

Act No. 185
Public Acts of 1994
Approved by the Governor
June 19, 1994
Filed with the Secretary of State
June 20, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Rep Profit

ENROLLED HOUSE BILL No. 5327

AN ACT to amend sections 17 and 18 of Act No 8 of the Public Acts of the Extra Session of 1933 entitled as amended An act to create a liquor control commission for the control of the alcoholic beverage traffic within the state of Michigan and to prescribe its powers duties and limitations to provide for the control of the alcoholic liquor traffic within the state of Michigan and the establishment of state liquor stores to provide for the care and treatment of alcoholics to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges thereto to provide for the licensing and taxation thereof and the disposition of the moneys received under this act to prescribe liability for retail licensees under certain circumstances to require security for that liability to provide procedures defenses and remedies regarding violations of this act to provide for the enforcement and to prescribe penalties for violations of this act to provide for the confiscation and disposition of property seized under the provisions of this act to provide a referendum in certain cases to repeal certain acts and parts of acts and to repeal certain parts of this act on a specific date section 17 as amended by Act No 136 of the Public Acts of 1992 being sections 436 17 and 436 18 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Sections 17 and 18 of Act No 8 of the Public Acts of the Extra Session of 1933 section 17 as amended by Act No 136 of the Public Acts of 1992 being sections 436 17 and 436 18 of the Michigan Compiled Laws are amended to read as follows

Sec 17 (1) The commission may issue licenses as provided in this act upon the payment of the fees provided in section 19 and the filing of the bonds required in section 22 or liability insurance as provided in section 22a

(2) The commission shall issue licenses to manufacturers only when 25% or more of the capital stock is owned by residents of this state except that this limitation shall not apply to manufacturers of wine mixed spirit drink beer or malt beverages or to distillers or rectifiers

(3) A full year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission A license issued under this act shall be construed as a contract between the commission and the licensee and shall be signed by both parties If a licensee dies the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by a court of competent jurisdiction pending the settlement of the estate of the deceased licensee The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee The commission may grant a part year license for a proportionate part of the license fee specified in section 19 In a resort area the commission shall grant a license for a period of time as short as 3 months A license may be transferred with the consent of the commission A class C or specially designated distributor license obtained in a manner other than by transfer shall not be transferred within 3 years after its issuance except under circumstances where the licensee

clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. Except as provided in section 17b, an application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 1 000 000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body shall not be required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. Upon request of the local legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell alcoholic liquor for consumption on the premises or any permit held in conjunction with that license.

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

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

(a) The Michigan state fairgrounds

(b) The Upper Peninsula state fairgrounds

(c) Armories, air bases, and naval installations owned or leased by the state or provided by the federal government by either lease, license, or use permit and used by outside parties of a nonmilitary or nonstate governmental nature.

(d) Land which was under lease to a person licensed in the calendar year 1954 and on which a licensed establishment is presently located.

(e) Land which was owned or leased by the federal government, used as a military installation, and transferred to this state before January 1, 1980, pursuant to Act No. 151 of the Public Acts of 1978, being sections 3 551 to 3 561 of the Michigan Compiled Laws. Two additional licenses may be issued pursuant to this subdivision for establishments located on this state land without regard to or effect on the quota provisions of section 19c in the local governmental unit in which the license will be issued. A person issued a license pursuant to this subdivision may renew the license and transfer ownership of the license without regard to or effect on the quota provisions of section 19c if title to the property covered by the license is transferred from the state to another person or to another governmental unit. The commission shall not transfer a license issued under this subdivision to another location. Before the issuance of a license and annually thereafter before the issuance of a license for a new licensing period, the applicant for a license shall submit to the commission a certificate from the department or agency charged with control of the land setting forth that the issuance of a license is not incompatible with the objects and purposes entrusted to that department or agency under the law establishing control of the land in the department or agency. This subsection does not prohibit the issuance of a license pursuant to section 17h.

(f) Property owned by the Michigan state waterways commission and leased to persons under the harbor development act, Act No. 79 of the Public Acts of 1988, being sections 281 1251 to 281 1268 of the Michigan Compiled Laws. A license may be issued under this subdivision to a lessee without regard to the quota provisions of section 19c but the license shall not be issued without the written approval of the Michigan state waterways commission or its designee. A license issued under this subdivision shall not be transferable as to ownership or location, and if the licensee goes out of business, the license shall be surrendered to the commission.

(g) Property owned by the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, Act No. 300 of the Public Acts of 1980, being sections 38 1301 to 38 1408 of the Michigan Compiled Laws; the state employees retirement act, Act No. 240 of the Public Acts of 1943, being sections 38 1 to 38 48 of the Michigan Compiled Laws; the state police retirement act of 1986, Act No. 182 of the Public Acts of 1986, being sections 38 1601 to 38 1648 of the Michigan Compiled Laws; and the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being sections 38 2101 to 38 2608 of the Michigan Compiled Laws.

(6) This act does not prohibit a hotel which is or was the holder of a license authorizing the retail sale of alcoholic liquor for consumption on the premises from applying for and receiving under this act any other and different type of

license authorizing the retail sale of alcoholic liquor for consumption on the premises and the application for the license shall not be considered a new application for a license so long as the total number of public licenses for consumption on the premises does not exceed the authorized total established in this act and the sale of alcoholic liquor is approved by the electors. The commission may divide the state into 3 zones and establish for each zone an anniversary date for renewal of full year retail licenses in the licensing year. The commission shall promulgate rules pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 as amended being sections 24 201 to 24 328 of the Michigan Compiled Laws for the effective administration of the renewal of licenses

(7) Until July 1 1994 the commission with the written approval of the department of natural resources in the case of the Michigan state fairgrounds and the department of agriculture in the case of the Upper Peninsula state fairgrounds may issue without regard to the quota provision of section 19c a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds or both to service the licensed area in use for recreational or exhibition purposes other than at the time of the annual Upper Peninsula state fair under section 2 of Act No 89 of the Public Acts of 1927 being section 285 142 of the Michigan Compiled Laws. A license issued under this subsection is not transferable.

(8) Beginning July 1 1994 the commission with the written approval of the department of natural resources in the case of the Michigan state fairgrounds and the department of agriculture in the case of the Upper Peninsula state fairgrounds may issue without regard to the quota provision of section 19c a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds or both to service the licensed area in use for recreational or exhibition purposes other than at the time of the annual state fair under section 6 of the Michigan exposition and fairgrounds act Act No 361 of the Public Acts of 1978 being section 285 166 of the Michigan Compiled Laws and the annual Upper Peninsula state fair under section 2 of Act No 89 of the Public Acts of 1927 as amended being section 285 142 of the Michigan Compiled Laws. A license issued under this subsection is not transferable.

(9) Notwithstanding section 3 a collector who is 21 years of age or older of ceramic commemorative bottles containing alcoholic liquor and which bear an unbroken federal tax stamp or seal may sell or trade the bottles to other such collectors of the bottles without obtaining a license pursuant to this act. All sales conducted pursuant to this subsection shall be for the purpose of exchanging ceramic commemorative bottles between private collectors of the bottles and shall not be for the purpose of selling alcoholic liquor for personal consumption. A sale or exchange conducted pursuant to this subsection shall not occur in any of the following ways

- (a) In connection with the business of a holder of an alcoholic liquor license
- (b) In connection with any other business

Sec 18 (1) A person who holds or whose spouse holds either by appointment or election a public office which involves the duty to enforce any of the penal laws of the United States or the penal laws of this state or a penal ordinance or resolution of any municipal subdivision of the state except civil defense volunteer police mayors or council members of cities or village presidents or mayors of home rule cities whose law enforcement authority under the city charter is restricted to emergency situations or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979 Act No 300 of the Public Acts of 1980 being sections 38 1301 to 38 1408 of the Michigan Compiled Laws the state employees retirement act Act No 240 of the Public Acts of 1943 being sections 38 1 to 38 48 of the Michigan Compiled Laws the state police retirement act of 1986 Act No 182 of the Public Acts of 1986 being sections 38 1601 to 38 1648 of the Michigan Compiled Laws and the judges retirement act of 1992 Act No 234 of the Public Acts of 1992 being sections 38 2101 to 38 2608 of the Michigan Compiled Laws and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong shall not be issued a license or have an interest directly or indirectly in a license. However a nonprofit fraternal organization incorporated under the laws of this state whose membership is not totally composed of law enforcement personnel or public officeholders charged with the duty of enforcing any penal laws or ordinances of a governmental body may be issued a club liquor license if the organization is otherwise qualified.

(2) As used in this section law enforcement personnel does not include the mayor of a city or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by Act No 300 of the Public Acts of 1980 Act No 240 of the Public Acts of 1943 Act No 182 of the Public Acts of 1986 and Act No 234 of the Public Acts of 1992 and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong.

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor