

HOUSE BILL No. 5200

October 1, 1991, Introduced by Reps. Ostling, Richard A. Young, Knight and Leland and referred to the Committee on Liquor Control.

A bill to amend sections 7a, 20, and 28a of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "Michigan liquor control act," section 20 as amended by Act No. 176 of the Public Acts of 1986, being sections 436.7a, 436.20, and 436.28a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7a, 20, and 28a of Act No. 8 of the
2 Public Acts of the Extra Session of 1933, section 20 as amended
3 by Act No. 176 of the Public Acts of 1986, being sections 436.7a,
4 436.20, and 436.28a of the Michigan Compiled Laws, are amended to
5 read as follows:

6 Sec. 7a. (1) The commission may make investigations which
7 it considers proper in the administration of this act and the
8 rules promulgated pursuant to this act concerning alcoholic

1 liquor, ~~or~~ the manufacture, distribution, or sale of alcoholic
2 liquor, ~~or~~ the collection of taxes on alcoholic liquor, OR VIO-
3 LATIONS CONCERNING THE VIDEO LOTTERY PURSUANT TO THE
4 MCCAULEY-TRAXLER-LAW-BOWMAN-MCNEELY LOTTERY ACT, ACT NO. 239 OF
5 THE PUBLIC ACTS OF 1972, BEING SECTIONS 432.1 TO 432.47 OF THE
6 MICHIGAN COMPILED LAWS, AND RULES PROMULGATED THEREUNDER.

7 (2) A licensee shall make the licensed premises available
8 for inspection and search by a commission investigator or law
9 enforcement officer empowered to enforce the commission's rules
10 and ~~Act No. 8 of the Public Acts of the Extra Session of 1933,~~
11 ~~as amended, being sections 436.1 to 436.58 of the Michigan~~
12 ~~Compiled Laws~~ THIS ACT during regular business hours or when the
13 licensed premises are occupied by the licensee or a clerk, ser-
14 vant, agent, or employee of the licensee. Evidence of a viola-
15 tion discovered pursuant to this subsection may be seized and
16 used in an administrative or court proceeding.

17 (3) The commission, or a duly authorized agent of the com-
18 mission, may examine or copy the books, records, and papers of
19 any person relative to a requirement pertaining to this act
20 access to which has been obtained pursuant to this section.

21 (4) A member of the commission, or a duly authorized agent
22 of the commission, may issue a subpoena requiring a person to
23 appear before the commission, or its duly authorized agent, at
24 any reasonable time and place, and be examined with reference to
25 any matter within the scope of the inquiry or investigation being
26 conducted by the commission, and to produce any books, records,
27 or papers pertaining to the question involved.

1 (5) A member of the commission, or a duly authorized agent
2 of the commission, may administer an oath or affirmation to a
3 witness in any matter before the commission, certify to official
4 acts, and take depositions.

5 (6) In case of disobedience of a subpoena, the commission or
6 its duly authorized agents may invoke the aid of any circuit
7 court of the state in requiring the attendance and testimony of
8 witnesses and the production of books, records, and papers per-
9 taining to the question involved. Any of the circuit courts of
10 the state within the jurisdiction of which the inquiry is carried
11 on may, in case of contumacy or refusal to obey a subpoena, issue
12 an order requiring the person to appear before the commission or
13 its duly authorized agents and to produce books, records, and
14 papers if so ordered, and to give evidence touching the matter in
15 question; and a failure to obey the order of the court may be
16 punished by the court as a contempt of court.

17 (7) The fees of witnesses required to appear before the com-
18 mission shall be the same as those allowed to witnesses in the
19 circuit courts, and shall be paid by the commission.

20 (8) A sheriff's department or police department shall, upon
21 request of the commission, cause to be served a subpoena which
22 may be directed to any person located within the jurisdiction of
23 the sheriff's department or police department. A fee shall not
24 be charged for this service by the sheriff's department or police
25 department. Subpoenas may also be served by an investigator of
26 the commission.

1 Sec. 20. (1) The commission, and any commissioner or duly
2 authorized agent of the commission designated by the chairperson
3 of the commission, upon due notice and proper hearing, may sus-
4 pend or revoke any license upon a violation of this act or any of
5 the rules promulgated by the commission under this act. IN THE
6 CASE OF A LICENSEE HOLDING A VIDEO LOTTERY ESTABLISHMENT LICENSE,
7 THE COMMISSION MAY SUSPEND OR REVOKE A LICENSEE'S LICENSE FOR A
8 VIOLATION OF THE MCCAULEY-TRAXLER-LAW-BOWMAN-MCNEELY LOTTERY ACT,
9 ACT NO. 239 OF THE PUBLIC ACTS OF 1972, BEING SECTIONS 432.1 TO
10 432.47 OF THE MICHIGAN COMPILED LAWS, AND ANY RULES PROMULGATED
11 UNDER THAT ACT. The commission, and any commissioner or duly
12 authorized agent of the commission designated by the chairperson
13 of the commission, may assess a penalty of not more than \$300.00
14 for each violation ~~of this act or rules promulgated under this~~
15 ~~act,~~ or not more than \$1,000.00 for each violation of
16 section 22(3), in addition to or ~~in lieu~~ INSTEAD of revocation
17 or suspension of the license, which penalty shall be paid to the
18 commission and deposited with the state treasurer and shall be
19 credited to the general fund of the state. The commission shall
20 hold a hearing and order the suspension or revocation of a
21 license if the licensee has been found liable, within a 24-month
22 period, for 3 or more separate violations of section 22(3) which
23 violations occurred on different occasions.

24 (2) The commission shall provide the procedure by which any
25 licensee feeling aggrieved by any penalty imposed under subsec-
26 tion (1) and any suspension or revocation of a license ordered by
27 the commission, a commissioner, or a duly authorized agent of the

1 commission, may request a hearing for the purpose of presenting
2 any facts or reasons to the commission why the penalty or the
3 suspension or revocation should be modified or rescinded. Any
4 such request shall be in writing and accompanied by a fee of
5 \$25.00. The commission after reviewing the record made before a
6 commissioner or a duly authorized agent of the commission may
7 allow or refuse to allow the hearing in accordance with the
8 commission's rules. Such right, however, shall not be interpre-
9 ted by any court as curtailing, removing, or annulling the right
10 of the commission to suspend or revoke licenses as provided for
11 in this act. A licensee shall not have a right of appeal from
12 the final determination of the commission, except by ~~writ~~ LEAVE
13 of ~~certiorari to the~~ circuit court. Notice of the order of
14 suspension or revocation of a license or assessment of a penalty,
15 or both, shall be given in the manner prescribed by the
16 commission. The suspension or revocation of a license or assess-
17 ment of a penalty, or both, by the commission or a duly autho-
18 rized agent of the commission shall not prohibit the institution
19 of a criminal prosecution for a violation of this act. The
20 institution of a criminal prosecution for a violation of this
21 act, or the acquittal or conviction of any person for a violation
22 of this act, shall not prevent the suspension or revocation of a
23 license or assessment of a penalty, or both, by the commission.
24 In a hearing for the suspension or revocation of a license issued
25 pursuant to this act, proof that the defendant licensee or an
26 agent or employee of the licensee demanded and was shown, before
27 furnishing any alcoholic liquor to a person less than 21 years of

1 age, a motor vehicle operator or chauffeur license, a
2 registration certificate issued by the federal selective service,
3 or other bona fide documentary evidence of majority and identity
4 of the person, may be offered as evidence in a defense to a pro-
5 ceeding for the suspension or revocation of a license issued
6 under this act. A licensee who has reason to believe that a
7 person less than 21 years of age has used fraudulent identifica-
8 tion to purchase alcoholic liquor in violation of section 33b
9 shall file a police report concerning the violation with a local
10 law enforcement agency and shall also present the alleged fraudu-
11 lent identification to the local law enforcement agency at the
12 time of filing the report if the identification is in the posses-
13 sion of the licensee. The commission may promulgate rules pursu-
14 ant to the administrative procedures act of 1969, Act No. 306 of
15 the Public Acts of 1969, being sections 24.201 to 24.328 of the
16 Michigan Compiled Laws, regarding the utilization by licensees of
17 equipment designed to detect altered or forged driver licenses,
18 state identification cards, and other forms of identification.

19 (3) In addition to the hearing commissioners provided for in
20 section 5, the chairperson of the commission may designate not
21 more than 2 duly authorized agents to hear violation cases. A
22 person appointed under this subsection shall be a member in good
23 standing of the state bar of Michigan.

24 (4) A duly authorized agent who has been designated by the
25 chairperson pursuant to subsection (3) shall have the same
26 authority and responsibility as does a hearing commissioner under

1 this act and the rules promulgated pursuant to this act, in the
2 hearing of violation cases.

3 (5) A duly authorized agent who has been designated by the
4 chairperson pursuant to subsection (3) shall be ineligible for
5 appointment to the commission for a period of 1 year after the
6 person ceases to serve as a duly authorized agent.

7 Sec. 28a. (1) The commission shall not prohibit licensees
8 from allowing pinball machines on the premises for the purpose of
9 amusement.

10 (2) THE COMMISSION SHALL NOT PROHIBIT LICENSEES FROM OBTAIN-
11 ING A VIDEO LOTTERY ESTABLISHMENT LICENSE UNDER THE
12 MCCAULEY-TRAXLER-LAW-BOWMAN-MCNEELY LOTTERY ACT, ACT NO. 239 OF
13 THE PUBLIC ACTS OF 1972, BEING SECTIONS 432.1 TO 432.47 OF THE
14 MICHIGAN COMPILED LAWS. THE MONEY GENERATED BY A LICENSEE
15 THROUGH THE CONDUCT OF A VIDEO LOTTERY SHALL BE SUBJECT TO THE
16 REGULATION AND ALLOCATION FORMULA PROVIDED FOR IN ACT NO. 239 OF
17 THE PUBLIC ACTS OF 1972.

18 Section 2. This amendatory act shall not take effect unless
19 all of the following bills of the 86th Legislature are enacted
20 into law:

21 (a) Senate Bill No. ____ or House Bill No. 5199 (request
22 no. 01164'91 *).

23 (b) Senate Bill No. ____ or House Bill No. 5201 (request
24 no. 01164'91 b).