



HOUSE BILL No. 5327

February 9 1994, Introduced by Rep Profit and referred to the Committee on Liquor Control

A bill to amend sections 17 and 18 of Act No 8 of the Public Acts of the Extra Session of 1933, entitled as amended 'The Michigan liquor control act," 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

1 Section 1 Sections 17 and 18 of Act No 8 of the Public
2 Acts of the Extra Session of 1933, section 17 as amended by Act
3 No 136 of the Public Acts of 1992, being sections 436 17 and
4 436 18 of the Michigan Compiled Laws, are amended to read as
5 follows

6 Sec 17 (1) The commission may issue licenses, as provided
7 in this act, upon the payment of the fees provided in section 19
8 and the filing of the bonds required in section 22 or liability
9 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 this limitation shall not apply to
4 manufacturers of wine, mixed spirit drink, beer, or malt bever-
5 ages 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 as a contract between the commission and the
10 licensee and shall be signed by both parties. If a licensee
11 dies, the commission may approve the operation of the establish-
12 ment by a personal representative or independent personal repre-
13 sentative duly appointed by a court of competent jurisdiction,
14 pending the settlement of the estate of the deceased licensee.
15 The commission may approve a receiver or trustee appointed by a
16 court of competent jurisdiction to operate the licensed estab-
17 lishment of a licensee. The commission may grant a part-year
18 license for a proportionate part of the license fee specified in
19 section 19. In a resort area the commission shall grant a
20 license for a period of time as short as 3 months. A license may
21 be transferred with the consent of the commission. A class C or
22 specially designated distributor license obtained in a manner
23 other than by transfer shall not be transferred within 3 years
24 after its issuance except under circumstances where the licensee
25 clearly and convincingly demonstrates that unusual hardship will
26 result if the transfer does not receive the consent of the
27 commission. Except as provided in section 17b, an application

1 for a license to sell alcoholic liquor for consumption on the
2 premises, except in a city having a population of 1,000,000 or
3 more, shall be approved by the local legislative body in which
4 the applicant's place of business is located before the license
5 is granted by the commission, except that in the case of an
6 application for renewal of an existing license if an objection
7 to a renewal has not been filed with the commission by the local
8 legislative body not less than 30 days before the date of expira-
9 tion of the license, the approval of the local legislative body
10 shall not be required. The commission shall provide the local
11 legislative body and the local chief of police with the name,
12 home and business addresses, and home and business phone numbers
13 to accomplish the local legislative reviews of new and trans-
14 ferred license applications required by this subsection. Upon
15 request of the local legislative body after due notice and proper
16 hearing by the local legislative body and the commission, the
17 commission shall revoke the license of a licensee granted a
18 license to sell alcoholic liquor for consumption on the premises
19 or any permit held in conjunction with that license.

20 (4) A local legislative body, by resolution, may request
21 that the commission revoke the license of a licensee granted a
22 license to sell alcoholic liquor for consumption off the premises
23 whose place of business is located within the local legislative
24 body's jurisdiction and who has been determined pursuant to com-
25 mission violation hearings to have sold or furnished alcoholic
26 liquor, on at least 3 separate occasions in a single calendar
27 year, to a person who is less than 21 years of age if those

1 violations did not involve the use of falsified or fraudulent
2 identification by the person who is less than 21 years of age
3 If the commission verifies that the licensee who is the subject
4 of the resolution has been found to have committed the violations
5 as prescribed in this subsection, the commission may suspend or
6 revoke the licensee's license and any permit held in conjunction
7 with that license

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

15 (a) The Michigan state fairgrounds

16 (b) The Upper Peninsula state fairgrounds

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

21 (d) Land which was under lease to a person licensed in the
22 calendar year 1954 and on which a licensed establishment is pres-
23 ently located

24 (e) Land which was owned or leased by the federal govern-
25 ment, used as a military installation, and transferred to this
26 state before January 1, 1980 pursuant to Act No 151 of the
27 Public Acts of 1978, being sections 3 551 to 3 561 of the

1 Michigan Compiled Laws Two additional licenses may be issued
2 pursuant to this subdivision for establishments located on this
3 state land without regard to or effect on the quota provisions of
4 section 19c in the local governmental unit in which the license
5 will be issued A person issued a license pursuant to this sub-
6 division may renew the license and transfer ownership of the
7 license without regard to or effect on the quota provisions of
8 section 19c if title to the property covered by the license is
9 transferred from the state to another person or to another gov-
10 ernment.l unit The commission shall not transfer a license
11 issued under this subdivision to another location Before the
12 issuance of a license, and annually thereafter before the issu-
13 ance of a license for a new licensing period, the applicant for a
14 license shall submit to the commission a certificate from the
15 department or agency charged with control of the land setting
16 forth that the issuance of a license is not incompatible with the
17 objects and purposes entrusted to that department or agency under
18 the law establishing control of the land in the department or
19 agency This subsection ~~shall~~ DOES not prohibit the issuance
20 of a license pursuant to section 17h

21 (f) Property owned by the Michigan state waterways commis-
22 sion and leased to persons under the harbor development act, Act
23 No 79 of the Public Acts of 1988, being sections 281 1251 to
24 281 1268 of the Michigan Compiled Laws A license may be issued
25 under this subdivision to a lessee without regard to the quota
26 provisions of section 19c, but the license shall not be issued
27 without the written approval of the Michigan state waterways

1 commission or its designee A license issued under this
2 subdivision shall not be transferable as to ownership or loca-
3 tion, and, if the licensee goes out of business, the license
4 shall be surrendered to the commission

5 (G) PROPERTY OWNED BY THE STATE TREASURER OF THIS STATE WHEN
6 ACTING IN THE CAPACITY OF CUSTODIAN OF THE ASSETS OF THE STATE
7 RETIREMENT SYSTEMS CREATED BY THE PUBLIC SCHOOL EMPLOYEES RETIRE-
8 MENT ACT OF 1979, ACT NO 300 OF THE PUBLIC ACTS OF 1980, BEING
9 SECTIONS 38 1301 TO 38 1408 OF THE MICHIGAN COMPILED LAWS THE
10 STATE EMPLOYEES RETIREMENT ACT, ACT NO 240 OF THE PUBLIC ACTS
11 OF 1943, BEING SECTIONS 38 1 TO 38 48 OF THE MICHIGAN COMPILED
12 LAWS THE STATE POLICE RETIREMENT ACT OF 1986, ACT NO 182 OF THE
13 PUBLIC ACTS OF 1986, BEING SECTIONS 38 1601 TO 38 1648 OF THE
14 MICHIGAN COMPILED LAWS AND THE JUDGES RETIREMENT ACT OF 1992
15 ACT NO 234 OF THE PUBLIC ACTS OF 1992, BEING SECTIONS 38 2101 TO
16 38 2608 OF THE MICHIGAN COMPILED LAWS

17 (6) This act ~~shall~~ DOES not prohibit a hotel which is or
18 was the holder of a license authorizing the retail sale of alco-
19 holic liquor for consumption on the premises from applying for
20 and receiving under this act any other and different type of
21 license authorizing the retail sale of alcoholic liquor for con-
22 sumption on the premises, and the application for the license
23 shall not be considered a new application for a license so long
24 as the total number of public licenses for consumption on the
25 premises does not exceed the authorized total established in this
26 act and the sale of alcoholic liquor is approved by the
27 electors The commission may divide the state into 3 zones and

1 establish for each zone an anniversary date for renewal of
2 full-year retail licenses in the licensing year The commission
3 shall promulgate rules pursuant to the administrative procedures
4 act of 1969, Act No 306 of the Public Acts of 1969, as amended,
5 being sections 24 201 to 24 328 of the Michigan Compiled Laws,
6 for the effective administration of the renewal of licenses

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

20 (8) Beginning July 1, 1994, the commission, with the written
21 approval of the department of natural resources in the case of
22 the Michigan state fairgrounds and the department of agriculture
23 in the case of the Upper Peninsula state fairgrounds may issue
24 without regard to the quota provision of section 19c a tavern
25 license to a person as concessionaire leasing or renting a por-
26 tion of either the Upper Peninsula state fairgrounds or the state
27 fairgrounds, or both, to service the licensed area in use for

1 recreational or exhibition purposes, other than at the time of
2 the annual state fair, under section 6 of the Michigan exposition
3 and fairgrounds act, Act No 361 of the Public Acts of 1978,
4 being section 285 166 of the Michigan Compiled Laws, and the
5 annual Upper Peninsula state fair, under section 2 of Act No 89
6 of the Public Acts of 1927 as amended, being section 285 142 of
7 the Michigan Compiled Laws A license issued under this subsec-
8 tion is not transferable

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

20 (a) In connection with the business of a holder of an alco-
21 holic liquor license

22 (b) In connection with any other business

23 Sec 18 (1) A person who holds or whose spouse holds,
24 either by appointment or election, a public office which involves
25 the duty to enforce any of the penal laws of the United States,
26 or the penal laws of this state, or a penal ordinance or
27 resolution of any municipal subdivision of the state, except

1 civil defense volunteer ~~police~~ POLICE, mayors or council
2 members of cities, or village presidents, or mayors of home rule
3 cities whose law enforcement authority under the city charter is
4 restricted to emergency situations, OR THE STATE TREASURER OF
5 THIS STATE WHEN ACTING IN THE CAPACITY OF CUSTODIAN OF THE ASSETS
6 OF THE STATE RETIREMENT SYSTEMS CREATED BY THE PUBLIC SCHOOL
7 EMPLOYEES RETIREMENT ACT OF 1979, ACT NO 300 OF THE PUBLIC ACTS
8 OF 1980 BEING SECTIONS 38 1301 TO 38 1408 OF THE MICHIGAN
9 COMPILED LAWS THE STATE EMPLOYEES RETIREMENT ACT ACT NO 240
10 OF THE PUBLIC ACTS OF 1943, BEING SECTIONS 38 1 TO 38 48 OF THE
11 MICHIGAN COMPILED LAWS THE STATE POLICE RETIREMENT ACT OF 1986,
12 ACT NO 182 OF THE PUBLIC ACTS OF 1986, BEING SECTIONS 38 1601 TO
13 38 1648 OF THE MICHIGAN COMPILED LAWS AND THE JUDGES RETIREMENT
14 ACT OF 1992, ACT NO 234 OF THE PUBLIC ACTS OF 1992, BEING SEC-
15 TIONS 38 2101 TO 38 2608 OF THE MICHIGAN COMPILED LAWS, AND MEM-
16 BERS OF THESE STATE RETIREMENT SYSTEMS ONLY IF THE STATE TREA-
17 SURER MAKES AN INVESTMENT IN THE NAME OF THE RESPECTIVE RETIRE-
18 MENT SYSTEM TO WHICH SUCH MEMBERS BELONG, shall not be issued a
19 license, or have an interest, directly or indirectly in a
20 license However, a nonprofit fraternal organization incorpo-
21 rated under the laws of this state, whose membership is not
22 totally composed of law enforcement personnel or public office-
23 holders charged with the duty of enforcing any penal laws or
24 ordinances of a governmental body, may be issued a club liquor
25 license if the organization is otherwise qualified

26 (2) As used in this section, "law enforcement personnel"
27 does not include the mayor of a city OR THE STATE TREASURER OF

1 THIS STATE WHEN ACTING IN THE CAPACITY OF CUSTODIAN OF THE ASSETS
2 OF THE STATE RETIREMENT SYSTEMS CREATED BY ACT NO 300 OF THE
3 PUBLIC ACTS OF 1980, ACT NO 240 OF THE PUBLIC ACTS OF 1943, ACT
4 NO 182 OF THE PUBLIC ACTS OF 1986, AND ACT NO 234 OF THE PUBLIC
5 ACTS OF 1992, AND MEMBERS OF THESE STATE RETIREMENT SYSTEMS ONLY
6 IF THE STATE TREASURER MAKES AN INVESTMENT IN THE NAME OF THE
7 RESPECTIVE RETIREMENT SYSTEM TO WHICH SUCH MEMBERS BELONG