

SENATE BILL No. 862

March 11, 2014, Introduced by Senators SCHUITMAKER, WARREN and RICHARDVILLE 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 2013 PA 237.

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. An on-premises escrowed license issued under this
5 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 county
8 in which the escrowed license was located. If the local
9 governmental unit within which the former licensee's premises were

1 located spans more than 1 county, an escrowed license may be
2 transferred, subject to local legislative approval under section
3 501(2), to an applicant whose proposed operation is located within
4 any local governmental unit in either county. If an escrowed
5 license is activated within a local governmental unit other than
6 that local governmental unit within which the escrowed license was
7 originally issued, the commission shall count that activated
8 license against the local governmental unit originally issuing the
9 license. This quota does not bar the right of an existing licensee
10 to renew a license or transfer the license and does not bar the
11 right of an on-premises licensee of any class to reclassify to
12 another class of on-premises license in a manner not in violation
13 of law or this act, subject to the consent of the commission. The
14 upgrading of a license resulting from a request under this
15 subsection is subject to approval by the local governmental unit
16 having jurisdiction.

17 (2) In a resort area, the commission may issue no more than
18 550 licenses for a period not to exceed 12 months without regard to
19 a limitation because of population and with respect to the resort
20 license the commission, by rule, shall define and classify resort
21 seasons by months and may issue 1 or more licenses for resort
22 seasons without regard to the calendar year or licensing year.

23 (3) In addition to the resort licenses authorized in
24 subsection (2), the commission may issue not more than 5 additional
25 licenses per year to establishments whose business and operation,
26 as determined by the commission, is designed to attract and
27 accommodate tourists and visitors to the resort area, whose primary

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

19 (a) The number of applications received under this subsection.

20 (b) The number of licenses granted and to whom.

21 (c) The number of applications rejected and the reasons they
22 were rejected.

23 (d) The number of the licenses revoked, suspended, or other
24 disciplinary action taken and against whom and the grounds for
25 revocation, suspension, or disciplinary action.

26 (4) In addition to any licenses for the sale of alcoholic
27 liquor for consumption on the premises that may be available in the

1 local governmental unit under subsection (1) and the resort
2 licenses authorized in subsections (2) and (3), the commission may
3 issue not more than 15 resort economic development licenses per
4 year. A person is eligible to apply for a resort economic
5 development license under this subsection upon submitting an
6 application to the commission and demonstrating all of the
7 following:

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

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

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

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

18 (5) In governmental units having a population of 50,000 or
19 less, as determined by the last federal decennial census or as
20 determined under subsection (11), in which the quota of specially
21 designated distributor licenses, as provided by section 533, has
22 been exhausted, the commission may issue not more than a total of
23 15 additional specially designated distributor licenses per year to
24 established merchants whose business and operation, as determined
25 by the commission, is designed to attract and accommodate tourists
26 and visitors to the resort area. A specially designated distributor
27 license issued under this subsection may be issued at a location

1 within 2,640 feet of existing specially designated distributor
2 license locations. A specially designated distributor license
3 issued under this subsection shall not bar another specially
4 designated distributor licensee from transferring location to
5 within 2,640 feet of that licensed location. A specially designated
6 distributor license issued under section 533 may be located within
7 2,640 feet of a specially designated distributor license issued
8 under this subsection. The person signing the application for a
9 specially designated distributor license under this subsection
10 shall state that he or she attempted to secure an escrowed
11 specially designated distributor license or quota license and that,
12 to the best of his or her knowledge, an escrowed specially
13 designated distributor license or quota license is not readily
14 available within the county in which the applicant for the
15 specially designated distributor license under this subsection
16 proposes to operate.

17 (6) In addition to any licenses for the sale of alcoholic
18 liquor for consumption on the premises that may be available in the
19 local governmental unit under subsection (1), and the resort or
20 resort economic development licenses authorized in subsections (2),
21 (3), and (4), and notwithstanding section 519, the commission may
22 issue not more than 5 additional special purpose licenses in any
23 calendar year for the sale of beer and wine for consumption on the
24 premises. A special purpose license issued under this subsection
25 shall be issued only for events that are to be held from May 1 to
26 September 30, are artistic in nature, and that are to be held on
27 the campus of a public university with an enrollment of 30,000 or

1 more students. A special purpose license is valid for 30 days or
2 for the duration of the event for which it is issued, whichever is
3 less. The fee for a special purpose license is \$50.00. A special
4 purpose license may be issued only to a corporation that meets all
5 of the following requirements:

6 (a) Is a nonprofit corporation organized under the nonprofit
7 corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

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

11 (c) Has been in continuous existence for not less than 6
12 years.

13 (7) Notwithstanding the local legislative body approval
14 provision of section 501(2) and notwithstanding the provisions of
15 section 519, the commission may issue, without regard to the quota
16 provisions of subsection (1) and with the approval of the governing
17 board of the university, either a tavern or class C license which
18 may be used only for regularly scheduled events at a public
19 university's established outdoor program or festival at a facility
20 on the campus of a public university having a head count enrollment
21 of 10,000 students or more. A license issued under this subsection
22 may only be issued to the governing board of a public university, a
23 person that is the lessee or concessionaire of the governing board
24 of the university, or both. A license issued under this subsection
25 is not transferable as to ownership or location. Except as
26 otherwise provided in this subsection, a license issued under this
27 subsection may not be issued at an outdoor stadium customarily used

1 for intercollegiate athletic events. A license may be issued at an
2 outdoor stadium customarily used for intercollegiate athletic
3 events for not more than 30 consecutive days to a concessionaire of
4 an entity granted exclusive use of a public university's property
5 in conjunction with a hockey game sanctioned by an unincorporated
6 not-for-profit association that operates a major professional ice
7 hockey league consisting of teams located in Canada and in the
8 United States **OR IN CONJUNCTION WITH A PROFESSIONAL INTERNATIONAL**
9 **SOCCER MATCH BETWEEN 2 INTERNATIONAL SOCCER CLUBS AS PART OF A**
10 **TOURNAMENT SANCTIONED BY A NOT-FOR-PROFIT ASSOCIATION THAT IS THE**
11 **GOVERNING BODY FOR SOCCER IN THE UNITED STATES AND ORGANIZED AND**
12 **PROMOTED BY A MATCH AGENT THAT IS LICENSED BY THE INTERNATIONAL**
13 **GOVERNING BODY FOR SOCCER** if the concessionaire has entered into an
14 agreement granting it control of the licensed premises for the
15 purposes of complying with this act and rules promulgated under
16 this act regarding the sale of alcoholic liquor. A nationally
17 televised game between 2 professional hockey teams **OR 2**
18 **PROFESSIONAL INTERNATIONAL SOCCER CLUBS** played outdoors is
19 considered an established outdoor program for the purposes of this
20 subsection. Notwithstanding any provision of this act or any rule
21 promulgated under this act, a concessionaire obtaining a license
22 under this subsection may share the profits generated from that
23 license with an unincorporated not-for-profit association that
24 operates a major professional ice hockey league consisting of teams
25 located in Canada and in the United States or an affiliated entity
26 under a written contract reviewed by the commission **OR WITH A**
27 **LICENSED MATCH AGENT AND A PROMOTER THAT ORGANIZES AND PROMOTES**

1 **INTERNATIONAL SOCCER MATCHES UNDER A WRITTEN CONTRACT REVIEWED BY**
2 **THE COMMISSION.** If the established outdoor program is a nationally
3 televised game between 2 professional hockey teams **OR 2**
4 **PROFESSIONAL INTERNATIONAL SOCCER CLUBS,** the commission may allow
5 the promotion and advertising of alcoholic liquor brands on the
6 campus of a public university where a concessionaire has been
7 issued a license under this subsection for the duration of the
8 license.

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

17 (9) The limitations and quotas of this section are not
18 applicable to issuing a new license to a veteran of the armed
19 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 in
23 the armed forces of the United States, as a part of the person's
24 preparation for that service if the application for a new license
25 is submitted for the same governmental unit in which the previous
26 license was issued and within 60 days after the discharge of the
27 applicant from the armed forces of the United States.

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

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

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

24 (13) The person signing the application for an on-premises
25 resort or resort economic development license shall state and
26 verify that he or she attempted to secure an on-premises escrowed
27 license or quota license and that, to the best of his or her

1 knowledge, an on-premises escrowed license or quota license is not
2 readily available within the county in which the applicant for the
3 on-premises resort or resort economic development license proposes
4 to operate.

5 (14) The commission shall not issue an on-premises resort or
6 resort economic development license if the county within which the
7 resort or resort economic development license applicant proposes to
8 operate has not issued all on-premises licenses available under
9 subsection (1) or if an on-premises escrowed license exists and is
10 readily available within the local governmental unit in which the
11 applicant for the on-premises resort or resort economic development
12 license proposes to operate. The commission may waive the
13 provisions of this subsection upon a showing of good cause.

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

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

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

1 under subsection (3) or (4) may not be issued as, or reclassified
2 to, a class G-1 or class G-2 license.

3 (18) An escrowed specially designated distributor license may
4 be transferred, with the consent of the commission, to an applicant
5 whose proposed operation is located within any local governmental
6 unit in a county in which the specially designated distributor
7 license is located. If the local governmental unit within which the
8 escrowed specially designated distributor license is located spans
9 more than 1 county, the license may be transferred to an applicant
10 whose proposed operation is located within any local governmental
11 unit in either county. If the specially designated distributor
12 license is activated within a local governmental unit other than
13 that local governmental unit within which the specially designated
14 distributor license was originally issued, the commission shall
15 count that activated license against the local governmental unit
16 originally issuing the specially designated distributor license.

17 (19) Subsection (8) of R 436.1135 of the Michigan
18 administrative code does not apply to a transfer under subsection
19 (18).

20 (20) As used in this section:

21 (a) "Escrowed license" means a license in which the rights of
22 the licensee in the license or to the renewal of the license are
23 still in existence and are subject to renewal and activation in the
24 manner provided for in R 436.1107 of the Michigan administrative
25 code.

26 (b) "Readily available" means available under a standard of
27 economic feasibility, as applied to the specific circumstances of

- 1 the applicant, that includes, but is not limited to, the following:
- 2 (i) The fair market value of the license, if determinable.
- 3 (ii) The size and scope of the proposed operation.
- 4 (iii) The existence of mandatory contractual restrictions or
- 5 inclusions attached to the sale of the license.