

HOUSE BILL No. 5117

September 11, 1991, Introduced by Rep. Profit and referred to the Committee on Liquor Control.

A bill to amend section 17 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," as amended by Act No. 118 of the Public Acts of 1989, being section 436.17 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 17 of Act No. 8 of the Public Acts of
2 the Extra Session of 1933, as amended by Act No. 118 of the
3 Public Acts of 1989, being section 436.17 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 17. (1) The commission may issue licenses, as provided
6 in this act, upon the payment of the fees provided in section 19
7 and the filing of the bonds required in section 22 ~~—~~ or
8 liability insurance as provided in section 22a.

1 (2) The commission shall issue licenses to manufacturers
2 only when 25% or more of the capital stock is owned by residents
3 of this state, except that ~~these limitations~~ THIS LIMITATION
4 shall not apply to manufacturers of wine, mixed spirit drink,
5 beer, or malt beverages or to distillers or rectifiers.

6 (3) A full-year license issued by the commission shall
7 expire on April 30 following the date of issuance or the date
8 fixed by the commission. A license issued under this act shall
9 be construed ~~to be~~ AS a contract between the commission and the
10 licensee AS FURTHER DESCRIBED IN SECTION 2I and shall be signed
11 by both parties. ~~When~~ IF a licensee dies, the commission may
12 approve the operation of the LICENSED establishment by a personal
13 representative or independent personal representative duly
14 appointed by the ~~proper~~ court OF COMPETENT JURISDICTION, pend-
15 ing the settlement of the estate of the deceased licensee. The
16 commission may approve a receiver or trustee appointed by a
17 ~~proper~~ court OF COMPETENT JURISDICTION to operate the licensed
18 establishment of a DECEASED licensee. ~~of the commission.~~ The
19 commission may grant a part-year license for a proportionate part
20 of the license fee specified in section 19. In a resort area,
21 the commission shall grant a license for A PERIOD OF TIME as
22 short ~~a period~~ as 3 months. A license may be transferred with
23 the consent of the commission. A class C or specially designated
24 distributor license obtained IN A MANNER other than by transfer
25 shall not be transferred within 3 years after its issuance except
26 ~~if~~ UNDER CIRCUMSTANCES WHERE the licensee clearly and
27 convincingly ~~shows~~ DEMONSTRATES that unusual hardship will

1 result if the transfer ~~is~~ DOES not ~~consented to by~~ RECEIVE
2 THE CONSENT OF the commission. Except as provided FOR in section
3 17b OR IN A CITY HAVING A POPULATION OF 1,000,000 OR MORE AND AS
4 A CONDITION TO THE COMMISSION'S APPROVAL OF AN APPLICATION, an
5 application for a license to sell alcoholic liquor for consump-
6 tion on the premises ~~, except in a city having a population of~~
7 ~~1,000,000 or more,~~ shall be approved by the local legislative
8 body in which the applicant's place of business is located.
9 ~~before the license is granted by the commission, except that in~~
10 IN the case of an application for renewal of an existing license,
11 if an objection to a renewal has not been filed with the commis-
12 sion by the local legislative body not less than 30 days before
13 the date of expiration of the license, the approval of the local
14 legislative body shall not be required. The commission shall
15 provide the local legislative body and the local chief of police
16 with the name, home and business addresses, and home and business
17 phone numbers to accomplish the local legislative reviews of new
18 and transferred license applications ~~called for in~~ REQUIRED BY
19 this subsection. Upon request of the local legislative body
20 after due notice and proper hearing by the local legislative body
21 and the commission, the commission shall revoke the license of a
22 licensee granted a license to sell alcoholic liquor for consump-
23 tion on the premises ~~, or the commission shall revoke~~ any
24 permit ~~issued by the commission which is~~ held in conjunction
25 with ~~a~~ THAT license. ~~to sell alcoholic liquor for consumption~~
26 ~~on the premises.~~

1 (4) A local legislative body, by resolution, may request
2 that the commission revoke the license of a licensee granted a
3 license to sell alcoholic liquor for consumption off the premises
4 whose place of business is located within the local legislative
5 body's jurisdiction. ~~and who has been determined pursuant to~~
6 ~~commission violation hearings to have sold or furnished alcoholic~~
7 ~~liquor, on at least 3 separate occasions in a single calendar~~
8 ~~year, to a person who is less than 21 years of age, provided said~~
9 ~~violations did not involve the use of falsified or fraudulent~~
10 ~~identification by the person who is less than 21 years of age.~~
11 ~~If the commission verifies that the licensee who is the subject~~
12 ~~of the resolution has been found to have committed the violations~~
13 ~~as prescribed in this subsection, the commission may suspend or~~
14 ~~revoke the licensee's license, and any permit held in conjunction~~
15 ~~with the license.~~

16 (5) Except as otherwise provided in this act, a license
17 other than a special license which has been approved by the gov-
18 erning authority of such state owned land shall not be issued by
19 the commission to sell alcoholic liquor, either on or off the
20 premises, if the property or establishment to be covered by the
21 license is situated in or on state owned land. However, this
22 prohibition shall not apply to the following land:

23 (a) The Michigan state fairgrounds.

24 (b) The Upper Peninsula state fairgrounds.

25 (c) Armories, air bases, and naval installations owned or
26 leased by the state or provided by the federal government by

1 either lease, license, or use permit and used by outside parties
2 of a nonmilitary or ~~state~~ NONSTATE governmental nature.

3 (d) Land which was under lease to a person licensed in the
4 calendar year 1954 and on which a licensed establishment is pres-
5 ently located.

6 (e) Land which was owned or leased by the federal govern-
7 ment, used as a military installation, and transferred to this
8 state before January 1, 1980 pursuant to Act No. 151 of the
9 Public Acts of 1978, being sections 3.551 to 3.561 of the
10 Michigan Compiled Laws. Two additional licenses may be issued
11 pursuant to this subdivision for establishments located on this
12 state land without regard to or effect on the quota provisions of
13 section 19c in the local governmental unit in which the license
14 will be issued. A person issued a license pursuant to this sub-
15 division may renew the license and transfer ownership of the
16 license, without regard to or effect on the quota provisions of
17 section 19c, if title to the property covered by the license is
18 transferred from the state to another person or to another gov-
19 ernmental unit. The commission shall not transfer a license
20 issued under this subdivision to another location. Before the
21 issuance of a license, and annually thereafter before the issu-
22 ance of a license for a new licensing period, the applicant for a
23 license shall submit to the commission a certificate from the
24 department or agency charged with control of the land setting
25 forth that the issuance of a license is not incompatible with the
26 objects and purposes entrusted to that department or agency under
27 the law establishing control of the land in the department or

1 agency. This subsection shall not prohibit the issuance of a
2 license pursuant to section 17h.

3 (f) Property owned by the Michigan state waterways commis-
4 sion and leased to persons under the harbor development act, Act
5 No. 79 of the Public Acts of 1988, being sections 281.1251 to
6 281.1268 of the Michigan Compiled Laws. A license may be issued
7 under this subdivision to a lessee without regard to the quota
8 provisions of section 19c, but the license shall not be issued
9 without the written approval of the Michigan state waterways com-
10 mission or its designee. A license issued under this subdivision
11 shall not be transferable as to ownership or location, and, if
12 the licensee goes out of business, the license shall be surren-
13 dered to the ~~liquor control~~ commission.

14 (6) This act shall not prohibit a hotel ~~—~~ which is or was
15 the holder of a license authorizing the retail sale of alcoholic
16 liquor for consumption on the premises ~~—~~ from applying for and
17 receiving ~~—~~ under this act ~~—~~ any other and different type of
18 license authorizing the retail sale of alcoholic liquor for con-
19 sumption on the premises, ~~nor shall~~ AND the application for the
20 license SHALL NOT be considered a new application for a license
21 ~~—~~ so long as the total number of public licenses for consump-
22 tion on the premises ~~shall~~ DOES not exceed the authorized total
23 established in this act and the sale of alcoholic liquor is
24 approved by the electors. The commission may divide the state
25 into 3 zones and establish for each zone an anniversary date for
26 renewal of full-year retail licenses in the licensing year. The
27 commission shall promulgate rules pursuant to the administrative

1 procedures act of 1969, Act No. 306 of the Public Acts of 1969,
2 as amended, being sections 24.201 to 24.328 of the Michigan
3 Compiled Laws, for the ~~effective~~ administration of the renewal
4 of licenses.

5 (7) The commission, with the written approval of the depart-
6 ment of natural resources in the case of the Michigan state fair-
7 grounds and the department of agriculture ~~—~~ in the case of the
8 Upper Peninsula state fairgrounds ~~—~~ may issue without regard to
9 the quota provision of section 19c a tavern license to a person
10 as concessionaire leasing or renting a portion of either the
11 Upper Peninsula state fairgrounds or the state fairgrounds, or
12 both, to service the licensed area in use for recreational or
13 exhibition purposes, other than at the time of the annual state
14 fair, under section 6 of the Michigan exposition and fairgrounds
15 act, Act No. 361 of the Public Acts of 1978, being
16 section 285.166 of the Michigan Compiled Laws, and the annual
17 Upper Peninsula state fair, under section 2 of Act No. 89 of the
18 Public Acts of 1927, as amended, being section 285.142 of the
19 Michigan Compiled Laws. A license issued under this subsection
20 is not transferable.

21 (8) Notwithstanding section 3, a collector ~~—~~ who is 21
22 years of age or older ~~—~~ of ceramic commemorative bottles con-
23 taining alcoholic liquor and which bear an unbroken federal tax
24 stamp or seal may sell or trade the bottles to other such collec-
25 tors of the bottles without obtaining a license pursuant to this
26 act. All sales conducted pursuant to this subsection shall be
27 for the purpose of exchanging ceramic commemorative bottles

1 between private collectors of the bottles and shall not be for
2 the purpose of selling alcoholic liquor for personal
3 consumption. A sale or exchange conducted pursuant to this sub-
4 section shall not occur in any of the following ways:

5 (a) In connection with the business of a holder of an alco-
6 holic liquor license.

7 (b) In connection with any other business.