



**House  
Legislative  
Analysis  
Section**

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**LOCAL SANCTION REQUESTS: LCC DISCRETION**

House Bill 4628 as introduced  
First Analysis (10-6-87)

**RECEIVED**

Sponsor: Rep. William R. Keith  
Committee: Liquor Control

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***THE APPARENT PROBLEM:***

In the 1985-1986 session, the legislature enacted House Bill 5021, which requires the Liquor Control Commission (LCC) to revoke the license of an off-premises licensee, such as a party store or supermarket, at the request of the local unit of government if the licensee is guilty of serving underage customers on at least three occasions during a single calendar year. (The violations could not include occasions when an underage customer used false or fraudulent identification.) The local legislative body must request the revocation by resolution. The bill, which became Public Act 7 of 1986, was acted upon at the behest of local officials frustrated by the difficulties they faced in policing party stores and other outlets who were selling alcohol to underage customers. Local officials complained that they had little success in getting the licenses of violators revoked. (In contrast, local units have more influence over on-premises licensees, such as restaurants and bars, because they approve the issuing and renewal of those licenses. Local units have little involvement in the issuance of off-premises licenses.) During the debate over Public Act 7, licensees complained that local officials could engage in vendettas against specific businesses while ignoring violations at other outlets, and argued that discretion should be left in the hands of the Liquor Control Commission, which is removed from local squabbles. Licensees continue to make the argument that the provision enacted last year puts too much authority in local hands and continue to fear the arbitrary exercise of that authority.

***THE CONTENT OF THE BILL:***

Under the Liquor Control Act, if a local legislative body requests the revocation of an off-premises license on the grounds that the licensee has furnished liquor to a minor on at least three separate occasions in a calendar year, and the violations did not involve the use of fraudulent identification, the Liquor Control Commission upon verifying the violations must revoke the license. The bill would say that in such cases the LCC "may suspend or revoke" the license.

(Note: An amendment offered by the bill's sponsor but not adopted by the committee would have changed the wording to "shall suspend or revoke" the license, meaning the LCC would have to do one or the other. This suggests "may suspend or revoke" is understood to mean may suspend, may revoke, or may do neither.)

MCL 436.17

***FISCAL IMPLICATIONS:***

There is no information at present.

***ARGUMENTS:***

***For:***

The Liquor Control Commission should have the discretion to determine when and whether to suspend and revoke

off-premises licenses and should not have its decisions dictated by resolutions from local units of government. (The LCC issues the licenses, which do not require local approval.) Merchants fear the arbitrary exercise of power by a local unit, which could selectively target some outlets while ignoring the practices of others. Violations can occur despite the best intentions of store owners, particularly when employees are inexperienced, careless, or irresponsible (and when police launch "sting" operations). Underage customers are persistent and have little to lose. Communities should have some influence on licensing but should not be able singlehandedly to take licenses away. The loss of a license by a party store, for example, is no small matter. It can mean the loss of a family's livelihood. The LCC, removed from local conflicts, can best determine when such drastic action is necessary and when lesser measures can be taken to address problems at a liquor outlet.

***Against:***

It is unfair to say local officials will abuse their authority and engage in vendettas. When local officials try to take action against irresponsible licensees, it is because of pressure from citizens who are angry at stores that are selling alcohol to their children. The license revocation process under Public Act 7 requires two steps: 1) a licensee must have three confirmed violations of selling to underage customers in one year, which requires involvement by the LCC; and 2) the local legislative body must by resolution request the license revocation. This is not a process that is easy to abuse; it requires the participation of more than just one disgruntled local official. (No one, it should be pointed out, has yet lost a license as a result of this new law, which was only passed last year.) It is true that the process only allows the LCC to revoke a license and perhaps more flexibility should be permitted. Local government representatives have said they would support the LCC's being given the option to revoke or suspend a license in such cases but not allowing the LCC to take no action whatsoever. Then the local unit's resolution would count for nothing and the provision would be meaningless, since a local unit does not need the liquor law to authorize the passing of non-binding resolutions. Underage drinking is a serious social problem, and the public increasingly supports tough enforcement and stiff penalties to help reduce the physical and emotional harm that results from the irresponsible uses of alcohol. The prevention of drunk driving, underage drinking, and other alcohol-related ills should be a high priority. It would be a mistake to make it easier or less painful for licensees to sell alcohol illegally to underage customers.

***For:***

An apparent conflict appears in the liquor law as a result of two separate provisions enacted in 1986. Public Act 7, the focus of this bill, requires revocation of an off-premises

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license when a licensee has served minors on three separate occasions in one calendar year. A later act, Public Act 176, which addressed liquor liability insurance issues (by amending the dram shop act), said the LCC must suspend or revoke any retail license if the licensee commits three separate violations in a 24-month period involving the sale of liquor to a minor or to a visibly intoxicated person of any age. Any instance of the first case, obviously, is an instance of the second as well. This means the LCC could, using the second provision, suspend a license following a hearing on the merits of a case and subsequently receive a resolution from the local community requesting revocation and be required, under Public Act 7, to revoke the license. That would not be a healthy procedure. The two provisions together could lead to unequal treatment of similar cases and to lawsuits. There needs to be some consistency about the jurisdiction and discretion of the LCC.

**Response:** The conflict, such as it is, could be resolved by permitting the LCC to suspend or revoke an off-premise license upon receipt of a resolution from a local unit. As mentioned earlier, representatives of local government have said they would support this. It should be noted that local units can act to revoke an on-premises license, or can refuse to renew, for a wide variety of reasons. (Revocation attempts routinely wind up in the courts, according to the LCC).

### ***SUGGESTED AMENDMENTS:***

An amendment offered by the bill's sponsor, not adopted by the House Liquor Control Committee, would have amended page four, line seven to say the LCC "shall suspend or revoke" a license rather than "may suspend or revoke."

### ***POSITIONS:***

The Liquor Control Commission has no official position on the bill as introduced. (10-2-87)

The Associated Food Dealers supports the bill as introduced. (10-2-87)

The Michigan Merchants Council supports the bill. (10-2-87)

The Michigan Municipal League is opposed to the bill as introduced. (10-2-87)

Mothers Against Drunk Driving (MADD) is opposed to the bill. (10-1-87)