

SENATE BILL NO. 776

September 30, 1999, Introduced by Senators LELAND, EMERSON, KOIVISTO, MC COTTER, EMMONS, NORTH, ROGERS, JOHNSON, CHERRY, HAMMERSTROM, HART, A. SMITH, BYRUM, DE BEAUSSAERT, MURPHY, BENNETT, SCHUETTE, STEIL, DINGELL, DUNASKISS, BULLARD, SHUGARS, PETERS, GOSCHKA, V. SMITH, SIKKEMA, SCHWARZ, GAST, HOFFMAN and MC MANUS and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 903 (MCL 436.1903), as amended by 1998 PA
416.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 903. (1) The commission, ~~or any~~ A commissioner, or A
2 duly authorized agent of the commission designated by the chair-
3 person of the commission, upon due notice and proper hearing, may
4 suspend or revoke ~~any~~ A license upon a violation of this act or
5 ~~any~~ of the rules promulgated by the commission under this act.
6 The commission, ~~or any~~ A commissioner, or A duly authorized
7 agent of the commission designated by the chairperson of the com-
8 mission ~~—~~ may assess a penalty of not more than \$300.00 for
9 each violation of this act or rules promulgated under this act,
10 or not more than \$1,000.00 for each violation of section 801(2),

1 in addition to or in lieu of revocation or suspension of the
2 license. ~~which~~ THE penalty shall be paid to the commission
3 and deposited with the state treasurer and shall be credited to
4 the general fund of the state. The commission shall hold a hear-
5 ing and order the suspension or revocation of a license if the
6 licensee has been found liable for 3 or more separate violations
7 of section 801(2), which violations occurred on different occa-
8 sions within a 24-month period.

9 (2) The commission shall provide a procedure by which a
10 licensee who is aggrieved by ~~any~~ A penalty imposed under sub-
11 section (1) and ~~any~~ A suspension or revocation of a license
12 ordered by the commission, a commissioner, or a duly authorized
13 agent of the commission may request a hearing for the purpose of
14 presenting ~~any~~ facts or reasons to the commission as to why the
15 penalty, suspension, or revocation should be modified or
16 rescinded. ~~Any such~~ THE request shall be in writing and accom-
17 panied by a fee of \$25.00. The commission, after reviewing the
18 record made before a commissioner or a duly authorized agent of
19 the commission, may allow or refuse to allow the hearing in
20 accordance with the commission's rules. The right to a hearing
21 provided in this subsection, however, shall not be interpreted by
22 ~~any~~ A court as curtailing, removing, or annulling the right of
23 the commission to suspend or revoke licenses as provided ~~for~~ in
24 this act. A licensee does not have a right of appeal from the
25 final determination of the commission, except by leave of the
26 circuit court. Notice of the order of suspension or revocation
27 of a license or of the assessment of a penalty, or both, shall be

1 given in the manner prescribed by the commission. The suspension
2 or revocation of a license or the assessment of a penalty, or
3 both, by the commission or a duly authorized agent of the commis-
4 sion does not prohibit the institution of a criminal prosecution
5 for a violation of this act. The institution of a criminal pros-
6 ecution for a violation of this act or the acquittal or convic-
7 tion of a person for a violation of this act does not prevent the
8 suspension or revocation of a license or the assessment of a pen-
9 alty, or both, by the commission. In a hearing for the suspen-
10 sion or revocation of a license issued under this act, proof that
11 the defendant licensee or an agent or employee of the licensee
12 demanded and was shown, before furnishing ~~any~~ alcoholic liquor
13 to a minor, a motor vehicle operator or chauffeur license, ~~or~~ a
14 registration certificate issued by the federal selective service,
15 or other bona fide documentary evidence of majority and identity
16 of the person ~~—~~ may be offered as evidence in a defense to a
17 proceeding for the suspension or revocation of a license issued
18 under this act. A licensee who has reason to believe that a
19 minor has used fraudulent identification to purchase alcoholic
20 liquor in violation of section 703 shall file a police report
21 concerning the violation with a local law enforcement agency and
22 shall also present the alleged fraudulent identification to the
23 local law enforcement agency at the time of filing the report if
24 the identification is in the possession of the licensee. The
25 commission may promulgate rules pursuant to the administrative
26 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328,
27 regarding the utilization by licensees of equipment designed to

1 detect altered or forged driver licenses, state identification
2 cards, and other forms of identification.

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

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

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

17 (6) THE COMMISSION, A COMMISSIONER, OR A DULY AUTHORIZED
18 AGENT OF THE COMMISSION DESIGNATED BY THE CHAIRPERSON OF THE COM-
19 MISSION, UPON DUE NOTICE AND PROPER HEARING, SHALL SUSPEND A
20 LICENSE FOR A PERIOD OF 5 YEARS UPON A CONVICTION OF A VIOLATION
21 OF SECTION 300A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
22 750.300A.

23 Enacting section 1. This amendatory act does not take
24 effect unless all of the following bills of the 90th Legislature
25 are enacted into law:

26 (a) Senate Bill No. 777.

27

1 (b) Senate Bill No. 778.

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3 (c) Senate Bill No. 779.

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