substantial equivalent of a qualified small distiller.

13 (b) The qualified small distiller or an out-of-state entity  
14 that is the substantial equivalent of a qualified small distiller  
15 complies with all applicable state and federal law and applicable  
16 regulatory provisions of this act and rules adopted by the  
17 commission under this act including, but not limited to, those  
18 requirements related to each of the following:

19 (i) Employees that sell and deliver spirits to retailers.

20 (ii) Vehicles used to deliver spirits to retailers.

21 (iii) Uniform pricing established by the commission under  
22 section 233.

23 (iv) Labeling and registration of spirits under R 436.1829 of  
24 the Michigan Administrative Code.

25 (v) Payment of taxes.

26 (c) The spirits are not listed in the State of Michigan price  
27 book.

28 (21) ~~(20)~~—A common carrier described in subsection (19) shall  
29 maintain the books, records, and documents supporting a report



1 submitted under subsection (19) for 3 years unless the commission  
2 notifies the common carrier in writing that the books, records, and  
3 supporting documents may be destroyed. Within 30 days after the  
4 commission's request, the common carrier shall make the books,  
5 records, and documents available for inspection during normal  
6 business hours. Within 30 days after a local law enforcement  
7 agency's or local governmental unit's request, the common carrier  
8 shall also make the books, records, and documents available for  
9 inspection to a local law enforcement agency or local governmental  
10 unit where the carrier resides or does business.

11 **(22)** ~~(21)~~—A third party facilitator service that delivers  
12 beer, wine, or spirits to a consumer under subsection (15) or (16),  
13 as applicable, shall submit quarterly reports to the commission. A  
14 report required under this subsection must include all of the  
15 following about each delivery to a consumer in this state during  
16 the preceding calendar quarter:

17 (a) The name and business address of the person that ships  
18 beer, wine, or spirits.

19 (b) The name and address of the recipient of beer, wine, or  
20 spirits.

21 (c) The weight of beer, wine, or spirits delivered to a  
22 consignee.

23 (d) The date of the delivery.

24 **(23)** ~~(22)~~—A third party facilitator service shall maintain the  
25 books, records, and documents supporting a report submitted under  
26 subsection ~~(21)~~ **(22)** for 3 years unless the commission notifies the  
27 third party facilitator service in writing that the books, records,  
28 and supporting documents may be destroyed. Within 30 days after the  
29 commission's request, the third party facilitator service shall



1 make the books, records, and documents available for inspection  
2 during normal business hours. Within 30 days after a local law  
3 enforcement agency's or local governmental unit's request, the  
4 third party facilitator service shall also make the books, records,  
5 and documents available for inspection to a local law enforcement  
6 agency or local governmental unit where the third party facilitator  
7 service resides or does business.

8       **(24)** ~~(23)~~—A report submitted under subsection (19) or ~~(21)~~  
9 **(22)** is subject to disclosure under the freedom of information act,  
10 1976 PA 442, MCL 15.231 to 15.246.

11       **(25)** ~~(24)~~—As used in this section:

12       (a) "Common carrier" means a company that transports goods, on  
13 reasonable request, on regular routes and at set rates.

14       (b) "Computer" means any connected, directly interoperable or  
15 interactive device, equipment, or facility that uses a computer  
16 program or other instructions to perform specific operations  
17 including logical, arithmetic, or memory functions with or on  
18 computer data or a computer program and that can store, retrieve,  
19 alter, or communicate the results of the operations to a person,  
20 computer program, computer, computer system, or computer network.

21       (c) "Computer network" means the interconnection of hardware  
22 or wireless communication lines with a computer through remote  
23 terminals, or a complex consisting of 2 or more interconnected  
24 computers.

25       (d) "Computer program" means a series of internal or external  
26 instructions communicated in a form acceptable to a computer that  
27 directs the functioning of a computer, computer system, or computer  
28 network in a manner designed to provide or produce products or  
29 results from the computer, computer system, or computer network.



1 (e) "Computer system" means a set of related, connected or  
2 unconnected, computer equipment, devices, software, or hardware.

3 (f) "Consumer" means an individual who purchases beer, wine,  
4 or spirits for personal consumption and not for resale.

5 (g) "Device" includes, but is not limited to, an electronic,  
6 magnetic, electrochemical, biochemical, hydraulic, optical, or  
7 organic object that performs input, output, or storage functions by  
8 the manipulation of electronic, magnetic, or other impulses.

9 (h) "Diligent inquiry" means a diligent good faith effort to  
10 determine the age of an individual, that includes at least an  
11 examination of an official Michigan operator's or chauffeur's  
12 license, an official Michigan personal identification card, or any  
13 other bona fide picture identification that establishes the  
14 identity and age of the individual.

15 (i) "Direct shipper" means ~~a person who~~ **either of the**  
16 **following:**

17 (i) **A wine manufacturer that** sells, delivers, or imports wine  
18 **other than wine as defined in section 113(9)(b) or 113a(9)(b) it**  
19 **has manufactured, bottled, and registered with the commission,** to  
20 consumers in this state, ~~that he or she produces and bottles or~~  
21 ~~wine that is manufactured by a wine maker for another wine maker~~  
22 ~~and~~ that is transacted or caused to be transacted through the use  
23 of any mail order, internet, telephone, computer, device, or other  
24 electronic means, or sells directly to consumers on the winery  
25 premises.

26 (ii) **A wine manufacturer that purchases wine other than wine as**  
27 **defined in section 113(9)(b) or 113a(9)(b) from another wine**  
28 **manufacturer and further manufactures or bottles the wine or**  
29 **purchases shiners of wine other than wine as defined in section**





1 113(9) (b) or 113a(9) (b) from another wine manufacturer in  
 2 compliance with section 204a, registers the wine with the  
 3 commission and sells the wine to consumers in this state that is  
 4 transacted or caused to be transacted through the use of any mail  
 5 order, internet, telephone, computer, device, or other electronic  
 6 means, or sells directly to consumers on the winery premises.

7 (j) "Facilitate" means, subject to subdivision (k),  
 8 advertising on behalf of a retailer, by means of the internet or  
 9 mobile application, and pursuant to a written or oral agreement,  
 10 the brands and prices of beer, wine, or spirits products sold by a  
 11 retailer and 1 or more of the following:

12 (i) Assisting the retailer, in any manner, in the arrangement  
 13 of delivery as allowed in this section.

14 (ii) Assisting the retailer, in any manner, in the processing  
 15 of payment by the consumer for the beer, wine, or spirits.

16 (iii) Transmitting customer information to the retailer.

17 (iv) Assisting the retailer by providing customer service.

18 (v) If the retailer maintains supervision and control over the  
 19 day-to-day operation of its business, providing other normal and  
 20 customary operational services.

21 (k) "Facilitate" does not include web designing, operating an  
 22 internet search engine, or publishing an internet version of a  
 23 newspaper.

24 (l) "Identification verification service" means an internet-  
 25 based service approved by the commission specializing in age and  
 26 identity verification.

27 (m) "Mobile application" means a specialized software program  
 28 downloaded onto a wireless communication device.

29 (n) **"Qualified retailer" means a retailer licensed to sell**



1 alcoholic liquor for consumption off the premises that complies  
2 with all of the following:

3 (i) The retailer maintains physical licensed premises that are  
4 open to the general public for face to face sales transactions of  
5 alcoholic liquor, packaged food, and other products to consumers.

6 (ii) At least 25% of the retailer's annual gross sales of  
7 alcoholic liquor must be from face to face sales transactions with  
8 consumers on the premises described in subparagraph (i).

9 (iii) The retailer holds and maintains either of the following  
10 for the premises described in subparagraph (i):

11 (A) A retail food establishment license issued under the food  
12 law, 2000 PA 92, MCL 289.1101 to 289.8111. As used in this sub-  
13 subparagraph, "retail food establishment" means that term as  
14 defined in section 1111 of the food law, 2000 PA 92, MCL 289.1111.

15 (B) An extended retail food establishment license issued under  
16 the food law, 2000 PA 92, MCL 289.1101 to 289.8111. As used in this  
17 sub-subparagraph, "extended retail food establishment" means that  
18 term as defined in section 1107 of the food law, 2000 PA 92, MCL  
19 289.1107.

20 (o) "Qualified small distiller" means a small distiller, or an  
21 out-of-state entity that is the substantial equivalent of a small  
22 distiller, that sells under 3,000 gallons of spirits per calendar  
23 year to retailers located in this state or out-of-state entities  
24 that are the substantial equivalent of retailers. If a small  
25 distiller or an out-of-state entity that is the substantial  
26 equivalent of a qualified small distiller manufactures spirits at  
27 more than 1 location, the total number of gallons of spirits sold  
28 to retailers or out-of-state entities that are the substantial  
29 equivalent of retailers from all locations must be combined to



1 **determine the 3,000-gallon threshold.**

2 (p) ~~(a)~~—"Third party facilitator service" means a person  
3 licensed by the commission to do any of the following:

4 (i) Facilitate the sale of beer or wine to a consumer as  
5 provided in subsection (15) on behalf of a **qualified** retailer that  
6 holds a specially designated merchant license located in this  
7 state.

8 (ii) Facilitate the sale of spirits to a consumer as provided  
9 in subsection (16) on behalf of a **qualified** retailer that holds a  
10 specially designated distributor license located in this state.

11 (iii) Deliver beer or wine to a consumer as provided in  
12 subsection (15) on behalf of a **qualified** retailer that holds a  
13 specially designated merchant license located in this state.

14 (iv) Deliver spirits to a consumer as provided in subsection  
15 (16) on behalf of a **qualified** retailer that holds a specially  
16 designated distributor license located in this state.

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

20 (a) Senate Bill No. 1139.

21 (b) Senate Bill No. 1140.

