



HOUSE BILL No. 4409

March 2, 1993, Introduced by Rep. Joe Young, Jr. and referred to the Committee on State Affairs.

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 THAT it considers proper in the administration of this act and
8 the 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 VIOLA-
3 TIONS 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 UNDER THAT ACT.

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~~ AN authorized agent of
18 the commission ~~—~~ may examine or copy the books, records, and
19 papers of any person relative to a requirement pertaining to this
20 act access to which has been obtained pursuant to this section.

21 (4) A member of the commission ~~—~~ or ~~a duly~~ AN authorized
22 agent of the commission ~~—~~ may issue a subpoena requiring a
23 person to appear before the commission ~~—~~ or its ~~duly~~ autho-
24 rized agent ~~—~~ at any reasonable time and place ~~—~~ and be
25 examined with reference to any matter within the scope of the
26 inquiry or investigation being conducted by the commission, and

1 to produce any books, records, or papers pertaining to the
2 question involved.

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

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

20 (7) The fees of witnesses required to appear before the com-
21 mission shall be the same as those allowed to witnesses in the
22 circuit courts ~~—~~ and shall be paid by the commission.

23 (8) A sheriff's department or police department, ~~shall,~~
24 upon request of the commission, SHALL cause to be served a sub-
25 poena which may be directed to any person located within the
26 jurisdiction of the sheriff's department or police department. A
27 fee shall not be charged for this service by the sheriff's

1 department or police department. Subpoenas may also be served by
2 an investigator of the commission.

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

1 (2) The commission shall provide the procedure by which any
2 licensee feeling aggrieved by any penalty imposed under
3 subsection (1) ~~and~~ OR any suspension or revocation of a license
4 ordered by the commission, a commissioner, or ~~a duly~~ AN autho-
5 rized agent of the commission ~~—~~ may request a hearing for the
6 purpose of presenting any facts or reasons to the commission why
7 the penalty, ~~or the~~ suspension, or revocation should be modi-
8 fied or rescinded. Any such request shall be in writing and
9 accompanied by a fee of \$25.00. The commission after reviewing
10 the record made before a commissioner or ~~a duly~~ AN authorized
11 agent of the commission may allow or refuse to allow the hearing
12 in accordance with the commission's rules. ~~Such~~ THIS right,
13 however, shall not be interpreted by any court as curtailing,
14 removing, or annulling the right of the commission to suspend or
15 revoke licenses as provided for in this act. A licensee ~~shall~~
16 DOES not have a right of appeal from the final determination of
17 the commission ~~—~~ except by ~~writ~~ LEAVE of ~~certiorari to the~~
18 circuit court. Notice of the order of suspension or revocation
19 of a license or assessment of a penalty, or both, shall be given
20 in the manner prescribed by the commission. The suspension or
21 revocation of a license or assessment of a penalty, or both, by
22 the commission or ~~a duly~~ AN authorized agent of the commission
23 ~~shall~~ DOES not prohibit the institution of a criminal prosecu-
24 tion for a violation of this act. The institution of a criminal
25 prosecution for a violation of this act, or the acquittal or con-
26 viction of any person for a violation of this act, ~~shall~~ DOES
27 not prevent the suspension or revocation of a license or

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

24 (3) In addition to the hearing commissioners provided for in
25 section 5, the chairperson of the commission may designate not
26 more than 2 ~~only~~ authorized agents to hear violation cases. A

1 person appointed under this subsection shall be a member in good
2 standing of the state bar of Michigan.

3 (4) ~~A duly~~ AN authorized agent who has been designated by
4 the chairperson pursuant to subsection (3) ~~shall have~~ HAS the
5 same authority and responsibility as does a hearing commissioner
6 under this act and the rules promulgated ~~pursuant to~~ UNDER this
7 act ~~—~~ in the hearing of violation cases.

8 (5) ~~A duly~~ AN authorized agent who has been designated by
9 the chairperson pursuant to subsection (3) ~~shall be~~ IS ineligi-
10 ble for appointment to the commission for a period of 1 year
11 after the person ceases to serve as ~~a duly~~ AN authorized
12 agent.

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

16 (2) THE COMMISSION SHALL NOT PROHIBIT LICENSEES FROM OBTAIN-
17 ING A VIDEO LOTTERY ESTABLISHMENT LICENSE UNDER THE
18 MCCAULEY-TRAXLER-LAW-BOWMAN-MCNEELY LOTTERY ACT, ACT NO. 239 OF
19 THE PUBLIC ACTS OF 1972, BEING SECTIONS 432.1 TO 432.47 OF THE
20 MICHIGAN COMPILED LAWS. THE MONEY GENERATED BY A LICENSEE
21 THROUGH THE CONDUCT OF A VIDEO LOTTERY IS SUBJECT TO THE REGULA-
22 TION AND ALLOCATION FORMULA PROVIDED FOR IN ACT NO. 239 OF THE
23 PUBLIC ACTS OF 1972.

24 Section 2. This amendatory act shall not take effect unless
25 all of the following bills of the 87th Legislature are enacted
26 into law:

1 (a) Senate Bill No. _____ or House Bill No. 4408 (request
2 no. 02016'93).

3 (b) Senate Bill No. _____ or House Bill No. 4410 (request
4 no. 02016'93 b).