

HOUSE BILL No. 5427

December 9, 1997, Introduced by Reps. McManus, Galloway, Law, Bodem, Dalman, Jansen and McBryde and referred to the Committee on Regulatory Affairs.

A bill to amend 1933 (Ex Sess) PA 8, entitled
"The Michigan liquor control act,"
by amending section 17 (MCL 436.17), as amended by 1996 PA 71.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) The commission may issue licenses, as provided
2 in this act, upon the payment of the fees provided in section 19
3 and the filing of the bonds required in section 22 or liability
4 insurance as provided in section 22a.

5 (2) The commission shall issue licenses to manufacturers
6 only when 25% or more of the capital stock is owned by residents
7 of this state ~~—~~, except that this limitation ~~—shall—~~ DOES not
8 apply to manufacturers of wine, mixed spirit drink, beer, or malt
9 beverages or to distillers or rectifiers.

10 (3) A full-year license issued by the commission ~~—shall—~~
11 ~~expire—~~ EXPIRES on April 30 following the date of issuance or the

1 date fixed by the commission. A license issued under this act
2 ~~shall be construed as~~ IS CONSIDERED a contract between the com-
3 mission and the licensee and shall be signed by both parties. If
4 a licensee dies, the commission may approve the operation of the
5 establishment by a personal representative or independent per-
6 sonal representative duly appointed by a court of competent
7 jurisdiction, pending the settlement of the estate of the
8 deceased licensee. The commission may approve a receiver or
9 trustee appointed by a court of competent jurisdiction to operate
10 the licensed establishment of a licensee. The commission may
11 grant a part-year license for a proportionate part of the license
12 fee specified in section 19. In a resort area the commission
13 shall grant a license for a period of time as short as 3 months.
14 A LICENSEE MAY TRANSFER A license ~~may be transferred~~ with the
15 consent of the commission. ~~A~~ THE COMMISSION SHALL NOT TRANSFER
16 A class C or specially designated distributor license obtained in
17 a manner other than by transfer ~~shall not be transferred~~ within
18 3 years after its issuance except under circumstances where the
19 licensee clearly and convincingly demonstrates TO THE COMMISSION
20 that unusual hardship will result if the transfer does not
21 receive the consent of the commission. Except as provided in
22 section 17b, an application for a license to sell alcoholic
23 liquor for consumption on the premises, except in a city having a
24 population of 1,000,000 or more, shall be approved by the local
25 legislative body in which the applicant's place of business is
26 located before THE COMMISSION GRANTS the license ~~is granted by~~
27 ~~the commission,~~ except that in the case of an application for

1 renewal of an existing license, if an objection to a renewal has
2 not been filed with the commission by the local legislative body
3 ~~not less than~~ AT LEAST 30 days before the date of expiration of
4 the license, the COMMISSION SHALL NOT REQUIRE THE approval of the
5 local legislative body. ~~shall not be required.~~ The commission
6 shall provide the local legislative body and the local chief of
7 police with the name, home and business addresses, and home and
8 business phone numbers to accomplish the local legislative
9 reviews of new and transferred license applications required by
10 this subsection. THE REQUIREMENT THAT A LOCAL LEGISLATIVE BODY
11 APPROVE AN APPLICATION FOR A NEW LICENSE OR THE TRANSFER OF AN
12 EXISTING LICENSE DOES NOT INCLUDE THE CERTIFICATION BY LOCAL LAW
13 ENFORCEMENT OFFICIALS THAT THE APPLICATION MEETS ALL APPROPRIATE
14 STATE AND LOCAL BUILDING, PLUMBING, ZONING, FIRE, SANITATION, AND
15 HEALTH LAWS AND ORDINANCES. Upon request of the local legislative
16 body after due notice and proper hearing by the local legislative
17 body and the commission, the commission shall revoke the license
18 of a licensee granted a license to sell alcoholic liquor for con-
19 sumption on the premises or any permit held in conjunction with
20 that license.

21 (4) A local legislative body, by resolution, may request
22 that the commission revoke the license of a licensee granted a
23 license to sell alcoholic liquor for consumption off the premises
24 whose place of business is located within the local legislative
25 body's jurisdiction and who has been determined pursuant to com-
26 mission violation hearings to have sold or furnished alcoholic
27 liquor, on at least 3 separate occasions in a single calendar

1 year, to a person who is less than 21 years of age if those
2 violations did not involve the use of falsified or fraudulent
3 identification by the person who is less than 21 years of age.
4 If the commission verifies that the licensee who is the subject
5 of the resolution has been found to have committed the violations
6 as prescribed in this subsection, the commission may suspend or
7 revoke the licensee's license and any permit held in conjunction
8 with that license.

9 (5) Except as otherwise provided in this act, THE COMMISSION
10 SHALL NOT ISSUE a license, other than a special license which has
11 been approved by the governing authority of ~~such~~ state-owned
12 land, ~~shall not be issued by the commission~~ to sell alcoholic
13 liquor, either on or off the premises, if the property or estab-
14 lishment to be covered by the license is situated in or on
15 state-owned land. However, this prohibition ~~shall~~ DOES not
16 apply to the following land:

17 (a) The Michigan state fairgrounds.

18 (b) The Upper Peninsula state fairgrounds.

19 (c) Armories, air bases, and naval installations owned or
20 leased by the state or provided by the federal government by
21 either lease, license, or use permit and used by outside parties
22 of a nonmilitary or nonstate governmental nature.

23 (d) Land which was under lease to a person licensed in the
24 calendar year 1954 and on which a licensed establishment is pres-
25 ently located.

26 (e) Land located in the Upper Peninsula which was owned or
27 leased by the federal government, used as a military

1 installation, and transferred to this state before December 31,
2 2000 pursuant to ~~Act No. 151 of the Public Acts of 1978, being~~
3 ~~sections 3.551 to 3.561 of the Michigan Compiled Laws 1978 PA~~
4 ~~151, MCL 3.551 TO 3.561, or Act No. 159 of the Public Acts of~~
5 ~~1993, being sections 3.571 to 3.580 of the Michigan Compiled~~
6 ~~Laws 1993 PA 159, MCL 3.571 TO 3.580.~~ The commission may issue
7 2 additional licenses pursuant to this subdivision for establish-
8 ments located on this state land without regard to or without the
9 effect upon the quota provisions of section 19c in the local gov-
10 ernmental unit in which the license will be issued subject to the
11 recommendation of the authority established pursuant to ~~Act~~
12 ~~No. 151 of the Public Acts of 1978 1978 PA 151, MCL 3.551 TO~~
13 ~~3.561, or Act No. 159 of the Public Acts of 1993 1993 PA 159,~~
14 MCL 3.571 TO 3.580. A person issued a license pursuant to this
15 subdivision may renew the license and transfer ownership of the
16 license, without regard to or without the effect upon the quota
17 provisions of section 19c, if title to the property covered by
18 the license is transferred from the state to another person or to
19 another governmental unit. The commission shall not transfer a
20 license issued under this subdivision to another location.
21 Before the issuance of a license, and annually thereafter before
22 the issuance of a license for a new licensing period, the appli-
23 cant for a license shall submit to the commission a certificate
24 from the department or agency charged with control of the land
25 setting forth that the issuance of a license is not incompatible
26 with the objects and purposes entrusted to that department or
27 agency under the law establishing control of the land in the

1 department or agency. This subsection does not prohibit the
2 issuance of a license pursuant to section 17h.

3 (f) Property owned by the Michigan state waterways commis-
4 sion and leased to persons under part 791 ~~-(harbor development)-~~
5 of the natural resources and environmental protection act, ~~Act~~
6 ~~No. 451 of the Public Acts of 1994, being sections 324.79101 to~~
7 ~~324.79118 of the Michigan Compiled Laws~~ 1994 PA 451, MCL
8 324.79101 TO 324.79118. A license may be issued under this sub-
9 division to a lessee without regard to the quota provisions of
10 section 19c, but the COMMISSION SHALL NOT ISSUE A license ~~shall~~
11 ~~not be issued~~ UNDER THIS SUBDIVISION without the written
12 approval of the Michigan state waterways commission or its
13 designee. A license issued under this subdivision ~~shall~~ IS not
14 ~~be~~ transferable as to ownership or location, and, if the
15 licensee goes out of business, the LICENSEE SHALL SURRENDER THE
16 license ~~shall be surrendered~~ to the commission.

17 (g) Property owned by the state treasurer of this state when
18 acting in the capacity of custodian of the assets of the state
19 retirement systems created by the public school employees retire-
20 ment act of 1979, ~~Act No. 300 of the Public Acts of 1980, being~~
21 ~~sections 38.1301 to 38.1408 of the Michigan Compiled Laws~~ 1980
22 PA 300, MCL 38.1301 TO 38.1437; the state employees' retirement
23 act, ~~Act No. 240 of the Public Acts of 1943, being sections 38.1~~
24 ~~to 38.48 of the Michigan Compiled Laws~~ 1943 PA 240, MCL 38.1 TO
25 38.69; the state police retirement act of 1986, ~~Act No. 182 of~~
26 ~~the Public Acts of 1986, being sections 38.1601 to 38.1648 of the~~
27 ~~Michigan Compiled Laws~~ 1986 PA 182, MCL 38.1601 TO 38.1648; and

1 the judges retirement act of 1992, ~~Act No. 234 of the Public~~
2 ~~Acts of 1992, being sections 38.2101 to 38.2608 of the Michigan~~
3 ~~Compiled Laws~~ 1992 PA 234, MCL 38.2101 TO 38.2670.

4 (6) This act does not prohibit a hotel which is or was the
5 holder of a license authorizing the retail sale of alcoholic
6 liquor for consumption on the premises from applying for and
7 receiving under this act any other and different type of license
8 authorizing the retail sale of alcoholic liquor for consumption
9 on the premises. ~~—, and the~~ THE application for the license
10 ~~shall~~ UNDER THIS SUBSECTION IS not ~~be~~ considered a new appli-
11 cation for a license so long as the total number of public
12 licenses for consumption on the premises does not exceed the
13 authorized total established in this act and the sale of alco-
14 holic liquor is approved by the electors. The commission may
15 divide the state into 3 zones and establish for each zone an
16 anniversary date for renewal of full-year retail licenses in the
17 licensing year. The commission shall promulgate rules pursuant
18 to the administrative procedures act of 1969, ~~Act No. 306 of the~~
19 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~
20 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, for
21 the effective administration of the renewal of licenses.

22 (7) The commission, with the written approval of the depart-
23 ment of ~~commerce~~ AGRICULTURE in the case of the Michigan state
24 fairgrounds and ~~the department of agriculture in the case of~~
25 the Upper Peninsula state fairgrounds, may issue without regard
26 to the quota provision of section 19c a tavern license to a
27 person as concessionaire leasing or renting a portion of either

1 the Upper Peninsula state fairgrounds or the state fairgrounds,
2 or both, to service the licensed area in use for recreational or
3 exhibition purposes other than at the time of the annual Upper
4 Peninsula state fair under section 2 of ~~Act No. 89 of the Public~~
5 ~~Acts of 1927, being section 285.142 of the Michigan Compiled~~
6 ~~Laws~~ 1927 PA 89, MCL 285.142. A license issued under this sub-
7 section is not transferable.

8 (8) Notwithstanding section 3, a collector, who is 21 years
9 of age or older, of ceramic commemorative bottles containing
10 alcoholic liquor and which bear an unbroken federal tax stamp or
11 seal may sell or trade the bottles to other such collectors of
12 the bottles without obtaining a license pursuant to this act.
13 All sales conducted pursuant to this subsection shall be for the
14 purpose of exchanging ceramic commemorative bottles between pri-
15 vate collectors of the bottles and shall not be for the purpose
16 of selling alcoholic liquor for personal consumption. A sale or
17 exchange conducted pursuant to this subsection shall not occur in
18 any of the following ways:

19 (a) In connection with the business of a holder of ~~an~~ A
20 LICENSE FOR alcoholic liquor. ~~license.~~

21 (b) In connection with any other business.