

HOUSE BILL No. 4795

May 17, 2005, Introduced by Reps. Wojno, Accavitti, Stahl and Kathleen Law and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 501 (MCL 436.1501), as amended by 2000 PA 431.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 501. (1) The commission may issue licenses as provided in
2 this act upon the payment of the fees provided in section 525 and
3 the filing of the bonds required in section 801 or liability
4 insurance as provided in section 803. Beginning not later than July
5 1, 2002 and subject to section 906(2) and (3), the commission shall
6 not issue a new on premises license or transfer more than 50%
7 interest in an existing on premises license unless the applicant or
8 transferee offers proof acceptable to the commission that he or she
9 has employed or has present on the licensed premises, at a minimum,

1 supervisory personnel on each shift and during all hours in which
2 alcoholic liquor is served who have successfully completed a server
3 training program as further described in section 906. The
4 commission may consider an individual enrolled and actively
5 participating in a server training program as having successfully
6 completed the program for such time as the individual is
7 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 comply
12 with this subsection. The commission may waive the server training
13 requirements of this subsection on the basis of either of the
14 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 expire
22 on April 30 following the date of issuance or the date fixed by the
23 commission. A license issued under this act shall be construed as a
24 contract between the commission and the licensee and shall be
25 signed by both parties. If a licensee dies, the commission may
26 approve the operation of the establishment by a personal
27 representative or independent personal representative duly

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

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

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

20 (4) A LOCAL LEGISLATIVE BODY, BY RESOLUTION, MAY REQUEST THAT
21 THE COMMISSION REVOKE THE LICENSE OF A LICENSEE GRANTED A LICENSE
22 TO SELL ALCOHOLIC LIQUOR FOR CONSUMPTION ON THE PREMISES WHOSE
23 PLACE OF BUSINESS IS LOCATED WITHIN THE LOCAL LEGISLATIVE BODY'S
24 JURISDICTION AND WHO HAS BEEN DETERMINED PURSUANT TO COMMISSION
25 VIOLATION HEARINGS TO HAVE HAD VIOLENT INCIDENTS OCCUR ON THE
26 LICENSED PREMISES OR IN AREAS ADJACENT TO THE LICENSED PREMISES
27 OWNED OR CONTROLLED BY THE LICENSEE. IF THE COMMISSION VERIFIES

1 THAT THE LICENSEE WHO IS SUBJECT TO THE RESOLUTION HAS BEEN FOUND,
2 ON AT LEAST 3 SEPARATE OCCASIONS IN A SINGLE CALENDAR YEAR, TO HAVE
3 HAD VIOLENT INCIDENTS OCCUR ON THE LICENSED PREMISES OR IN AREAS
4 ADJACENT TO THE LICENSED PREMISES OWNED OR CONTROLLED BY THE
5 LICENSEE, THE COMMISSION SHALL SUSPEND OR REVOKE THE LICENSEE'S
6 LICENSE AND ANY PERMIT HELD IN CONJUNCTION WITH THAT LICENSE. THE
7 COMMISSION MAY MAKE A DETERMINATION THAT A VIOLENT INCIDENT HAS
8 OCCURRED EVEN IF THE INCIDENT HAS NOT RESULTED IN A CONVICTION OF A
9 CRIME DESCRIBED IN SUBSECTION (7).

10 (5) ~~(4)~~ This act does not prohibit a hotel which is or was
11 the holder of a license authorizing the retail sale of alcoholic
12 liquor for consumption on the premises from applying for and
13 receiving under this act any other and different type of license
14 authorizing the retail sale of alcoholic liquor for consumption on
15 the premises, and the application for the license shall not be
16 considered a new application for a license so long as the total
17 number of public licenses for consumption on the premises does not
18 exceed the authorized total established in this act and the sale of
19 alcoholic liquor is approved by the electors. The commission may
20 divide the state into 3 zones and establish for each zone an
21 anniversary date for renewal of full-year retail licenses in the
22 licensing year. The commission shall promulgate rules pursuant to
23 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
24 to 24.328, for the effective administration of the renewal of
25 licenses.

26 (6) ~~(5)~~ The commission, with the written approval of the
27 department of agriculture in the case of the Michigan state

1 fairgrounds and the Upper Peninsula state fairgrounds, may issue
2 without regard to the quota provision of section 531 a tavern
3 license to a person as concessionaire leasing or renting a portion
4 of either the Upper Peninsula state fairgrounds or the state
5 fairgrounds, or both, to service the licensed area in use for
6 recreational or exhibition purposes other than at the time of the
7 annual Upper Peninsula state fair under section 2 of 1927 PA 89,
8 MCL 285.142. A license issued under this subsection is not
9 transferable.

10 (7) AS USED IN THIS SECTION, "VIOLENT INCIDENT" MEANS THE
11 COMMITTING OF ANY ACT BY ANY INDIVIDUAL OCCURRING ON THE LICENSED
12 PREMISES OR IN AREAS ADJACENT TO THE LICENSED PREMISES OWNED OR
13 CONTROLLED BY THE LICENSEE THAT COULD REASONABLY BE CONSIDERED BY
14 THE COMMISSION AS A VIOLATION OF ANY OF THE FOLLOWING:

15 (A) CHAPTER XI OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
16 750.81 TO 750.90G.

17 (B) CHAPTER XLV OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
18 750.316 TO 750.329A.

19 (C) CHAPTER L OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
20 750.349 TO 750.350A.

21 (D) CHAPTER LVIII OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
22 750.397 TO 750.397A.

23 (E) CHAPTER LXXVI OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
24 750.520A TO 750.520G.

25 (F) CHAPTER LXXVIII OF THE MICHIGAN PENAL CODE, 1931 PA 328,
26 MCL 750.529 TO 750.531.