

**SUBSTITUTE FOR  
HOUSE BILL NO. 5668**

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending sections 501 and 906 (MCL 436.1501 and 436.1906),  
section 501 as amended by 1998 PA 416 and section 906 as added by  
1998 PA 391.

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

1       Sec. 501. (1) The commission may issue licenses as provided  
2 in this act upon the payment of the fees provided in section 525  
3 and the filing of the bonds required in section 801 or liability  
4 insurance as provided in section 803. BEGINNING JULY 1, 2001 AND  
5 SUBJECT TO SECTION 906(2) AND (3), THE COMMISSION SHALL NOT ISSUE  
6 A NEW ON PREMISES LICENSE OR TRANSFER MORE THAN 50% INTEREST IN  
7 AN EXISTING ON PREMISES LICENSE UNLESS THE APPLICANT OR  
8 TRANSFEREE OFFERS PROOF ACCEPTABLE TO THE COMMISSION THAT HE OR  
9 SHE HAS EMPLOYED OR HAS PRESENT ON THE LICENSED PREMISES, AT A

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1 MINIMUM, SUPERVISORY PERSONNEL ON EACH SHIFT AND DURING ALL HOURS  
2 IN WHICH ALCOHOLIC LIQUOR IS SERVED WHO HAVE SUCCESSFULLY COM-  
3 PLETED A SERVER TRAINING PROGRAM AS FURTHER DESCRIBED IN SECTION  
4 906. THE COMMISSION MAY CONSIDER AN INDIVIDUAL ENROLLED AND  
5 ACTIVELY PARTICIPATING IN A SERVER TRAINING PROGRAM AS HAVING  
6 SUCCESSFULLY COMPLETED THE PROGRAM FOR SUCH TIME AS THE INDIVID-  
7 UAL IS PARTICIPATING. THE COMMISSION MAY ALLOW AN APPLICANT OR A  
8 CONDITIONALLY APPROVED LICENSEE AT LEAST 180 DAYS, OR MORE UPON A  
9 SHOWING OF GOOD CAUSE, TO MEET THE MINIMUM PERSONNEL TRAINING  
10 REQUIREMENTS OF THIS SUBSECTION. THE COMMISSION MAY SUSPEND THE  
11 LICENSE OF A CONDITIONALLY APPROVED LICENSEE FOR FAILURE TO  
12 COMPLY WITH THIS SUBSECTION. THE COMMISSION MAY WAIVE THE SERVER  
13 TRAINING REQUIREMENTS OF THIS SUBSECTION ON THE BASIS OF EITHER  
14 OF THE FOLLOWING CIRCUMSTANCES:

15 (A) THE LICENSEE'S RESPONSIBLE OPERATING EXPERIENCE OR  
16 TRAINING.

17 (B) THE PERSON'S DEMONSTRATION OF AN ACCEPTABLE LEVEL OF  
18 RESPONSIBLE OPERATION EITHER AS A LICENSEE DURING THE PRECEDING 3  
19 YEARS OR AS A MANAGER WITH SUBSTANTIAL EXPERIENCE IN SERVING  
20 ALCOHOLIC LIQUOR.

21 (2) A full-year license issued by the commission shall  
22 expire on April 30 following the date of issuance or the date  
23 fixed by the commission. A license issued under this act shall  
24 be construed as a contract between the commission and the  
25 licensee and shall be signed by both parties. If a licensee  
26 dies, the commission may approve the operation of the  
27 establishment by a personal representative or independent

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1 personal representative duly appointed by a court of competent  
2 jurisdiction, pending the settlement of the estate of the  
3 deceased licensee. The commission may approve a receiver or  
4 trustee appointed by a court of competent jurisdiction to operate  
5 the licensed establishment of a licensee. The commission may  
6 grant a part-year license for a proportionate part of the license  
7 fee specified in section 525. In a resort area the commission  
8 shall grant a license for a period of time as short as 3 months.  
9 A license may be transferred with the consent of the commission.  
10 A class C or specially designated distributor license obtained in  
11 a manner other than by transfer shall not be transferred within  
12 3 years after its issuance except under circumstances where the  
13 licensee clearly and convincingly demonstrates that unusual hard-  
14 ship will result if the transfer does not receive the consent of  
15 the commission. An application for a license to sell alcoholic  
16 liquor for consumption on the premises, except in a city having a  
17 population of 750,000 or more, shall be approved by the local  
18 legislative body in which the applicant's place of business is  
19 located before the license is granted by the commission, except  
20 that in the case of an application for renewal of an existing  
21 license, if an objection to a renewal has not been filed with the  
22 commission by the local legislative body not less than 30 days  
23 before the date of expiration of the license, the approval of the  
24 local legislative body shall not be required. The commission  
25 shall provide the local legislative body and the local chief of  
26 police with the name, home and business addresses, and home and  
27 business phone numbers to accomplish the local legislative

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1 reviews of new and transferred license applications required by  
2 this subsection. Upon request of the local legislative body  
3 after due notice and proper hearing by the local legislative body  
4 and the commission, the commission shall revoke the license of a  
5 licensee granted a license to sell alcoholic liquor for consump-  
6 tion on the premises or any permit held in conjunction with that  
7 license.

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

23       (4) This act does not prohibit a hotel which is or was the  
24 holder of a license authorizing the retail sale of alcoholic  
25 liquor for consumption on the premises from applying for and  
26 receiving under this act any other and different type of license  
27 authorizing the retail sale of alcoholic liquor for consumption

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1 on the premises, and the application for the license shall not be  
2 considered a new application for a license so long as the total  
3 number of public licenses for consumption on the premises does  
4 not exceed the authorized total established in this act and the  
5 sale of alcoholic liquor is approved by the electors. The com-  
6 mission may divide the state into 3 zones and establish for each  
7 zone an anniversary date for renewal of full-year retail licenses  
8 in the licensing year. The commission shall promulgate rules  
9 pursuant to the administrative procedures act of 1969, 1969  
10 PA 306, MCL 24.201 to 24.328, for the effective administration of  
11 the renewal of licenses.

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

22 Sec. 906. (1) As used in this section:

23 (a) "Administrator" means a qualifying company, postsecond-  
24 ary educational institution, or trade association authorized by  
25 the commission to offer server training programs and instructor  
26 certification classes in compliance with this section and to

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1 certify to the commission that those persons meet the  
2 requirements of this section.

3 (b) "Instructor" means an individual certified by an admin-  
4 istrator and approved by the commission to teach server training  
5 programs. [AN INSTRUCTOR MAY BE A LICENSEE OR AN EMPLOYEE OF A  
6 LICENSEE.]

7 (c) "Prohibited sale" means the sale of alcoholic liquor by  
8 an employee of a licensee to a visibly intoxicated person or to a  
9 minor, or both.

10 (d) "Responsible vendor" means a designation by the commis-  
11 sion of a retail licensee meeting the standards of this section.

12 (e) "Server training program" means an educational program  
13 whose curriculum has been approved by the commission under the  
14 standards described in this section and is offered by an adminis-  
15 trator [OR INSTRUCTOR] to a retail licensee for its employees.

16 (2) THE COMMISSION SHALL APPROVE THE ESTABLISHING OF A  
17 SERVER TRAINING PROGRAM DESIGNED FOR ALL NEW ON PREMISES LICENS-  
18 EES OR TRANSFEREES OF MORE THAN A 50% INTEREST IN AN ON PREMISES  
19 LICENSE ON OR AFTER JULY 1, 2001, AND FOR ANY EXISTING RETAIL  
20 LICENSEES THE COMMISSION DETERMINES TO BE IN NEED OF TRAINING DUE  
21 TO THE FREQUENCY OR TYPES OF VIOLATIONS OF THIS ACT INVOLVING THE  
22 SERVING OF ALCOHOLIC LIQUOR. THIS SUBSECTION DOES NOT APPLY TO  
23 SPECIAL LICENSES EXCEPT THAT THE COMMISSION MAY REQUIRE SERVER  
24 TRAINING FOR CERTAIN SPECIAL LICENSEES BASED UPON THE SIZE AND  
25 NATURE OF THE LICENSED EVENT. THE COMMISSION MAY ADOPT THE  
26 EXISTING STANDARDS AND PROGRAMMATIC FRAMEWORK OF PRIVATE ENTITIES  
27 AND MAY DELEGATE NONDISCRETIONARY ADMINISTRATIVE FUNCTIONS TO  
28 OUTSIDE PRIVATE ENTITIES.

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1       (3) ~~—(2)—~~ The commission shall establish a program in which  
2 the commission designates certain retail licensees, EXCEPT SPE-  
3 CIAL LICENSES, as responsible vendors. The commission may adopt  
4 the existing standards and programmatic framework of private  
5 entities and may delegate nondiscretionary administrative func-  
6 tions to outside private entities.

7       (4) ~~—(3)—~~ The commission shall designate as a responsible  
8 vendor a retail licensee who makes available to all full-time and  
9 part-time retail employees, within 60 days after being hired, a  
10 server training program and who is also free of convictions or  
11 administrative determinations involving prohibited sales for not  
12 less than 12 months before applying for the designation. The  
13 designation continues until suspended by the commission.

14       (5) ~~—(4)—~~ A person may apply to the commission for qualifi-  
15 cation as an administrator for the offering of server training  
16 programs and instructor certification classes.

17       (6) ~~—(5)—~~ The commission shall approve a curriculum for a  
18 server training program presented by a certified instructor in a  
19 manner considered by the commission to be adequate that includes,  
20 but is not limited to, all of the following topics:

21       (a) The identification of progressive stages of intoxication  
22 and the visible signs associated with each stage.

23       (b) The identification of the time delay between consumption  
24 and visibility of signs of progressive intoxication.

25       (c) Basic alcohol content among different types of measured  
26 drinks containing alcoholic liquor.

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1 (d) Variables associated with visible intoxication,  
2 including the rate of drinking, experience, weight, food  
3 consumption, sex, and use of other drugs.

4 (e) Personal skills to handle slow-down of service and  
5 intervention procedures.

6 (f) Procedures for monitoring consumption and maintaining  
7 incident reports.

8 (g) The understanding of acceptable forms of personal iden-  
9 tification, techniques for determining the validity of identifi-  
10 cation, and procedures for dealing with fraudulent  
11 identification.

12 (h) Assessment of the need to ask for identification based  
13 on appearance or company policy.

14 (i) The identification of potential second-party sales and  
15 furnishing alcohol to minors by persons 21 years of age or over.

16 (j) The understanding of possible legal, civil, and adminis-  
17 trative consequences of violations of this act, the rules of the  
18 commission, and other pertinent state laws.

19 (k) The understanding of Michigan laws pertaining to minors  
20 attempting to purchase, minors in possession, and second-party  
21 sales or furnishing of alcohol from adults to minors.

22 (l) Knowledge of the legal hours of alcohol service and  
23 occupancy.

24 (m) The identification of signs of prohibited activities,  
25 such as gambling, solicitation for prostitution, and drug sales.

26 (n) Any other pertinent laws as determined by the  
27 commission.



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1           (7) ~~(6)~~ The commission shall issue an instructor  
2 certification to an individual presenting evidence acceptable to  
3 the commission of having successfully completed instructor certi-  
4 fication classes and shall issue an identification card indicat-  
5 ing that certification by the commission.

6           (8) ~~(7)~~ Upon approval by the commission of a server train-  
7 ing program, the commission shall appoint the person sponsoring  
8 the server training program as an administrator of that program.  
9 The administrator shall provide a certification to the commission  
10 that a retail licensee has successfully completed the server  
11 training program offered by a certified instructor and approved  
12 by the commission and shall recommend that the commission desig-  
13 nate the licensee as a responsible vendor.

[ (9) A CERTIFIED INSTRUCTOR WHO IS A LICENSEE OR AN EMPLOYEE OF  
A LICENSEE MAY OFFER SERVER TRAINING PROGRAMS APPROVED BY THE  
COMMISSION TO THE EMPLOYEES OF THE LICENSEE AND CERTIFY TO THE  
COMMISSION THOSE PERSONS WHO SUCCESSFULLY COMPLETED THE PROGRAM. ]

14           [ (10) ] AN ON PREMISES LICENSEE WHOSE LICENSE WAS ISSUED OR WHO  
15 WAS THE TRANSFEREE OF MORE THAN A 50% INTEREST IN AN ON PREMISES  
16 LICENSE ON OR AFTER JULY 1, 2001 OR AN ON PREMISES LICENSEE  
17 DETERMINED BY THE COMMISSION TO BE IN NEED OF TRAINING DUE TO THE  
18 FREQUENCY OR TYPES OF VIOLATIONS OF THIS ACT INVOLVING THE SERV-  
19 ING OF ALCOHOLIC LIQUOR MUST HAVE EMPLOYED OR PRESENT ON THE  
20 LICENSED PREMISES, AT A MINIMUM, SUPERVISORY PERSONNEL WHO HAVE  
21 SUCCESSFULLY COMPLETED A SERVER TRAINING PROGRAM ON EACH SHIFT  
22 AND DURING ALL HOURS IN WHICH ALCOHOLIC LIQUOR IS SERVED. AN ON  
23 PREMISES LICENSEE MUST KEEP A COPY OF THE RESPONSIBLE VENDOR DES-  
24 IGNATION OR PROOF OF COMPLETION OF SERVER TRAINING ON THE  
25 LICENSED PREMISES TO FACILITATE THE VERIFICATION OF SUCH DESIGNA-  
26 TION BY THE COMMISSION, AGENT OF THE COMMISSION, OR LAW  
27 ENFORCEMENT OFFICER. AN ON PREMISES LICENSEE DETERMINED BY THE

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1 COMMISSION TO HAVE VIOLATED THIS SUBSECTION IS SUBJECT TO  
2 REVOCATION, SUSPENSION, OR OTHER SANCTION AS PROVIDED FOR IN SEC-  
3 TION 903. A VIOLATION OF THIS SUBSECTION IS NOT A VIOLATION OF  
4 SECTION 909.

5        [(11)] ~~-(8)-~~ As a condition of the designation of a licensee  
6 as a responsible vendor, the licensee shall make available to the  
7 administrator in not less than 60-day time increments records  
8 sufficient to verify the names and social security numbers of his  
9 or her employees. The administrator shall provide to the commis-  
10 sion a list of names and social security numbers of individuals  
11 who have successfully completed the server training program and  
12 shall monitor the licensee in a manner approved by the commission  
13 in order to verify continued compliance of the licensee's status  
14 as a responsible vendor. The administrator shall notify the com-  
15 mission in writing as soon as it determines that the licensee has  
16 failed to maintain the standards for server training or has  
17 failed to cooperate with the administrator's verification  
18 procedure. Upon receipt of such a notice from the administrator,  
19 the commission shall suspend the licensee's designation as a  
20 responsible vendor.

21        [(12)] ~~-(9)-~~ The commission may suspend the designation of a  
22 retail licensee as a responsible vendor upon a conviction or  
23 administrative determination of a prohibited sale on the  
24 licensee's licensed premises. The retail licensee losing such a  
25 designation may reapply for designation as a responsible vendor  
26 upon the passage of 12 months from the date of the conviction or  
27 administrative determination of a prohibited sale if the licensee

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1 is not convicted or administratively determined to have engaged  
2 in a prohibited sale on the licensed premises. After the first  
3 instance of a retail licensee losing its designation as a respon-  
4 sible vendor, that retail licensee is not eligible to reapply for  
5 such a designation until an additional 3 months for each subse-  
6 quent conviction or determination. The 3-month time periods are  
7 to be in addition to the 12-month period described in this  
8 subsection.

9 [(13)] ~~(10)~~ A responsible vendor is not considered to be in  
10 violation of the prohibition contained in R 436.1005(4) of the  
11 Michigan administrative code regarding allowing an intoxicated  
12 person to frequent or loiter on the licensed premises unless the  
13 facts demonstrate otherwise.