



# MICHIGAN'S THREE-TIER DISTRIBUTION SYSTEM CREATES COMPETITION **AND** A LEVEL PLAYING FIELD

In Michigan and most other states, beer and wine is distributed through a licensed three-tier distribution system. Under this system, a supplier (brewery or winery) sells to a distributor who in turn sells to a retailer. The law prohibits a person licensed in one of the tiers from being licensed in another tier and also prevents a person in one tier from having a financial or ownership interest – directly or indirectly – in one of the other two tiers. In addition, the law also prohibits retailers from functioning as distributors by prohibiting retail-to-retail sales of beer and wine.

The three-tier system prevents vertical price fixing, monopolistic ownership combinations, anti-competitive behavior and creates a system for the collection of state tax revenues at the wholesale level.

Thanks to Michigan's three-tier distribution system and the state's family-owned, independent distributors, Michigan is home to more than 300 small breweries and brewpubs. The industry generates over \$2 Billion in economic activity and Michigan is poised to keep growing and launch even more breweries, wineries and small businesses through this system, which promotes fairness and a level playing field.

Michigan's three-tier distribution system helps suppliers because it promotes choice and competition by preventing large, out-of-state and foreign companies from having a monopoly on the alcohol market. Keeping the three tiers separate creates a level playing field for all alcohol producers, including craft and imported brands, ensuring access to retailers and thereby consumers. This access to market has been directly responsible for the growth of thousands of craft brands, including over 300 breweries and brewpubs and more than 100 wineries right here in Michigan.

An independent distribution tier that is free from the ownership and economic control of large multinational suppliers ensures that all brands, large and small, have a route to a competitive market. In short, the three-tier system allows distributors to help small brands – including hundreds of Michigan-based breweries and wineries – access the market and grow.

The three-tier distribution system helps retailers by guaranteeing adequate service and product availability to all licensed retail outlets regardless of size. This ensures all retailers are offered a wide variety of products to choose from, without the undue influence of supplier-controlled distributors or large retailers looking to push out small, local retailers.

Similarly, the ban on retail-to-retail sales ensures all retailers have access to competitive prices and a broad selection of brands to choose from. Allowing retail-to-retail sales, in which a retailer essentially acts as a distributor, would also limit the opportunities for craft breweries and wineries to access the market and grow. If the ban were ever lifted, large retailers could control prices, putting local “Mom-and-Pop” retailers out of business.

The three-tier distribution system also protects Michiganders as it is the primary vehicle in the State's effort to properly control the use and marketing of alcoholic beverages. The system ensures massive, multi-national companies – who may have little regard for state regulations and access to market for craft brands – can't lock out competition and ignore state laws.

**WE ASK THAT YOU SUPPORT MICHIGAN'S THREE-TIER DISTRIBUTION SYSTEM**



# TERRITORIAL INTEGRITY FOR BEER AND WINE MAINTAINS ACCOUNTABILITY

**U**nder territorial integrity, beer and wine manufacturers assign a brand to only one distributor in any given geographic area. This concept of suppliers utilizing assigned territories isn't exclusive to the alcohol beverage industry. It's used, to varying degrees, for many direct store delivery (DSD) products including baked goods, dairy products and snack foods.

**Territorial integrity is an integral part of the three-tier distribution system in Michigan.** It is supported by beer and wine manufacturers across the state because it fosters competition, ensures all products are fresh and merchandised and allows beer and wine manufacturers to hold distributors accountable for underperformance.

Territorial integrity provides distributor independence and encourages distributors to invest the time, energy and financial resources needed to promote and grow brands while meeting the requirements of the supplier. It also:

- Protects Michigan family-owned businesses and jobs.
- Promotes consumer choice through strong inter-brand competition and competitive pricing.
- Preserves Michigan's ability to:
  - Protect consumers from tainted products

- Create a transparent and accountable supply chain
- Uphold enforcement and safety regulations
- Regulate sales and collect tax dollars that pay for vital public services
- Enforce Michigan's bottle bill

Territorial integrity also provides an even playing field for all retailers, distributors and suppliers, by preventing mega-retailers and international suppliers from dominating the market, improving access for locally-owned breweries and wineries. It also keeps prices down and promotes competition by requiring distributors to promote and merchandise **all** products assigned to their companies, regardless of size, and discourages them from cherry picking high-volume accounts.

Territorial integrity also aids distributors' recycling efforts and compliance with the bottle bill by preventing distributors from "dumping" product in another distributor's territory. At \$2.40 per case, the redemption fee could virtually wipe out a local distributor. It also ensures distributors redeem empty containers from all retailers in their respective territory. Territorial integrity provisions are a major reason Michigan's bottle bill continues to be implemented so successfully.

**WE ASK THAT YOU SUPPORT TERRITORIAL INTEGRITY FOR BEER AND WINE**



# CONTROLLING COMMERCIAL BRIBERY CREATES COMPETITION **AND** A LEVEL PLAYING FIELD

**S**ince the inception of the Liquor Control Act in 1933, Michigan law has prohibited one licensee from aiding and assisting another licensee. The purpose of the law is to keep a person located in either the supplier or distributor tier from limiting competition through the use of commercial bribery of retailers. This law is imperative to protecting independence in the distributor and retailer tiers and is a major component of Michigan's successful three-tier distribution system.

The law prevents unethical practices from occurring in the industry. It helps maintain fairness in the market so small suppliers, distributors and retailers are not blocked from competition and market access by larger peers. Suppliers and distributors with the financial capability to engage in giveaways expect a quid-pro-quo. Small suppliers, especially Michigan's breweries and wineries, would not be able to compete and consumer choice would be greatly reduced.

In recent years there have been efforts to expand permitted activities in the area of commercial bribery, in the form of "trade practices" or "aid and assistance." Recently, multiple laws have been enacted to create exceptions to aid and assistance restrictions. These laws have expanded the services that suppliers and distributors can offer retailers, which include advertising.

Despite these changes in law, and the increased opportunities they provide, there are some who want to do away with all regulation of commercial bribery. If successful, the alcohol beverage industry would go the way of other industries that no longer have small independent suppliers and retailers. In the alcohol industry, this means a world with few, if any local craft brewers or small wineries and the demise of local, independent alcohol retailers.

**WE ASK THAT YOU SUPPORT MICHIGAN'S LAWS AND REGULATIONS THAT CONTROL AND LIMIT COMMERCIAL BRIBERY IN THE ALCOHOL INDUSTRY.**



# MICHIGAN'S CASH LAW

## MAINTAINS FAIRNESS AND A LEVEL PLAYING FIELD

**T**he Cash Law requires that the payment for alcoholic beverages by a licensee be made at the time of delivery. Cash, check, money order, or electronic funds transfer are all acceptable forms of payment, as long as the transaction takes place upon delivery of the product (EFT payments must be completed within one business day). Any form of credit is prohibited, which includes the use of credit cards.

This law prevents any licensee in one tier of the distribution system from creating a creditor/debtor relationship, and thereby gaining an unfair economic advantage or control over another licensee. A creditor/debtor relationship such as this would create a financial interest amongst the licensees, which is prohibited under the three-tier system. This helps

maintain the independence between the three tiers of alcohol distribution which fosters a level playing field and access to market for all. It also ensures that licensees must be financially viable to participate in the sale of alcohol, which helps prevent unscrupulous business practices by licensees facing financial hardship, such as selling to minors.

This regulation ensures a level playing field in Michigan's beer and wine industry where local independent breweries, wineries, distributors and retailers can thrive. It creates strong competition in the marketplace where consumers reap the benefit of thousands of choices and competitive pricing. In fact, a recent study found that Michigan has the lowest average price for a case of beer in the country.