

HOUSE BILL No. 5611

May 9, 2012, Introduced by Rep. Ouimet 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 531 (MCL 436.1531), as amended by 2005 PA 97.

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 excess
3 of 1 license for each 1,500 of population or major fraction
4 thereof. ~~On premises~~ **AN ON-PREMISES** escrowed licenses ~~LICENSE~~
5 issued under this subsection may be transferred, subject to local
6 legislative approval under section 501(2), to an applicant whose
7 proposed operation is located within any local governmental unit in
8 a county in which the escrowed license was located. ~~However,~~
9 ~~beginning July 8, 2004, and until July 1, 2009, if the on premises~~
10 ~~escrowed license was issued to a location within a city with a~~
11 ~~population of over 190,000 but under 300,000, the on premises~~

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

24 (2) In a resort area, the commission may issue ~~1 or~~ **NO** more
25 **THAN 550** licenses for a period not to exceed 12 months without
26 regard to a limitation because of population, ~~but not in excess of~~
27 ~~550,~~ and with respect to the resort license the commission, by

1 rule, shall define and classify resort seasons by months and may
2 issue 1 or more licenses for resort seasons without regard to the
3 calendar year or licensing year.

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

27 (A) **THE** number of applications received under this subsection.

1 ~~the~~

2 (B) **THE** number of licenses granted and to whom. ~~the~~

3 (C) **THE** number of applications rejected and the reasons ~~and~~
4 ~~the~~ **THEY WERE REJECTED.**

5 (D) **THE** number of the licenses revoked, suspended, or other
6 disciplinary action taken and against whom and the grounds for
7 revocation, suspension, or disciplinary action.

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

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

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

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

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

27 (5) In governmental units having a population of 50,000

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

19 (6) In addition to any licenses for the sale of alcoholic
20 liquor for consumption on the premises that may be available in the
21 local governmental unit under subsection (1), and the resort or
22 resort economic development licenses authorized in subsections (2),
23 (3), and (4), and notwithstanding section 519, the commission may
24 issue not more than 5 additional special purpose licenses in any
25 calendar year for the sale of beer and wine for consumption on the
26 premises. A special purpose license issued ~~pursuant to~~ **UNDER** this
27 subsection shall be issued only for events ~~which~~ **THAT** are to be

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

9 (a) Is a nonprofit corporation organized ~~pursuant to~~ **UNDER** the
10 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

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

14 (c) Has been in continuous existence for not less than 6
15 years.

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

1 is not transferable as to ownership or location. ~~A-EXCEPT AS~~
2 OTHERWISE PROVIDED IN THIS SUBSECTION, A license issued under this
3 subsection may not be issued at an outdoor stadium customarily used
4 for intercollegiate athletic events. A LICENSE MAY BE ISSUED AT AN
5 OUTDOOR STADIUM CUSTOMARILY USED FOR INTERCOLLEGIATE ATHLETIC
6 EVENTS FOR NOT MORE THAN 30 CONSECUTIVE DAYS TO A CONCESSIONAIRE OF
7 AN ENTITY GRANTED EXCLUSIVE USE OF A PUBLIC UNIVERSITY'S PROPERTY
8 IN CONJUNCTION WITH A HOCKEY GAME SANCTIONED BY AN UNINCORPORATED
9 NOT-FOR-PROFIT ASSOCIATION THAT OPERATES A MAJOR PROFESSIONAL ICE
10 HOCKEY LEAGUE CONSISTING OF TEAMS LOCATED IN CANADA AND IN THE
11 UNITED STATES IF THE CONCESSIONAIRE HAS ENTERED INTO AN AGREEMENT
12 GRANTING IT CONTROL OF THE LICENSED PREMISES FOR THE PURPOSES OF
13 COMPLYING WITH THIS ACT AND RULES PROMULGATED UNDER THIS ACT
14 REGARDING THE SALE OF ALCOHOLIC LIQUOR. A NATIONALLY TELEVISED GAME
15 BETWEEN 2 PROFESSIONAL HOCKEY TEAMS PLAYED OUTDOORS IS CONSIDERED
16 AN ESTABLISHED OUTDOOR PROGRAM FOR THE PURPOSES OF THIS SUBSECTION.
17 NOTWITHSTANDING ANY PROVISION OF THIS ACT OR ANY RULE PROMULGATED
18 UNDER THIS ACT, A CONCESSIONAIRE OBTAINING A LICENSE UNDER THIS
19 SUBSECTION MAY SHARE THE PROFITS GENERATED FROM THAT LICENSE WITH
20 AN UNINCORPORATED NOT-FOR-PROFIT ASSOCIATION THAT OPERATES A MAJOR
21 PROFESSIONAL ICE HOCKEY LEAGUE CONSISTING OF TEAMS LOCATED IN
22 CANADA AND IN THE UNITED STATES OR AN AFFILIATED ENTITY UNDER A
23 WRITTEN CONTRACT REVIEWED BY THE COMMISSION. IF THE ESTABLISHED
24 OUTDOOR PROGRAM IS A NATIONALLY TELEVISED GAME BETWEEN 2
25 PROFESSIONAL HOCKEY TEAMS, THE COMMISSION MAY ALLOW THE PROMOTION
26 AND ADVERTISING OF ALCOHOLIC LIQUOR BRANDS ON THE CAMPUS OF A
27 PUBLIC UNIVERSITY ISSUED A LICENSE UNDER THIS SUBSECTION FOR THE

1 **DURATION OF THE LICENSE.**

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

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

22 (10) The limitations and quotas of this section ~~shall~~ **ARE** not
23 ~~be~~ applicable to ~~the issuance of~~ **ISSUING** a new license or ~~the~~
24 ~~renewal of~~ **RENEWING** an existing license where the property or
25 establishment to be licensed is situated in or on land on which an
26 airport owned by a county or in which a county has an interest is
27 situated.

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

11 (12) Before granting an approval as required in section 501(2)
 12 for a license to be issued under subsection (2), (3), or (4), a
 13 local legislative body shall disclose the availability of
 14 transferable licenses held in escrow for more than 1 licensing year
 15 within that respective local governmental unit. ~~Public~~**THE LOCAL**
 16 **GOVERNMENTAL UNIT SHALL PROVIDE PUBLIC** notice of the meeting to
 17 consider the granting of the license by the local governmental unit
 18 ~~shall be made~~ 2 weeks before the meeting.

19 (13) The person signing the application for an ~~on-premise~~**ON-**
 20 **PREMISES** resort or resort economic development license shall state
 21 and verify that he or she attempted to secure an ~~on-premise~~**ON-**
 22 **PREMISES** escrowed license or quota license and that, to the best of
 23 his or her knowledge, an ~~on-premise~~**ON-PREMISES** escrowed license or
 24 quota license is not readily available within the county in which
 25 the applicant for the ~~on-premise~~**ON-PREMISES** resort or resort
 26 economic development license proposes to operate. ~~, except that~~
 27 ~~until July 1, 2009, and in the case involving a city with a~~

1 ~~population of over 190,000 but under 300,000 that verification is~~
2 ~~not required.~~

3 (14) The commission shall not issue an ~~on-premise~~ **ON-PREMISES**
4 resort or resort economic development license if the county within
5 which the resort or resort economic development license applicant
6 proposes to operate has not issued all ~~on-premise~~ **ON-PREMISES**
7 licenses available under subsection (1) or if an ~~on-premise~~ **ON-**
8 **PREMISES** escrowed license exists and is readily available within
9 the local governmental unit in which the applicant for the ~~on-~~
10 ~~premise~~ **ON-PREMISES** resort or resort economic development license
11 proposes to operate. ~~, except until July 1, 2009, in the case~~
12 ~~involving a city with a population of over 190,000 but under~~
13 ~~300,000.~~ The commission may waive the provisions of this subsection
14 upon a showing of good cause.

15 (15) The commission shall annually report to the legislature
16 the names of the businesses issued licenses under this section and
17 their locations.

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

21 (17) Subject to the limitation and quotas of subsection (1)
22 and to local legislative approval under section 501(2), the
23 commission may approve the transfer of ownership and location of an
24 on-premises escrowed license within the same county to a class G-1
25 or class G-2 license or may approve the reclassification of an
26 existing on-premises license at the location to be licensed to a
27 class G-1 license or to a class G-2 license, subject to subsection

1 (1). Resort or economic development on-premises licenses created
2 under subsection (3) or (4) may not be issued as, or reclassified
3 to, a class G-1 or class G-2 license.

4 (18) As used in this section:

5 (a) "Escrowed license" means a license in which the rights of
6 the licensee in the license or to the renewal of the license are
7 still in existence and are subject to renewal and activation in the
8 manner provided for in R 436.1107 of the Michigan administrative
9 code.

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

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

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

15 (iii) The existence of mandatory contractual restrictions or
16 inclusions attached to the sale of the license.