

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4232

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 531 (MCL 436.1531), as amended by 2002 PA
725.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) A public license shall not be granted for the
2 sale of alcoholic liquor for consumption on the premises in
3 excess of 1 license for each 1,500 of population or major
4 fraction thereof. On-premises escrowed licenses issued under
5 this subsection may be transferred subject to local legislative
6 approval under section 501(2) to an applicant whose proposed
7 operation is located within any local governmental unit in a
8 county ~~with a population of under 500,000 or a county with a~~
9 ~~population of over 700,000~~ in which the escrowed license was
10 located. **However, beginning the effective date of the amendatory**

1 act that added this sentence and until July 1, 2009, if the
2 on-premises escrowed license was issued to a location within a
3 city with a population of over 190,000 but under 300,000, the
4 on-premises escrowed license shall not be transferred to an
5 applicant whose proposed operation is located within any other
6 local governmental unit in the county in which that city is
7 located and, in addition, an escrowed license located within any
8 local governmental unit in that county is not transferable into
9 the city with a population of over 190,000 but under 300,000. If
10 the local governmental unit within which the former licensee's
11 premises were located spans more than 1 county, an escrowed
12 license is available subject to local legislative approval under
13 section 501(2) to an applicant whose proposed operation is
14 located within any local governmental unit in either county. If
15 an escrowed license is activated within a local governmental unit
16 other than that local governmental unit within which the escrowed
17 license was originally issued, the commission shall count that
18 activated license against the local governmental unit originally
19 issuing the license. This quota does not bar the right of an
20 existing licensee to renew a license or transfer the license and
21 does not bar the right of an on-premise licensee of any class to
22 reclassify to another class of on-premises license in a manner
23 not in violation of law or this act, subject to the consent of
24 the commission. The upgrading of a license resulting from a
25 request under this subsection shall be approved by the local
26 governmental unit having jurisdiction.

27 (2) In a resort area, the commission may issue 1 or more

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

7 (3) In addition to the resort licenses authorized in
8 subsection (2), the commission may issue not more than 10
9 additional licenses per year for the years 2003 and 2004 to
10 establishments whose business and operation, as determined by the
11 commission, is designed to attract and accommodate tourists and
12 visitors to the resort area, whose primary purpose is not for the
13 sale of alcoholic liquor, and whose capital investment in real
14 property, leasehold improvement, and fixtures for the premises to
15 be licensed is \$75,000.00 or more. Further, the commission shall
16 issue 1 license under this subsection for the years 2003 and 2004
17 to an applicant located in a rural area that has a poverty rate,
18 as defined by the latest decennial census, greater than the
19 statewide average, or that is located in a rural area that has an
20 unemployment rate higher than the statewide average for 3 of the
21 5 preceding years. In counties having a population of less than
22 50,000, as determined by the last federal decennial census or as
23 determined pursuant to subsection (11) and subject to subsection
24 (16) in the case of a class A hotel or a class B hotel, the
25 commission shall not require the establishments to have dining
26 facilities to seat more than 50 persons. The commission may
27 cancel the license if the resort is no longer active or no longer

1 qualifies for the license. Before January 16 of each year the
2 commission shall transmit to the legislature a report giving
3 details as to the number of applications received under this
4 subsection; the number of licenses granted and to whom; the
5 number of applications rejected and the reasons; and the number
6 of the licenses revoked, suspended, or other disciplinary action
7 taken and against whom and the grounds for revocation,
8 suspension, or disciplinary action.

9 (4) In addition to any licenses for the sale of alcoholic
10 liquor for consumption on the premises that may be available in
11 the local governmental unit under subsection (1) and the resort
12 licenses authorized in subsections (2) and (3), the commission
13 may issue not more than 20 resort economic development licenses
14 per year for the years 2003 and 2004. A person is eligible to
15 apply for a resort economic development license under this
16 subsection upon submitting an application to the commission and
17 demonstrating all of the following:

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

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

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

26 (d) The establishment does not allow or permit casino
27 gambling on the premises.

1 (5) In governmental units having a population of 50,000
2 persons or less, as determined by the last federal decennial
3 census or as determined pursuant to subsection (11), in which the
4 quota of specially designated distributor licenses, as provided
5 by ~~commission rule~~ **section 533**, has been exhausted, the
6 commission may issue not more than a total of 10 additional
7 specially designated distributor licenses per year for the years
8 2003 and 2004 to established merchants whose business and
9 operation, as determined by the commission, is designed to
10 attract and accommodate tourists and visitors to the resort
11 area. A specially designated distributor license issued pursuant
12 to this subsection may be issued at a location within 2,640 feet
13 of existing specially designated distributor license locations.
14 A specially designated distributor license issued pursuant to
15 this subsection shall not bar another specially designated
16 distributor licensee from transferring location to within 2,640
17 feet of said licensed location. A specially designated
18 distributor license issued pursuant to section 533 may be located
19 within 2,640 feet of a specially designated distributor license
20 issued pursuant to this subsection.

21 (6) In addition to any licenses for the sale of alcoholic
22 liquor for consumption on the premises that may be available in
23 the local governmental unit under subsection (1), and the resort
24 or resort economic development licenses authorized in subsections
25 (2), (3), and (4), and notwithstanding section 519, the
26 commission may issue not more than 5 additional special purpose
27 licenses in any calendar year for the sale of beer and wine for

1 consumption on the premises. A special purpose license issued
2 pursuant to this subsection shall be issued only for events which
3 are to be held from May 1 to September 30, are artistic in
4 nature, and which are to be held on the campus of a public
5 university with an enrollment of 30,000 or more students. A
6 special purpose license shall be valid for 30 days or for the
7 duration of the event for which it is issued, whichever is less.
8 The fee for a special purpose license shall be \$50.00. A special
9 purpose license may be issued only to a corporation which is all
10 of the following:

11 (a) Is a nonprofit corporation organized pursuant to the
12 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
13 450.3192.

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

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

19 (7) Notwithstanding the local legislative body approval
20 provision of section 501(2) and notwithstanding the provisions of
21 section 519, the commission may issue, without regard to the
22 quota provisions of subsection (1) and with the approval of the
23 governing board of the university, either a tavern or class C
24 license which may be used only for regularly scheduled events at
25 a public university's established outdoor program or festival at
26 a facility on the campus of a public university having a head
27 count enrollment of 10,000 students or more. A license issued

1 under this subsection may only be issued to the governing board
2 of a public university, a person that is the lessee or
3 concessionaire of the governing board of the university, or
4 both. A license issued under this subsection is not transferable
5 as to ownership or location. A license issued under this
6 subsection may not be issued at an outdoor stadium customarily
7 used for intercollegiate athletic events.

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

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

1 United States.

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

7 (11) For purposes of implementing this section a special
8 state census of a local governmental unit may be taken at the
9 expense of the local governmental unit by the federal bureau of
10 census or the secretary of state under section 6 of the home rule
11 city act, 1909 PA 279, MCL 117.6. The special census shall be
12 initiated by resolution of the governing body of the local
13 governmental unit involved. The secretary of state may
14 promulgate additional rules necessary for implementing this
15 section pursuant to the administrative procedures act of 1969,
16 1969 PA 306, MCL 24.201 to 24.328.

17 (12) Before granting an approval as required in section
18 501(2) for a license to be issued under subsection (2), (3), or
19 (4), a local legislative body shall disclose the availability of
20 transferable licenses held in escrow for more than 1 licensing
21 year within that respective local governmental unit. Public
22 notice of the meeting to consider the granting of the license by
23 the local governmental unit shall be made 2 weeks before the
24 meeting.

25 (13) The person signing the application for an on-premise
26 resort or resort economic development license shall state and
27 verify that he or she attempted to secure an on-premise escrowed

1 **license** or quota license and that, to the best of his or her
2 knowledge, an on-premise escrowed **license** or quota license is not
3 readily available within ~~1 of the following:~~

4 ~~—— (a) In a county with a population under 500,000 or over~~
5 ~~700,000,~~ the county in which the applicant for the on-premise
6 resort or resort economic development license proposes to
7 operate, **except that until July 1, 2009, and in the case**
8 **involving a city with a population of over 190,000 but under**
9 **300,000 that verification is not required.**

10 ~~(b) In a county not described in subdivision (a), the local~~
11 ~~governmental unit in which the applicant for the on-premise~~
12 ~~resort or resort economic development license proposes to~~
13 ~~operate.~~

14 (14) The commission shall not issue an on-premise resort or
15 resort economic development license if the ~~local governmental~~
16 ~~unit or county~~, ~~as appropriate,~~ within which the resort or
17 resort economic development license applicant proposes to operate
18 has not issued all on-premise licenses available under subsection
19 (1) or if an on-premise escrowed license exists and is readily
20 available within the local governmental unit in which the
21 applicant for the on-premise resort or resort economic
22 development license proposes to operate, **except until July 1,**
23 **2009, in the case involving a city with a population of over**
24 **190,000 but under 300,000.** The commission may waive the
25 provisions of this subsection upon a showing of good cause.

26 (15) The commission shall annually report to the legislature
27 the names of the businesses issued licenses under this section

1 and their locations.

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

5 (17) Subject to the limitation and quotas of subsection (1)
6 and to local legislative approval under section 501(2), the
7 commission may approve the transfer of ownership and location of
8 an on-premises escrowed license within the same county to a class
9 G-1 or class G-2 license or may approve the reclassification of
10 an existing on-premises license at the location to be licensed to
11 a class G-1 license or to a class G-2 license, subject to
12 subsection (1). Resort or economic development on-premises
13 licenses created under subsection (3) or (4) may not be issued
14 as, or reclassified to, a class G-1 or class G-2 license.

15 (18) As used in this section:

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

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

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

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

27 (iii) The existence of mandatory contractual restrictions or

1 inclusions attached to the sale of the license.

2 Enacting section 1. This amendatory act does not take
3 effect unless House Bill No. 4930 of the 92nd Legislature is
4 enacted into law.