

Act No. 416
Public Acts of 1998
Approved by the Governor
December 21, 1998
Filed with the Secretary of State
December 21, 1998
EFFECTIVE DATE: December 21, 1998

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Rep. Varga

ENROLLED HOUSE BILL No. 6271

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 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 sections 205, 501, 513, 522, 531, 533, 811, 903, and 1113 (MCL 436.1205, 436.1501, 436.1513, 436.1522, 436.1531, 436.1533, 436.1811, 436.1903, and 436.2113), section 522 as added and section 531 as amended by 1998 PA 282.

The People of the State of Michigan enact:

Sec. 205. (1) If the commission privatizes any portion of the system existing on the effective date of the amendatory act that added this section under which spirits are warehoused or distributed, the commission shall, as provided in section 203(1), by order appoint authorized distribution agents to engage in the warehousing and delivery of spirits in this state so as to ensure that all retail licensees continue to be properly serviced with spirits. An authorized distribution agent is subject to uniform requirements, including business operating procedures, which the commission may prescribe by rule, subject to this section.

(2) A person is eligible for appointment by the commission as an authorized distribution agent if the following circumstances exist:

(a) The person satisfies all applicable commission rules prescribing qualifications for licensure promulgated under section 215.

(b) The person has entered into a written agreement or contract with a supplier of spirits for the purposes of warehousing and delivering a brand or brands of spirits of that supplier of spirits.

(c) The person has an adequate warehousing facility located in this state for the storing of spirits from which all delivery of spirits to retail licensees shall be made.

(3) An authorized distribution agent shall not have a direct or indirect interest in a supplier of spirits or in a retailer. A supplier of spirits or a retailer shall not have a direct or indirect interest in an authorized distribution agent. An authorized distribution agent shall not hold title to spirits. After September 24, 1996, an authorized distribution agent or an applicant to become an authorized distribution agent who directly or indirectly becomes licensed subsequently as a wholesaler shall not be appointed or authorized to sell or distribute a brand of wine in an area for which a wholesaler has been assigned or authorized to sell or distribute that brand under an agreement required by this act. A wholesaler who directly or indirectly becomes an authorized distribution agent shall not be appointed or authorized to sell or

distribute a brand of wine to a retailer in an area for which another wholesaler has been assigned or authorized to sell or distribute that brand under an agreement required by this act, if the wholesaler was not selling or distributing that brand to retailers in that area on or before September 24, 1996.

(4) An authorized distribution agent shall deliver to each retailer located in its assigned distribution area on at least a weekly basis if the order meets the minimum requirements. The authorized distribution agent shall provide retailers access to a computer application that includes the capability to determine whether certain spirits are currently available for delivery. The minimum requirements shall be set by the commission and shall be a sufficient number of bottles to comprise not more than 2 cases. A retailer may pick up the product at the authorized distribution agent's warehouse. To avoid occasional emergency outages of spirits, a retail licensee may make up to 12 special emergency orders to an authorized distribution agent per calendar year which order shall be made available to the retail licensee within 18 hours of the placing of the order. A special emergency order placed on Saturday or Sunday shall be made available to the retail licensee before noon on the following Monday. An authorized distribution agent may impose a fee of up to \$20.00 to deliver a special emergency order to a retail licensee.

(5) In locations inaccessible to a motor vehicle as that term is defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, the authorized distribution agent shall arrange that a delivery of spirits to a retailer be in compliance with the following procedures:

(a) After processing an order from a retailer, an authorized distribution agent shall contact a retailer to confirm the quantity of cases or bottles, or both, and the exact dollar total of the order.

(b) The authorized distribution agent shall have the responsibility to coordinate with the retailer the date and time a driver is scheduled to deliver the order to a ferry transport dock, shall arrange any ferry, drayage, or other appropriate service, and shall pick up the retailer's payment at that time.

(c) The ferry transport company or company representing any other form of conveyance shall take the retailer's payment to the mainland dock and give that payment to the authorized distribution agent's driver.

(d) The ferry transport company or company representing any other form of conveyance shall transport the order to the drayage or other appropriate company at the island dock for immediate delivery to the retailer.

(e) The drayage or other appropriate company shall deliver the order to the retailer.

(6) The authorized distribution agent is responsible for the payment of all transportation and delivery charges imposed by the ferry, drayage, or other conveyance company and is responsible for all breakage and any shortages, whether attributable to the ferry, drayage, or other conveyance company or any combination of those companies, until the order is delivered to the retailer's establishment. This subsection does not in any way prevent the authorized distribution agent from seeking reimbursement or damages from any company conveying the authorized distribution agent's product.

(7) Except as otherwise provided in subsection (4), an authorized distribution agent shall not charge a delivery fee or a split-case fee for delivery of spirits sold by the commission to a retailer.

(8) An authorized distribution agent or prospective authorized distribution agent shall maintain and make available to the commission or its representatives, upon notice, any contract or written agreement it may have with a supplier of spirits or other authorized distribution agent for the warehousing and delivery of spirits in this state.

(9) For any violation of this act, rules promulgated under this act, or the terms of an order appointing an authorized distribution agent, an authorized distribution agent shall be subject to the suspension, revocation, forfeiture, and penalty provisions of sections 903(1) and 907 in the same manner in which a licensee would be subject to those provisions. An authorized distribution agent aggrieved by a penalty imposed by the commission may invoke the hearing and appeal procedures of section 903(2) and rules promulgated under that section.

(10) A specially designated distributor may sell to an on-premises licensee up to 9 liters of spirits during any 1-month period and an on-premises licensee may purchase, collectively from specially designated distributors, up to that amount during any 1-month period. Notwithstanding any other provision of this act or rule promulgated under this act, a specially designated distributor is only liable for knowingly violating this section. Records verifying these purchases shall be maintained by the on-premises licensee and be available to the commission upon request.

(11) An authorized distribution agent shall demonstrate that it has made a good faith effort to provide employment to those former state employees who were terminated due to the privatization of the liquor distribution system. A good faith effort is demonstrated by the authorized distribution agent performing at least the following actions:

(a) Seeking from the commission a list of names and resumes of all such former state employees who have indicated a desire for continued employment in the distribution of liquor in Michigan.

(b) Providing a list of employment opportunities created by the authorized distribution agent in the distribution of liquor in Michigan to each individual whose name and resume is transmitted from the commission.

(c) Providing an opportunity for application and interview to any terminated state worker who indicates an interest in pursuing a job opportunity with the authorized distribution agent.

(d) Providing a priority in hiring for those individuals who apply and interview under this process.

(12) Any former state employees terminated due to privatization who have reason to believe that an authorized distribution agent has not made a good faith effort to provide him or her with employment opportunities as described in subsection (11) may file a complaint with the commission who shall hear the complaint and make a determination on

its validity. If the commission determines that the complaint is valid, the violation may be treated as a violation of this act and the authorized distribution agent may be subject to the suspension, revocation, forfeiture, and penalty provisions of sections 903(1) and 907.

(13) In addition to paying a vendor of spirits the acquisition price for purchasing spirits, the commission may pay a vendor of spirits an additional amount of not less than \$4.50 and not more than \$7.50 for each case of spirits purchased as an offset to the costs being incurred by that vendor of spirits in contracting with an authorized distribution agent for the warehousing and delivery of spirits to retailers. The payment described in this subsection shall not be included in the cost of purchasing spirits by the commission and shall not be subject to the commission's markup, special taxes, or state sales tax. The per-case offset established by this subsection may be increased by the state administrative board each January to reflect reasonable increases in the authorized distribution agent's cost of warehousing and delivery. As used in this subsection, "case" means a container holding twelve 750 ml bottles of spirits or other containers containing spirits which are standard to the industry.

Sec. 501. (1) The commission may issue licenses as provided in this act upon the payment of the fees provided in section 525 and the filing of the bonds required in section 801 or liability insurance as provided in section 803.

(2) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act shall be construed as a contract between the commission and the licensee and shall be signed by both parties. If a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by a court of competent jurisdiction, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee. The commission may grant a part-year license for a proportionate part of the license fee specified in section 525. In a resort area the commission shall grant a license for a period of time as short as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained in a manner other than by transfer shall not be transferred within 3 years after its issuance except under circumstances where the licensee clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 750,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body shall not be required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. Upon request of the local legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell alcoholic liquor for consumption on the premises or any permit held in conjunction with that license.

(3) A local legislative body, by resolution, may request that the commission revoke the license of a licensee granted a license to sell alcoholic liquor for consumption off the premises whose place of business is located within the local legislative body's jurisdiction and who has been determined pursuant to commission violation hearings to have sold or furnished alcoholic liquor, on at least 3 separate occasions in a single calendar year, to a person who is less than 21 years of age if those violations did not involve the use of falsified or fraudulent identification by the person who is less than 21 years of age. If the commission verifies that the licensee who is the subject of the resolution has been found to have committed the violations as prescribed in this subsection, the commission may suspend or revoke the licensee's license and any permit held in conjunction with that license.

(4) This act does not prohibit a hotel which is or was the holder of a license authorizing the retail sale of alcoholic liquor for consumption on the premises from applying for and receiving under this act any other and different type of license authorizing the retail sale of alcoholic liquor for consumption on the premises, and the application for the license shall not be considered a new application for a license so long as the total number of public licenses for consumption on the premises does not exceed the authorized total established in this act and the sale of alcoholic liquor is approved by the electors. The commission may divide the state into 3 zones and establish for each zone an anniversary date for renewal of full-year retail licenses in the licensing year. The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the effective administration of the renewal of licenses.

(5) The commission, with the written approval of the department of agriculture in the case of the Michigan state fairgrounds and the Upper Peninsula state fairgrounds, may issue without regard to the quota provision of section 531 a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds, or both, to service the licensed area in use for recreational or exhibition purposes other than at the time of the annual Upper Peninsula state fair under section 2 of 1927 PA 89, MCL 285.142. A license issued under this subsection is not transferable.

Sec. 513. (1) The commission may issue to the governing board of a college or university, without regard to the quota provisions of section 531, a license to sell alcoholic liquor for consumption on the premises of a conference center

operated by the governing board. Licenses granted under this subsection may be used only for the sale of alcoholic liquor at regularly scheduled conference center activities. The sale of alcoholic liquor to unscheduled patrons or at unscheduled events is prohibited under this subsection.

(2) Subject to the provisions of section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of a hotel located on land owned by central Michigan university if both of the following circumstances exist:

(a) The land is leased or subleased at fair market value to a private entity that owns, leases, or subleases the hotel building and its fixtures.

(b) The hotel and land are located within an industrial, research, or commercial development park established by the governing board of central Michigan university.

(3) Licenses issued pursuant to this section are nontransferable, and the licensee shall pay the fee required under section 525.

(4) As used in this section:

(a) "College" or "university" means a 2-year or 4-year state supported institution of higher education.

(b) "Conference center" means a building or portion of a building, other than a student residence hall or student center, which has meeting rooms, banquet areas, social halls, overnight accommodations, and related facilities for special activities scheduled by the college or university, which in the judgment of the commission, has been regularly used for conferences and lodging of guests. The Hoyt conference center and the corporate education center at eastern Michigan university, the Kirkhof and Eberhard centers at Grand Valley state university, the Bernhard center at western Michigan university, the Wadsworth center at Michigan technological university, the West complex at Saginaw Valley state university, the conference center at Big Rapids, the applied technology center at Grand Rapids, and the FSU-GR conference center of Ferris state university, Grand Rapids junior college, the Waterman campus center at Schoolcraft college, the Mendel center at Lake Michigan community college, the McGregor memorial conference center at Wayne state university, the Michigan state university management educational center, the Superior dome at northern Michigan university, Walker Cisler center at Lake Superior state university, and the Marie Prahll college center at Mott community college are considered conference centers for the purposes of this act.

Sec. 522. (1) The commission may issue 1 banquet facility permit to an on-premise licensee, as an extension of that on-premise license, for the serving of alcoholic liquor only on the permitted premises. This section does not limit the number of banquet facility permits that the commission may issue within any local unit of government. The banquet facility shall be used only for scheduled functions and events, shall not have regular meal service, and shall not be generally open to the public. The applicant shall provide documentation that demonstrates a preexisting ownership or lease interest in the banquet facility.

(2) The commission shall charge an initial permit issuance fee and, upon renewal of the permit, a permit renewal fee sufficient to cover the cost of administering the issuance and renewal of the permit. The fees shall be \$600.00.

(3) The banquet facility permit expires on the same date as the on-premise license and may be renewed in conjunction with that license. The commission shall issue the permit only to a licensee to which the following apply:

(a) The licensee does not have a record of any prior offenses or violations that the commission considers to be of such a nature as to pose a threat to the general public if a permit is issued.

(b) The licensee has demonstrated to the commission that at least 50% of the gross receipts of the on-premise license are derived from the sale of food and nonalcoholic beverages prepared for consumption on the licensed premises.

(4) The licensee shall apply on forms provided by the commission and provide information considered necessary by the commission to protect the public interest and welfare including, but not limited to, a diagram of the premises and evidence that the premises meets local safety, building, and health codes.

(5) The commission shall not issue a banquet facility permit unless issuance is approved through adoption of a resolution of the legislative body of the local unit of government within which the permitted facility is located.

Sec. 531. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. On-premise escrowed licenses issued under this subsection are available subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in a county with a population of under 500,000 or a county with a population of over 700,000 in which the escrowed license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license is available subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of a tavern or class A hotel from requesting reclassification of a license to class C, unless local option laws prevent the sale of spirits and mixed spirit drinks by those licensed premises, subject to the consent of the commission. The upgrading of a license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue 1 or more licenses for a period not to exceed 12 months without regard to a limitation because of population, but not in excess of 550, and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 10 additional licenses for the year 1998 to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area and whose primary purpose is not for the sale of alcoholic liquor. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined pursuant to subsection (11) and subject to subsection (17) in the case of a class A hotel or a class B hotel, the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to the number of applications received under this subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 25 additional resort economic development licenses per year for the year 1998. The commission may issue or approve before July 1, 1999 any of the 25 licenses not issued or approved but available for calendar year 1998. A person is eligible to apply for a resort economic development license under this subsection upon submitting an application to the commission and demonstrating all of the following:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

(b) The establishment's primary business is not the sale of alcoholic liquor.

(c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of \$1,500,000.00.

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection (11), in which the quota of specially designated distributor licenses, as provided by commission rule, has been exhausted, the commission may issue not more than 10 additional specially designated distributor licenses per year for the years 1998 and 1999 to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location. A specially designated distributor license issued pursuant to R 436.1141 of the Michigan administrative code may be located within 2,640 feet of a specially designated distributor license issued pursuant to this subsection.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be \$50.00. A special purpose license may be issued only to a corporation which is all of the following:

(a) Is a nonprofit corporation organized pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.

(c) Has been in continuous existence for not less than 6 years.

(7) Notwithstanding the local legislative body approval provision of section 501(2) and notwithstanding the provisions of section 519, the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. A license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events.

(8) In issuing a resort or resort economic development license under subsection (3), (4), or (5), the commission shall consider economic development factors of the area in the issuance of licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort or resort economic development license issued under subsection (3), (4), or (5) to another location. If the licensee goes out of business the license shall be surrendered to the commission.

(9) The limitations and quotas of this section are not applicable to the issuance of a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service if the application for a new license is made for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.

(10) The limitations and quotas of this section shall not be applicable to the issuance of a new license or the renewal of an existing license where the property or establishment to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.

(11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of 1909 PA 279, MCL 117.6. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(12) Before granting an approval as required in section 501(2) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. Public notice of the meeting to consider the granting of the license by the local governmental unit shall be made 2 weeks before the meeting.

(13) The person signing the application for an on-premise resort or resort economic development license shall state and verify that he or she attempted to secure an on-premise escrowed or quota license and that, to the best of his or her knowledge, an on-premise escrowed or quota license is not readily available within the local governmental unit in which the applicant for the on-premise resort or resort economic development license proposes to operate.

(14) The commission shall not issue an on-premise resort or resort economic development license if the local governmental unit within which the resort or resort economic development license applicant proposes to operate has not issued all on-premise licenses available under subsection (1) or if an on-premise escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premise resort or resort economic development license proposes to operate. The commission may waive the provisions of this subsection upon a showing of good cause.

(15) The commission shall annually report to the legislature the names of the businesses issued licenses under this section and their locations.

(16) The commission shall not require a class A hotel or a class B hotel licensed pursuant to subsection (2), (3), or (4) to provide food service to registered guests or to the public.

(17) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

(i) The fair market value of the license, if determinable.

(ii) The size and scope of the proposed operation.

(iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

Sec. 533. A retail vendor licensed under this act to sell for consumption on the premises may apply for a license as a specially designated merchant. A specially designated distributor may apply for a license as a specially designated merchant. In cities, incorporated villages, or townships, the commission shall issue only 1 specially designated distributor license for each 3,000 of population, or fraction of 3,000. The quota requirement may be waived at the discretion of the commission if there is no existing specially designated distributor licensee within 2 miles of the applicant, measured along the nearest traffic route.

Sec. 811. The insurance policy described in this chapter shall cover the liability imposed by section 801 and shall contain the following conditions:

That no condition, provision, stipulation or limitation contained in the policy, or any other endorsement thereon, shall relieve the insurer from liability (within the statutory limits provided by section 803 of the Michigan liquor control code of 1998), for the payment of any claim for which the insured may be held legally liable under section 801 of said act.

Sec. 903. (1) The commission or any commissioner or duly authorized agent of the commission designated by the chairperson of the commission, upon due notice and proper hearing, may suspend or revoke any license upon a violation of this act or any of the rules promulgated by the commission under this act. The commission or any commissioner or duly authorized agent of the commission designated by the chairperson of the commission, may assess a penalty of not more than \$300.00 for each violation of this act or rules promulgated under this act, or not more than \$1,000.00 for each violation of section 801(2), in addition to or in lieu of revocation or suspension of the license, which penalty shall be paid to the commission and deposited with the state treasurer and shall be credited to the general fund of the state. The commission shall hold a hearing and order the suspension or revocation of a license if the licensee has been found liable for 3 or more separate violations of section 801(2) which violations occurred on different occasions within a 24-month period.

(2) The commission shall provide a procedure by which a licensee who is aggrieved by any penalty imposed under subsection (1) and any suspension or revocation of a license ordered by the commission, a commissioner, or a duly authorized agent of the commission may request a hearing for the purpose of presenting any facts or reasons to the commission as to why the penalty, suspension, or revocation should be modified or rescinded. Any such request shall be in writing and accompanied by a fee of \$25.00. The commission, after reviewing the record made before a commissioner or a duly authorized agent of the commission, may allow or refuse to allow the hearing in accordance with the commission's rules. The right to a hearing provided in this subsection, however, shall not be interpreted by any court as curtailing, removing, or annulling the right of the commission to suspend or revoke licenses as provided for in this act. A licensee does not have a right of appeal from the final determination of the commission, except by leave of the circuit court. Notice of the order of suspension or revocation of a license or of the assessment of a penalty, or both, shall be given in the manner prescribed by the commission. The suspension or revocation of a license or the assessment of a penalty, or both, by the commission or a duly authorized agent of the commission does not prohibit the institution of a criminal prosecution for a violation of this act. The institution of a criminal prosecution for a violation of this act or the acquittal or conviction of a person for a violation of this act does not prevent the suspension or revocation of a license or the assessment of a penalty, or both, by the commission. In a hearing for the suspension or revocation of a license issued under this act, proof that the defendant licensee or an agent or employee of the licensee demanded and was shown, before furnishing any alcoholic liquor to a minor, a motor vehicle operator or chauffeur license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of majority and identity of the person, may be offered as evidence in a defense to a proceeding for the suspension or revocation of a license issued under this act. A licensee who has reason to believe that a minor has used fraudulent identification to purchase alcoholic liquor in violation of section 703 shall file a police report concerning the violation with a local law enforcement agency and shall also present the alleged fraudulent identification to the local law enforcement agency at the time of filing the report if the identification is in the possession of the licensee. The commission may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the utilization by licensees of equipment designed to detect altered or forged driver licenses, state identification cards, and other forms of identification.

(3) In addition to the hearing commissioners provided for in section 209, the chairperson of the commission may designate not more than 2 duly authorized agents to hear violation cases. A person appointed under this subsection shall be a member in good standing of the state bar of Michigan.

(4) A duly authorized agent who has been designated by the chairperson pursuant to subsection (3) shall have, in the hearing of violation cases, the same authority and responsibility as does a hearing commissioner under this act and the rules promulgated under this act.

(5) A duly authorized agent who has been designated by the chairperson pursuant to subsection (3) shall be ineligible for appointment to the commission for a period of 1 year after the person ceases to serve as a duly authorized agent.

Sec. 1113. (1) Except as provided in subsection (2), (3), or (5), a licensee enumerated under section 525 or any other person shall not sell at retail, give away, or furnish, and a person shall not knowingly and willfully buy, spirits or mixed spirit drink between the hours of 2 a.m. and 12 midnight on Sunday. If January 1 falls on Sunday, the hours may be extended to 4 a.m.

(2) If the legislative body of a county has authorized the sale of spirits and mixed spirit drink for consumption on the premises on Sunday, by resolution approved by a majority of the legislative body voting on that resolution, the spirits and mixed spirit drink may be sold after 12 noon in an establishment licensed under this act in which the gross receipts derived from the sale of food and other goods and services exceed 50% of the total gross receipts. With respect to an action taken by the legislative body or if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question of the sale of spirits and mixed spirit drink for consumption on the premises in addition to beer and wine on Sunday. The petition shall be signed by a number of the registered and qualified electors of the county that is not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election held for that purpose. The question shall not be submitted to the electors of a county more than once every 4 years. The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before the election. The question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption on the premises be permitted on Sunday in an establishment licensed under the Michigan liquor control code of 1998 in which the gross receipts derived from the sale of food or other goods and services exceed 50% of the total gross receipts within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No

(3) If the legislative body of a county has authorized the sale of spirits and mixed spirit drink for consumption off the premises on Sunday by resolution approved by a majority of the legislative body voting on the resolution, spirits and mixed spirit drink may be sold after 12 noon in a retail establishment licensed under this act. With respect to an action taken by the legislative body or if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday. The petition shall be signed by a number of the registered and qualified electors of the county that is not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election shall not be held for that purpose. The question shall not be submitted to the electors of a county more than once every 4 years. The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before the election. The question of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption off the premises be permitted on Sunday in a retail establishment licensed under the Michigan liquor control code of 1998 within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No

(4) Votes on a question submitted under this section shall be taken, counted, and canvassed in the same manner as votes cast in county elections are taken, counted, and canvassed. A ballot shall be furnished by the election commission or similar body of the county. If a majority of the electors voting at an election vote in favor of the proposal, spirits and mixed spirit drink may be sold in the county under this act for consumption on the premises or by a retail establishment for consumption off the premises, in addition to beer and wine, on Sunday. The sale shall not be permitted in a city, village, or township in which the sale of spirits and mixed spirit drink is prohibited under this act. A violation of this section is a misdemeanor. This section does not apply to spirits and mixed spirit drink served to a bona fide guest in the residence of a person or sold or furnished for medicinal purposes as provided for in this act.

(5) A licensee enumerated under section 525 or any other person shall not sell at retail, and a person shall not knowingly and willfully buy, alcoholic liquor between the hours of 9 p.m. on December 24 and 7 a.m. on December 26. If December 26 falls on Sunday, the hours of closing shall be determined pursuant to this act. The legislative body of a city, village, or township, by resolution or ordinance, may prohibit the sale of alcoholic liquor on Sunday or a legal holiday, primary election day, general election day, or municipal election day.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved

Governor.