



# HOUSE BILL No. 5668

April 20, 2000, Introduced by Reps. Green, Caul, Tabor, Julian, Ehardt, Pappageorge, Rick Johnson and Richardville and referred to the Committee on Employment Relations, Training and Safety.

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 MARCH 1, 2001,  
5 THE COMMISSION SHALL NOT ISSUE A NEW RETAIL LICENSE OR TRANSFER  
6 AN EXISTING RETAIL LICENSE UNLESS THE APPLICANT OR TRANSFEREE  
7 OFFERS PROOF ACCEPTABLE TO THE COMMISSION THAT HE OR SHE HAS  
8 EMPLOYED OR HAS PRESENT ON THE LICENSED PREMISES, AT A MINIMUM,  
9 SUPERVISORY PERSONNEL ON EACH SHIFT AND DURING ALL HOURS IN WHICH

1 ALCOHOLIC LIQUOR IS SERVED WHO HAVE SUCCESSFULLY COMPLETED A  
2 SERVER TRAINING PROGRAM AS FURTHER DESCRIBED IN SECTION 906. THE  
3 COMMISSION MAY CONSIDER AN INDIVIDUAL ENROLLED AND ACTIVELY PAR-  
4 TICIPATING IN A SERVER TRAINING PROGRAM AS HAVING SUCCESSFULLY  
5 COMPLETED THE PROGRAM FOR SUCH TIME AS THE INDIVIDUAL IS  
6 PARTICIPATING.

7 (2) A full-year license issued by the commission shall  
8 expire on April 30 following the date of issuance or the date  
9 fixed by the commission. A license issued under this act shall  
10 be construed as a contract between the commission and the  
11 licensee and shall be signed by both parties. If a licensee  
12 dies, the commission may approve the operation of the establish-  
13 ment by a personal representative or independent personal repre-  
14 sentative duly appointed by a court of competent jurisdiction,  
15 pending the settlement of the estate of the deceased licensee.  
16 The commission may approve a receiver or trustee appointed by a  
17 court of competent jurisdiction to operate the licensed estab-  
18 lishment of a licensee. The commission may grant a part-year  
19 license for a proportionate part of the license fee specified in  
20 section 525. In a resort area the commission shall grant a  
21 license for a period of time as short as 3 months. A license may  
22 be transferred with the consent of the commission. A class C or  
23 specially designated distributor license obtained in a manner  
24 other than by transfer shall not be transferred within 3 years  
25 after its issuance except under circumstances where the licensee  
26 clearly and convincingly demonstrates that unusual hardship will  
27 result if the transfer does not receive the consent of the

1 commission. An application for a license to sell alcoholic  
2 liquor for consumption on the premises, except in a city having a  
3 population of 750,000 or more, shall be approved by the local  
4 legislative body in which the applicant's place of business is  
5 located before the license is granted by the commission, except  
6 that in the case of an application for renewal of an existing  
7 license, if an objection to a renewal has not been filed with the  
8 commission by the local legislative body not less than 30 days  
9 before the date of expiration of the license, the approval of the  
10 local legislative body shall not be required. The commission  
11 shall provide the local legislative body and the local chief of  
12 police with the name, home and business addresses, and home and  
13 business phone numbers to accomplish the local legislative  
14 reviews of new and transferred license applications required by  
15 this subsection. Upon request of the local legislative body  
16 after due notice and proper hearing by the local legislative body  
17 and the commission, the commission shall revoke the license of a  
18 licensee granted a license to sell alcoholic liquor for consump-  
19 tion on the premises or any permit held in conjunction with that  
20 license.

21 (3) 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       (4) This act does not prohibit a hotel which is or was the  
10 holder of a license authorizing the retail sale of alcoholic  
11 liquor for consumption on the premises from applying for and  
12 receiving under this act any other and different type of license  
13 authorizing the retail sale of alcoholic liquor for consumption  
14 on the premises, and the application for the license shall not be  
15 considered a new application for a license so long as the total  
16 number of public licenses for consumption on the premises does  
17 not exceed the authorized total established in this act and the  
18 sale of alcoholic liquor is approved by the electors. The com-  
19 mission may divide the state into 3 zones and establish for each  
20 zone an anniversary date for renewal of full-year retail licenses  
21 in the licensing year. The commission shall promulgate rules  
22 pursuant to the administrative procedures act of 1969, 1969 PA  
23 306, MCL 24.201 to 24.328, for the effective administration of  
24 the renewal of licenses.

25       (5) The commission, with the written approval of the depart-  
26 ment of agriculture in the case of the Michigan state fairgrounds  
27 and the Upper Peninsula state fairgrounds, may issue without

1 regard to the quota provision of section 531 a tavern license to  
2 a person as concessionaire leasing or renting a portion of either  
3 the Upper Peninsula state fairgrounds or the state fairgrounds,  
4 or both, to service the licensed area in use for recreational or  
5 exhibition purposes other than at the time of the annual Upper  
6 Peninsula state fair under section 2 of 1927 PA 89, MCL 285.142.  
7 A license issued under this subsection is not transferable.

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

9       (a) "Administrator" means a qualifying company, postsecond-  
10 ary educational institution, or trade association authorized by  
11 the commission to offer server training programs and instructor  
12 certification classes in compliance with this section and to cer-  
13 tify to the commission that those persons meet the requirements  
14 of this section.

15       (b) "Instructor" means an individual certified by an admin-  
16 istrator and approved by the commission to teach server training  
17 programs.

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

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

23       (e) "Server training program" means an educational program  
24 whose curriculum has been approved by the commission under the  
25 standards described in this section and is offered by an adminis-  
26 trator to a retail licensee for its employees.

1           (2) THE COMMISSION SHALL ESTABLISH A SERVER TRAINING PROGRAM  
2 DESIGNED FOR ALL NEW RETAIL LICENSEES OR TRANSFEREES OF RETAIL  
3 LICENSES ON OR AFTER MARCH 1, 2001, AND FOR ANY EXISTING RETAIL  
4 LICENSEES THE COMMISSION DETERMINES TO BE IN NEED OF TRAINING DUE  
5 TO THE FREQUENCY OR TYPES OF VIOLATIONS OF THIS ACT INVOLVING THE  
6 SERVING OF ALCOHOLIC LIQUOR. THE COMMISSION MAY ADOPT THE EXIST-  
7 ING STANDARDS AND PROGRAMMATIC FRAMEWORK OF PRIVATE ENTITIES AND  
8 MAY DELEGATE NONDISCRETIONARY ADMINISTRATIVE FUNCTIONS TO OUTSIDE  
9 PRIVATE ENTITIES.

10           (3) ~~-(2)-~~ The commission shall establish a program in which  
11 the commission designates certain retail licensees as responsible  
12 vendors. The commission may adopt the existing standards and  
13 programmatic framework of private entities and may delegate non-  
14 discretionary administrative functions to outside private  
15 entities.

16           (4) ~~-(3)-~~ The commission shall designate as a responsible  
17 vendor a retail licensee who makes available to all full-time and  
18 part-time retail employees, within 60 days after being hired, a  
19 server training program and who is also free of convictions or  
20 administrative determinations involving prohibited sales for not  
21 less than 12 months before applying for the designation. The  
22 designation continues until suspended by the commission.

23           (5) ~~-(4)-~~ A person may apply to the commission for qualifi-  
24 cation as an administrator for the offering of server training  
25 programs and instructor certification classes.

26           (6) ~~-(5)-~~ The commission shall approve a curriculum for a  
27 server training program presented by a certified instructor in a

1 manner considered by the commission to be adequate that includes,  
2 but is not limited to, all of the following topics:

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

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

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

9 (d) Variables associated with visible intoxication, includ-  
10 ing the rate of drinking, experience, weight, food consumption,  
11 sex, and use of other drugs.

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

14 (f) Procedures for monitoring consumption and maintaining  
15 incident reports.

16 (g) The understanding of acceptable forms of personal iden-  
17 tification, techniques for determining the validity of identifi-  
18 cation, and procedures for dealing with fraudulent  
19 identification.

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

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

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

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

4 (l) Knowledge of the legal hours of alcohol service and  
5 occupancy.

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

8 (n) Any other pertinent laws as determined by the  
9 commission.

10 (7) ~~(6)~~ The commission shall issue an instructor certifi-  
11 cation to an individual presenting evidence acceptable to the  
12 commission of having successfully completed instructor certifica-  
13 tion classes and shall issue an identification card indicating  
14 that certification by the commission.

15 (8) ~~(7)~~ Upon approval by the commission of a server train-  
16 ing program, the commission shall appoint the person sponsoring  
17 the server training program as an administrator of that program.  
18 The administrator shall provide a certification to the commission  
19 that a retail licensee has successfully completed the server  
20 training program offered by a certified instructor and approved  
21 by the commission and shall recommend that the commission desig-  
22 nate the licensee as a responsible vendor.

23 (9) A RETAIL LICENSEE WHOSE LICENSE WAS ISSUED OR WHO WAS  
24 THE TRANSFEREE OF A RETAIL LICENSE ON OR AFTER MARCH 1, 2001 OR A  
25 RETAIL LICENSEE DETERMINED BY THE COMMISSION TO BE IN NEED OF  
26 TRAINING DUE TO THE FREQUENCY OR TYPES OF VIOLATIONS OF THIS ACT  
27 INVOLVING THE SERVING OF ALCOHOLIC LIQUOR, MUST HAVE EMPLOYED OR



1 PRESENT ON THE LICENSED PREMISES, AT A MINIMUM, SUPERVISORY  
2 PERSONNEL WHO HAVE SUCCESSFULLY COMPLETED A SERVER TRAINING PRO-  
3 GRAM ON EACH SHIFT AND DURING ALL HOURS IN WHICH ALCOHOLIC LIQUOR  
4 IS SERVED. A LICENSEE DETERMINED BY THE COMMISSION TO HAVE VIO-  
5 LATED THIS SUBSECTION IS SUBJECT TO REVOCATION, SUSPENSION, OR  
6 OTHER SANCTION AS PROVIDED FOR IN SECTION 903. A VIOLATION OF  
7 THIS SUBSECTION IS NOT A VIOLATION OF SECTION 909.

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

24 (11) ~~(9)~~ The commission may suspend the designation of a  
25 retail licensee as a responsible vendor upon a conviction or  
26 administrative determination of a prohibited sale on the  
27 licensee's licensed premises. The retail licensee losing such a

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

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