

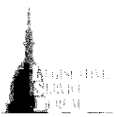
HOUSE BILL NO. 5646

March 12, 2020, Introduced by Reps. Afendoulis, Rendon, Calley, Bollin, Glenn, Kahle, Whiteford, Bellino, Filler, Allor, Farrington, Yaroach, Hammoud, Whitsett, Crawford, Alexander and Cambensy and referred to the Committee on Judiciary.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 906 (MCL 436.1906), as amended by 2008 PA 218.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 906. (1) As used in this section:
- 2 (a) "Administrator" means a qualifying company, postsecondary
- 3 educational institution, or trade association authorized by the
- 4 commission to offer server training programs and instructor
- 5 certification classes in compliance with this section and to
- 6 certify to the commission that those persons meet the requirements



1 of this section.

2 (b) "Instructor" means an individual certified by an
3 administrator and approved by the commission to teach server
4 training programs. An instructor may be a licensee or an employee
5 of a licensee.

6 (c) "Prohibited sale" means the sale of alcoholic liquor by an
7 employee of a licensee to a visibly intoxicated person or to a
8 minor, or both.

9 (d) "Responsible vendor" means a designation by the commission
10 of a retail licensee meeting the standards of this section.

11 (e) "Server training program" means an educational program
12 ~~whose~~**the** curriculum **of which** has been approved by the commission
13 under the standards described in this section and is offered by an
14 administrator or instructor to a retail licensee, or a licensee
15 operating a tasting room or providing samples of alcoholic liquor,
16 for its employees.

17 (2) The commission shall approve the establishing of a server
18 training program designed for all new on premises licensees or
19 transferees of more than a 50% interest in an on premises license
20 on or after the commencement of the mandatory server training
21 program, and for any existing retail licensees the commission
22 determines to be in need of training due to the frequency or types
23 of violations of this act involving the serving of alcoholic
24 liquor. This subsection does not apply to special licenses except
25 that the commission may require server training for certain special
26 licensees based upon the size and nature of the licensed event. The
27 commission may adopt the existing standards and programmatic
28 framework of private entities and may delegate nondiscretionary
29 administrative functions to outside private entities.

1 (3) The commission shall establish a program in which the
2 commission designates certain retail licensees, except special
3 licenses, as responsible vendors. The commission may adopt the
4 existing standards and programmatic framework of private entities
5 and may delegate nondiscretionary administrative functions to
6 outside private entities.

7 (4) The commission shall designate as a responsible vendor a
8 retail licensee who makes available to all full-time and part-time
9 retail employees, within 60 days after being hired, a server
10 training program and who is also free of convictions or
11 administrative determinations involving prohibited sales for not
12 less than 12 months before applying for the designation. The
13 designation continues until suspended by the commission.

14 (5) A person may apply to the commission for qualification as
15 an administrator for the offering of server training programs and
16 instructor certification classes.

17 (6) The commission shall approve a curriculum for a server
18 training program presented by a certified instructor in a manner
19 considered by the commission to be adequate that includes, but is
20 not limited to, all of the following topics:

21 (a) The identification of progressive stages of intoxication
22 and the visible signs associated with each stage.

23 (b) The identification of the time delay between consumption
24 and visibility of signs of progressive intoxication.

25 (c) Basic alcohol content among different types of measured
26 drinks containing alcoholic liquor.

27 (d) Variables associated with visible intoxication, including
28 the rate of drinking, experience, weight, food consumption, sex,
29 and use of other drugs.

1 (e) Personal skills to handle ~~slow down~~ **slowdown** of service
2 and intervention procedures.

3 (f) Procedures for monitoring consumption and maintaining
4 incident reports.

5 (g) The understanding of acceptable forms of personal
6 identification, techniques for determining the validity of
7 identification, and procedures for dealing with fraudulent
8 identification.

9 (h) Assessment of the need to ask for identification based on
10 appearance or company policy.

11 (i) The identification of potential second-party sales and
12 furnishing of alcoholic liquor to minors by persons 21 years of age
13 or over.

14 (j) The understanding of possible legal, civil, and
15 administrative consequences of violations of this act, the rules of
16 the commission, and other pertinent state laws.

17 (k) The understanding of Michigan laws pertaining to minors
18 attempting to purchase, minors in possession, and second-party
19 sales or furnishing of alcoholic liquor from adults to minors.

20 (l) Knowledge of the legal hours of alcoholic liquor service
21 and occupancy.

22 (m) The identification of signs of prohibited activities, such
23 as gambling, solicitation for ~~prostitution,~~ **commercial sexual**
24 **activity**, and drug sales.

25 (n) Any other pertinent laws as determined by the commission.

26 (7) The commission shall issue an instructor certification to
27 an individual presenting evidence acceptable to the commission of
28 having successfully completed instructor certification classes and
29 shall issue an identification card indicating that certification by

1 the commission.

2 (8) Upon approval by the commission of a server training
3 program, the commission shall appoint the person sponsoring the
4 server training program as an administrator of that program. The
5 administrator shall provide a certification to the commission that
6 a retail licensee has successfully completed the server training
7 program offered by a certified instructor and approved by the
8 commission and shall recommend that the commission designate the
9 licensee as a responsible vendor.

10 (9) A certified instructor who is a licensee or an employee of
11 a licensee may offer server training programs approved by the
12 commission to the employees of the licensee and certify to the
13 commission those persons who successfully completed the program.

14 (10) An ~~on-premises~~**on-premises** licensee whose license was
15 issued or who was the transferee of more than a 50% interest in an
16 ~~on-premises~~**on-premises** license on or after the commencement of the
17 mandatory server training program or an ~~on-premises~~**on-premises**
18 licensee determined by the commission to be in need of training due
19 to the frequency or types of violations of this act involving the
20 serving of alcoholic liquor must have employed or present on the
21 licensed premises, at a minimum, supervisory personnel who have
22 successfully completed a server training program on each shift and
23 during all hours in which alcoholic liquor is served. An ~~on~~
24 ~~premises~~**on-premises** licensee must keep a copy of the responsible
25 vendor designation or proof of completion of server training on the
26 licensed premises to facilitate the verification of such
27 designation by the commission, agent of the commission, or law
28 enforcement officer. An ~~on-premises~~**on-premises** licensee determined
29 by the commission to have violated this subsection is subject to

1 revocation, suspension, or other sanction as provided for in
2 section 903. A violation of this subsection is not a violation of
3 section 909.

4 (11) As a condition of the designation of a licensee as a
5 responsible vendor, the licensee shall make available to the
6 administrator in not less than 60-day time increments records
7 sufficient to verify the names and ~~social security~~ **Social Security**
8 numbers of his or her employees. The administrator shall provide to
9 the commission a list of names and ~~social security~~ **Social Security**
10 numbers of individuals who have successfully completed the server
11 training program and shall monitor the licensee in a manner
12 approved by the commission in order to verify continued compliance
13 of the licensee's status as a responsible vendor. The administrator
14 shall notify the commission in writing as soon as it determines
15 that the licensee has failed to maintain the standards for server
16 training or has failed to cooperate with the administrator's
17 verification procedure. Upon receipt of such a notice from the
18 administrator, the commission shall suspend the licensee's
19 designation as a responsible vendor.

20 (12) The commission may suspend the designation of a retail
21 licensee as a responsible vendor upon a conviction or
22 administrative determination of a prohibited sale on the licensee's
23 licensed premises. The retail licensee losing such a designation
24 may reapply for designation as a responsible vendor upon the
25 passage of 12 months from the date of the conviction or
26 administrative determination of a prohibited sale if the licensee
27 is not convicted or administratively determined to have engaged in
28 a prohibited sale on the licensed premises. After the first
29 instance of a retail licensee losing its designation as a



1 responsible vendor, that retail licensee is not eligible to reapply
2 for such a designation until an additional 3 months for each
3 subsequent conviction or determination. The 3-month time periods
4 are to be in addition to the 12-month period described in this
5 subsection.

6 (13) A responsible vendor is not considered to be in violation
7 of the prohibition contained in section 707(4) regarding allowing
8 an intoxicated person to frequent or loiter on the licensed
9 premises unless the facts demonstrate otherwise.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.

12 Enacting section 2. This amendatory act does not take effect
13 unless Senate Bill No. ____ or House Bill No. 5655 (request no.
14 05968'20) of the 100th Legislature is enacted into law.

