

Act No. 2
Public Acts of 1996
Approved by the Governor
January 29, 1996
Filed with the Secretary of State
January 30, 1996

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Rep. Bodem

ENROLLED HOUSE BILL No. 5379

AN ACT to amend section 19c 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," as amended by Act No. 392 of the Public Acts of 1994, being section 436.19c of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 19c of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended by Act No. 392 of the Public Acts of 1994, being section 436.19c of the Michigan Compiled Laws, is amended to read as follows:

Sec. 19c. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of a tavern or class A hotel from requesting reclassification of a license to class C, unless local option laws prevent the sale of spirits and mixed spirit drinks by those licensed premises, subject to the consent of the commission. The upgrading of a license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue 1 or more licenses for a period not to exceed 12 months without regard to a limitation because of population, but not in excess of 550, and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 10 additional licenses per year for the years 1996 and 1997 to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area, and whose primary purpose is not for the sale of alcoholic liquor. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined pursuant to subsection (11), the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to the number of applications received under this subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the

licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 25 additional resort licenses per year for the years 1996 and 1997 if all of the following conditions are met:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

(b) The establishment's primary business is not the sale of alcoholic liquor.

(c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of \$1,000,000.00.

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection (11), in which the quota of specially designated distributor licenses, as provided by commission rule, has been exhausted, the commission may issue not more than 10 additional specially designated distributor licenses per year for the years 1996 and 1997 to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort licenses authorized in subsections (2), (3), and (4), and notwithstanding section 17(4), the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be \$50.00. A special purpose license may be issued only to a corporation which is all of the following:

(a) Is a nonprofit corporation organized pursuant to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

(b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.

(c) Has been in continuous existence for not less than 6 years.

(7) Notwithstanding the local legislative body approval provision of section 17(3) and notwithstanding the provisions of section 17(5), the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. A license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events.

(8) In issuing a resort license under subsection (3), (4), or (5) the commission shall consider economic development factors of the area in the issuance of licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort license issued under subsection (3), (4), or (5) to another location, and if the licensee goes out of business the license shall be surrendered to the commission.

(9) The limitations and quotas of this section shall not be applicable to the issuance of a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service if the application for a new license is made for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.

(10) The limitations and quotas of this section shall not be applicable to the issuance of a new license or the renewal of an existing license where the property or establishment to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.

(11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.6 of the Michigan Compiled Laws. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(12) The limitations and quotas of this section shall not be applicable to the issuance of a new license to the governing board of a college or university pursuant to section 17h.

(13) The limitations and quotas of this section shall not be applicable to the issuance of a national sporting event license pursuant to section 17b.

(14) Before granting an approval as required in section 17(3) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. Public notice of the meeting to consider the granting of the license by the local governmental unit shall be made 2 weeks before the meeting.

(15) The person signing the application for an on-premise resort license shall state and verify that he or she attempted to secure an on-premise escrowed or quota license and that, to the best of his or her knowledge, an on-premise escrowed or quota license is not readily available within the local governmental unit in which the applicant for the on-premise resort license proposes to operate.

(16) The commission shall not issue an on-premise resort license if the local governmental unit within which the resort license applicant proposes to operate has not issued all on-premise licenses available under subsection (1) or if an on-premise escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premise resort license proposes to operate. The commission may waive the provisions of this subsection upon a showing of good cause.

(17) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes but is not limited to the following:

(i) The fair market value of the license, if determinable.

(ii) The size and scope of the proposed operation.

(iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.