

HOUSE BILL No. 4085

January 28, 2015, Introduced by Rep. Kesto 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 2014 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) ~~A~~**THE COMMISSION SHALL NOT ISSUE A** public
 2 license ~~shall not be granted~~ for the sale of alcoholic liquor for
 3 consumption on the premises **IF THE ISSUANCE WOULD RESULT** in ~~excess~~
 4 ~~of~~**MORE THAN** 1 license for each 1,500 of population or major
 5 fraction thereof.**OF 1,500 OF POPULATION.** An on-premises escrowed
 6 license issued under this subsection may be transferred, subject to
 7 local legislative approval under section 501(2), to an applicant
 8 whose proposed operation is located within any local governmental
 9 unit in a county in which the escrowed license was located. If the

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

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

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

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

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

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

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

24 (d) The number of the licenses revoked, suspended, or **AS TO**
25 **WHICH** other disciplinary action **WAS** taken, ~~and against whom~~ **THE**
26 **NAMES OF THE LICENSEES**, and the grounds for revocation, suspension,
27 or disciplinary action.

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

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

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

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

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

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

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

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~~**THE COMMISSION MAY ONLY ISSUE A** special purpose license
27 ~~issued under this subsection shall be issued only for events that~~

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

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

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

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

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

1 otherwise provided in this subsection, a license issued under this
2 subsection may not be issued at an outdoor stadium customarily used
3 for intercollegiate athletic events. A license may be issued at an
4 outdoor stadium customarily used for intercollegiate athletic
5 events for not more than 30 consecutive days to a concessionaire of
6 an entity granted exclusive use of a public university's property
7 in conjunction with a hockey game sanctioned by an unincorporated
8 not-for-profit association that operates a major professional ice
9 hockey league consisting of teams located in Canada and in the
10 United States or in conjunction with a professional international
11 soccer match between 2 international soccer clubs as part of a
12 tournament sanctioned by a not-for-profit association that is the
13 governing body for soccer in the United States and organized and
14 promoted by a match agent that is licensed by the international
15 governing body for soccer if the concessionaire has entered into an
16 agreement granting it control of the licensed premises for the
17 purposes of complying with this act and rules promulgated under
18 this act regarding the sale of alcoholic liquor. A nationally
19 televised game between 2 professional hockey teams or 2
20 professional international soccer clubs played outdoors is
21 considered an established outdoor program for the purposes of this
22 subsection. Notwithstanding any provision of this act or any rule
23 promulgated under this act, a concessionaire obtaining a license
24 under this subsection may share the profits generated from that
25 license with an unincorporated not-for-profit association that
26 operates a major professional ice hockey league consisting of teams
27 located in Canada and in the United States or an affiliated entity

1 under a written contract reviewed by the commission or with a
2 licensed match agent and a promoter that organizes and promotes
3 international soccer matches under a written contract reviewed by
4 the commission. If the established outdoor program is a nationally
5 televised game between 2 professional hockey teams or 2
6 professional international soccer clubs, the commission may allow
7 the promotion and advertising of alcoholic liquor brands on the
8 campus of a public university where a concessionaire has been
9 issued a license under this subsection for the duration of the
10 license.

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

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

1 license was issued and within 60 days after the discharge of the
2 applicant from the armed forces of the United States.

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

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

18 (12) Before granting an approval as required in section 501(2)
19 for a license to be issued under subsection (2), (3), or (4), a
20 local legislative body shall disclose the availability of
21 transferable licenses held in escrow for more than 1 licensing year
22 within that ~~respective~~ local governmental unit. The local
23 governmental unit shall provide public notice of the meeting to
24 consider the granting of the license by the local governmental unit
25 2 weeks before the meeting.

26 (13) The person signing the application for an on-premises
27 resort or resort economic development license shall state and

1 verify that he or she attempted to secure an on-premises escrowed
2 license or quota license and that, to the best of his or her
3 knowledge, an on-premises escrowed license or quota license is not
4 readily available within the county in which the applicant for the
5 on-premises resort or resort economic development license proposes
6 to operate.

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

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

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

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

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

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

19 (19) Subsection (8) of R 436.1135 of the Michigan
20 administrative code does not apply to a transfer under subsection
21 (18).

22 (20) NOTWITHSTANDING R 436.1133 OF THE MICHIGAN ADMINISTRATIVE
23 CODE AND EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, THE
24 COMMISSION SHALL NOT APPROVE AN APPLICATION FOR A NEW SPECIALLY
25 DESIGNATED DISTRIBUTOR LICENSE OR FOR THE TRANSFER OF LOCATION OF
26 AN EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSE IF THERE IS AN
27 EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSE LOCATED WITHIN

1 2,640 FEET OF THE ADDRESS WHERE THE APPLICANT PROPOSES TO OPERATE.
2 FOR PURPOSES OF THIS SUBSECTION, THE MEASUREMENT OF DISTANCE SHALL
3 BE DETERMINED AS PROVIDED IN SECTION 503. THE COMMISSION MAY
4 APPROVE AN APPLICATION FOR A NEW SPECIALLY DESIGNATED DISTRIBUTOR
5 LICENSE OR FOR THE TRANSFER OF LOCATION OF AN EXISTING SPECIALLY
6 DESIGNATED DISTRIBUTOR LICENSE EVEN IF THERE IS AN EXISTING
7 SPECIALLY DESIGNATED DISTRIBUTOR LICENSE LOCATED WITHIN 2,640 FEET
8 OF THE ADDRESS WHERE THE APPLICANT PROPOSES TO OPERATE IF ANY OF
9 THE FOLLOWING CONDITIONS EXIST:

10 (A) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSEE HAS
11 PURCHASED LESS THAN \$52,000.00 IN SPIRITS FROM THE COMMISSION
12 DURING THE LAST FULL CALENDAR YEAR. THE THRESHOLD AMOUNT UNDER THIS
13 SUBDIVISION SHALL BE INCREASED ANNUALLY BY 3%.

14 (B) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR HAS A CLASS
15 B HOTEL OR A CLASS A HOTEL LICENSE.

16 (C) THE APPLICANT'S PROPOSED LOCATION AND THE EXISTING
17 SPECIALLY DESIGNATED DISTRIBUTOR'S ESTABLISHMENT ARE SEPARATED BY A
18 MAJOR THOROUGHFARE OF NOT LESS THAN 4 MARKED LANES FOR VEHICLE
19 TRAFFIC, INCLUSIVE OF DESIGNATED TURN LANES.

20 (D) THE APPLICANT'S PROPOSED LICENSED ESTABLISHMENT MEETS ALL
21 OF THE FOLLOWING REQUIREMENTS:

22 (i) IS LARGER THAN 20,000 SQUARE FEET.

23 (ii) IS LOCATED IN A NEIGHBORHOOD SHOPPING CENTER.

24 (iii) IS AN EXISTING LICENSED SPECIALLY DESIGNATED MERCHANT
25 ESTABLISHMENT.

26 (iv) IS A RETAIL FOOD STORE.

27 (21) SUBSECTION (20) DOES NOT APPLY TO RETAILERS THAT ARE

1 LICENSED AS SPECIALLY DESIGNATED DISTRIBUTORS ON THE EFFECTIVE DATE
2 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND THOSE LICENSES
3 ARE VALID FOR PURPOSES OF THIS SECTION.

4 (22) ~~(20)~~—As used in this section:

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

10 (B) "NEIGHBORHOOD SHOPPING CENTER" MEANS 1 COMMERCIAL
11 ESTABLISHMENT OR A GROUP OF COMMERCIAL ESTABLISHMENTS, ORGANIZED OR
12 OPERATED AS A UNIT THAT ARE RELATED IN LOCATION, SIZE, AND TYPE OF
13 SHOP TO THE TRADE AREA THAT THE UNIT SERVES, THAT PROVIDES NOT LESS
14 THAN 50,000 SQUARE FEET OF GROSS LEASABLE RETAIL SPACE, AND THAT
15 PROVIDES AT LEAST 5 PRIVATE OFF-STREET PARKING SPACES FOR EACH
16 1,000 SQUARE FEET OF GROSS LEASABLE RETAIL SPACE.

17 (C) ~~(b)~~—"Readily available" means available under a standard
18 of economic feasibility, as applied to the specific circumstances
19 of the applicant, that includes, but is not limited to, the
20 following:

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

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

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

25 (D) "RETAIL FOOD STORE" MEANS THAT TERM AS DEFINED IN 7 USC
26 2012.