



HOUSE BILL No. 5322

October 25, 1995, Introduced by Rep. LaForge and referred to the Committee on Conservation, Environment and Great Lakes.

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. 138 of the Public Acts of 1995, 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. 138 of the
3 Public Acts of 1995, 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 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 located in the Upper Peninsula which was owned or
25 leased by the federal government, used as a military installa-
26 tion, and transferred to this state before December 31, 2000
27 pursuant to Act No. 151 of the Public Acts of 1978, being

1 sections 3.551 to 3.561 of the Michigan Compiled Laws, or Act
2 No. 159 of the Public Acts of 1993, being sections 3.571 to 3.580
3 of the Michigan Compiled Laws. The commission may issue 2 addi-
4 tional licenses pursuant to this subdivision for establishments
5 located on this state land without regard to or without the
6 effect upon the quota provisions of section 19c in the local gov-
7 ernmental unit in which the license will be issued subject to the
8 recommendation of the authority established pursuant to Act
9 No. 151 of the Public Acts of 1978 or Act No. 159 of the Public
10 Acts of 1993. A person issued a license pursuant to this subdi-
11 vision may renew the license and transfer ownership of the
12 license, without regard to or without the effect upon the quota
13 provisions of section 19c, if title to the property covered by
14 the license is transferred from the state to another person or to
15 another governmental unit. The commission shall not transfer a
16 license issued under this subdivision to another location.
17 Before the issuance of a license, and annually thereafter before
18 the issuance of a license for a new licensing period, the appli-
19 cant for a license shall submit to the commission a certificate
20 from the department or agency charged with control of the land
21 setting forth that the issuance of a license is not incompatible
22 with the objects and purposes entrusted to that department or
23 agency under the law establishing control of the land in the
24 department or agency. This subsection does not prohibit the
25 issuance of a license pursuant to section 17h.

26 (f) Property owned by the Michigan state waterways
27 commission and leased to persons under ~~the harbor development~~

1 ~~act, Act No. 79 of the Public Acts of 1988, being sections~~
2 ~~281.1251 to 281.1268~~ PART 791 (HARBOR DEVELOPMENT) OF THE NATU-
3 RAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, ACT NO. 451 OF
4 THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.79101 TO 324.79118 of
5 the Michigan Compiled Laws. A license may be issued under this
6 subdivision to a lessee without regard to the quota provisions of
7 section 19c, but the license shall not be issued without the
8 written approval of the Michigan state waterways commission or
9 its designee. A license issued under this subdivision shall not
10 be transferable as to ownership or location, and, if the licensee
11 goes out of business, the license shall be surrendered to the
12 commission.

13 (g) Property owned by the state treasurer of this state when
14 acting in the capacity of custodian of the assets of the state
15 retirement systems created by the public school employees retire-
16 ment act of 1979, Act No. 300 of the Public Acts of 1980, being
17 sections 38.1301 to 38.1408 of the Michigan Compiled Laws; the
18 state employees' retirement act, Act No. 240 of the Public Acts
19 of 1943, being sections 38.1 to 38.48 of the Michigan Compiled
20 Laws; the state police retirement act of 1986, Act No. 182 of the
21 Public Acts of 1986, being sections 38.1601 to 38.1648 of the
22 Michigan Compiled Laws; and the judges retirement act of 1992,
23 Act No. 234 of the Public Acts of 1992, being sections 38.2101 to
24 38.2608 of the Michigan Compiled Laws.

25 (6) This act does not prohibit a hotel which is or was the
26 holder of a license authorizing the retail sale of alcoholic
27 liquor for consumption on the premises from applying for and

1 receiving under this act any other and different type of license
2 authorizing the retail sale of alcoholic liquor for consumption
3 on the premises, and the application for the license shall not be
4 considered a new application for a license so long as the total
5 number of public licenses for consumption on the premises does
6 not exceed the authorized total established in this act and the
7 sale of alcoholic liquor is approved by the electors. The com-
8 mission may divide the state into 3 zones and establish for each
9 zone an anniversary date for renewal of full-year retail licenses
10 in the licensing year. The commission shall promulgate rules
11 pursuant to the administrative procedures act of 1969, Act
12 No. 306 of the Public Acts of 1969, being sections 24.201 to
13 24.328 of the Michigan Compiled Laws, for the effective adminis-
14 tration of the renewal of licenses.

15 (7) The commission, with the written approval of the depart-
16 ment of commerce in the case of the Michigan state fairgrounds
17 and the department of agriculture in the case of the Upper
18 Peninsula state fairgrounds may issue without regard to the quota
19 provision of section 19c a tavern license to a person as conces-
20 sionaire leasing or renting a portion of either the Upper
21 Peninsula state fairgrounds or the state fairgrounds, or both, to
22 service the licensed area in use for recreational or exhibition
23 purposes other than at the time of the annual Upper Peninsula
24 state fair under section 2 of Act No. 89 of the Public Acts of
25 1927, being section 285.142 of the Michigan Compiled Laws. A
26 license issued under this subsection is not transferable.

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

12 (a) In connection with the business of a holder of an alco-
13 holic liquor license.

14 (b) In connection with any other business.