



# HOUSE BILL No. 4842

May 16, 1995, Introduced by Rep. Kukuk and referred to the Committee on Regulatory Affairs.

A bill to amend section 17 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," as amended by Act No. 185 of the Public Acts of 1994, being section 436.17 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 17 of Act No. 8 of the Public Acts of  
2 the Extra Session of 1933, as amended by Act No. 185 of the  
3 Public Acts of 1994, being section 436.17 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 17. (1) The commission may issue licenses, as provided  
6 in this act, upon the payment of the fees provided in section 19  
7 and the filing of the bonds required in section 22 or liability  
8 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 beverage  
5 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 establishment  
12 by a personal representative or independent personal representative  
13 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 establishment  
17 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 ernmental 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 does not prohibit the issuance of a  
20 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 does not prohibit a hotel which is or was the  
18 holder of a license authorizing the retail sale of alcoholic  
19 liquor for consumption on the premises from applying for and  
20 receiving under this act any other and different type of license  
21 authorizing the retail sale of alcoholic liquor for consumption  
22 on the premises, and the application for the license shall not be  
23 considered a new application for a license so long as the total  
24 number of public licenses for consumption on the premises does  
25 not exceed the authorized total established in this act and the  
26 sale of alcoholic liquor is approved by the electors. The  
27 commission may divide the state into 3 zones and establish for

1 each zone an anniversary date for renewal of full-year retail  
2 licenses in the licensing year. The commission shall promulgate  
3 rules pursuant to the administrative procedures act of 1969, Act  
4 No. 306 of the Public Acts of 1969, as amended, being  
5 sections 24.201 to 24.328 of the Michigan Compiled Laws, for the  
6 effective administration of the renewal of licenses.

7 (7) ~~Until July 1, 1994, the~~ THE commission, with the writ-  
8 ten approval of the department of natural resources in the case  
9 of the Michigan state fairgrounds and the department of agricul-  
10 ture in the case of the Upper Peninsula state fairgrounds may  
11 issue without regard to the quota provision of section 19c a  
12 tavern license to a person as concessionaire leasing or renting a  
13 portion of either the Upper Peninsula state fairgrounds or the  
14 state fairgrounds, or both, to service the licensed area in use  
15 for recreational or exhibition purposes other than at the time of  
16 the annual Upper Peninsula state fair under section 2 of Act  
17 No. 89 of the Public Acts of 1927, being section 285.142 of the  
18 Michigan Compiled Laws. A license issued under this subsection  
19 is not transferable.

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

~~1 for recreational or exhibition purposes, other than at the time  
2 of the annual state fair, under section 6 of the Michigan expositi-  
3 tion 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       (8) ~~-(9)-~~ Notwithstanding section 3, a collector, who is 21  
10 years of age or older, of ceramic commemorative bottles contain-  
11 ing alcoholic liquor and which bear an unbroken federal tax stamp  
12 or 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.