

REPRINT

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4332**

(As Passed the Senate June 10, 1998)

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 521 and 531 (MCL 436.1521 and 436.1531) and
by adding section 522.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 521. (1) In addition to any licenses for the sale of
2 alcoholic liquor for consumption on the premises that may be
3 available in the local governmental unit under section 531(1),
4 and the resort AND RESORT ECONOMIC DEVELOPMENT licenses autho-
5 rized in section 531(2), (3), and (4), the commission may issue
6 not more than 50 tavern or class C licenses to persons who oper-
7 ate businesses that meet all of the following conditions:

8 (a) The business is a full service restaurant, is open to
9 the public, and prepares food on the premises.

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1 (b) The business is open for food service not less than 10
2 hours per day, 5 days a week.

3 (c) At least 50% of the gross receipts of the business are
4 derived from the sale of food for consumption on the premises.
5 For purposes of this subdivision, food does not include beer and
6 wine.

7 (d) The business has dining facilities to seat not less than
8 25 persons.

9 (e) The business is located in a development district with a
10 population of not more than 50,000, in which the authority, after
11 a public hearing, has found that the issuance of the license
12 would prevent further deterioration within the development dis-
13 trict and promote economic growth within the development
14 district. The commission shall not issue the license unless the
15 local unit of government within which the authority is located,
16 after holding a public hearing, passes a resolution concurring in
17 the findings of the authority.

18 ~~-(f) The business demonstrates to the commission that an~~
19 ~~escrowed license is not readily available in any local unit of~~
20 ~~government in which the development district is located.~~

21 [(2) THE INDIVIDUAL SIGNING THE APPLICATION FOR THE LICENSE
22 SHALL STATE AND DEMONSTRATE THAT THE APPLICANT ATTEMPTED TO SECURE
23 AN APPROPRIATE ON-PREMISE ESCROWED LICENSE OR QUOTA LICENSE ISSUED
24 UNDER SECTION 531 AND THAT, TO THE BEST OF HIS OR HER KNOWLEDGE, AN
25 ON-PREMISE LICENSE OR QUOTA LICENSE ISSUED UNDER SECTION 531 IS NOT
26 READILY AVAILABLE WITHIN THE LOCAL UNIT OF GOVERNMENT IN WHICH THE
APPLICANT PROPOSES TO OPERATE.]

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1 (3) ~~(2)~~ If in any licensing year the sale of food for
2 consumption on the premises of the business represents less than
3 50% of the gross receipts for the business, the commission, after
4 due notice and proper hearing, shall revoke the license issued
5 under subsection (1).

6 (4) ~~(3)~~ Not more than 1 license shall be issued under sub-
7 section (1) to any individual, partnership, limited partnership,
8 limited liability company, corporation, or any combination of any
9 of the above, including stockholders, general partners, or
10 limited partners. A LICENSE ISSUED UNDER THIS SECTION IS TRANS-
11 FERABLE AS TO OWNERSHIP OR LOCATION ONLY WITHIN THE DEVELOPMENT
12 DISTRICT.

13 (5) ~~(4)~~ The commission shall not issue a specially desig-
14 nated merchant license, specially designated distributor license,
15 or any other license that allows the sale of alcoholic liquor for
16 consumption off the premises in conjunction with a license issued
17 under subsection (1) or at the premises for which a license has
18 been issued under subsection (1).

19 (6) THE COMMISSION SHALL NOT ISSUE A LICENSE UNDER THIS SEC-
20 TION IF THE LOCAL GOVERNMENTAL UNIT WITHIN WHICH THE DEVELOPMENT
21 DISTRICT IS LOCATED HAS NOT ISSUED ALL APPROPRIATE ON-PREMISE
22 LICENSES AVAILABLE UNDER SECTION 531(1) OR IF AN APPROPRIATE
23 ON-PREMISE ESCROWED LICENSE IS READILY AVAILABLE IN ANY LOCAL
24 UNIT OF GOVERNMENT IN WHICH THE DEVELOPMENT DISTRICT IS LOCATED.
25 THE COMMISSION SHALL NOT ISSUE MORE THAN 2 LICENSES AUTHORIZED
26 UNDER THIS SECTION IN ANY [CITY OR MUNICIPALITY WITH A POPULATION
GREATER THAN 50,000]. IF AN
27 APPLICANT'S PROPOSED LOCATION IS WITHIN MORE THAN 1 DEVELOPMENT

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1 DISTRICT, THE APPLICANT SHALL OBTAIN THE APPROVAL OF BOTH OR ALL
2 OF THE APPLICABLE LOCAL UNITS OF GOVERNMENT OR DEVELOPMENT
3 DISTRICTS.

4 (7) ~~—(5)—~~ The commission may issue the licenses under this
5 section without regard to the order in which the applications for
6 the licenses are received.

7 (8) THE COMMISSION SHALL ANNUALLY REPORT TO THE LEGISLATURE
8 THE NAMES OF THE BUSINESSES ISSUED LICENSES UNDER THIS SECTION
9 AND THEIR LOCATIONS.

10 (9) ~~—(6)—~~ As used in this section:

11 (a) "Development district" means any of the following:

12 (i) An authority district established under the tax incre-
13 ment finance authority act, 1980 PA 450, MCL 125.1801 to
14 125.1830.

15 (ii) An authority district established under the local
16 development financing act, 1986 PA 281, MCL 125.2151 to
17 125.2174.

18 (iii) A downtown district established under 1975 PA 197, MCL
19 125.1651 to 125.1681.

20 (iv) A principal shopping district established under 1961 PA
21 120, MCL 125.981 to 125.987, before January 1, 1996.

22 (b) "Escrowed license" means a license in which the rights
23 of the licensee in the license or to the renewal of the license
24 are still in existence and are subject to renewal and activation
25 in the manner provided for in R 436.1107 of the Michigan adminis-
26 trative code.

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

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

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

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

9 SEC. 522. (1) THE COMMISSION [MAY] ISSUE 1 BANQUET FACILITY
10 PERMIT TO AN ON-PREMISE LICENSEE, AS AN EXTENSION OF THAT
11 ON-PREMISE LICENSE, FOR THE SERVING OF ALCOHOLIC LIQUOR ONLY ON
12 THE PERMITTED PREMISES. [
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16 THIS SECTION DOES NOT LIMIT THE NUMBER OF BANQUET FACILITY PER-
17 MITS THAT THE COMMISSION MAY ISSUE WITHIN ANY LOCAL UNIT OF
18 GOVERNMENT. THE BANQUET FACILITY SHALL BE USED ONLY FOR SCHED-
19 ULED FUNCTIONS AND EVENTS, SHALL NOT HAVE REGULAR MEAL SERVICE,
20 AND SHALL NOT BE GENERALLY OPEN TO THE PUBLIC. THE APPLICANT
21 SHALL PROVIDE DOCUMENTATION THAT DEMONSTRATES A PREEXISTING
22 OWNERSHIP OR LEASE INTEREST IN THE BANQUET FACILITY.

23 (2) THE COMMISSION SHALL CHARGE AN INITIAL PERMIT ISSUANCE
24 FEE AND, UPON RENEWAL OF THE PERMIT, A PERMIT RENEWAL FEE SUFFI-
25 CIENT TO COVER THE COST OF ADMINISTERING THE ISSUANCE AND RENEWAL
26 OF THE PERMIT. THE FEES SHALL BE ESTABLISHED THROUGH PROMULGA-
TION OF A RULE.

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1 (3) THE BANQUET FACILITY PERMIT EXPIRES ON THE SAME DATE AS
2 THE ON-PREMISE LICENSE AND MAY BE RENEWED IN CONJUNCTION WITH
3 THAT LICENSE. THE COMMISSION SHALL ISSUE THE PERMIT ONLY TO A
4 LICENSEE TO WHICH THE FOLLOWING APPLY:

5 (A) THE LICENSEE DOES NOT HAVE A RECORD OF ANY PRIOR
6 OFFENSES OR VIOLATIONS THAT THE COMMISSION CONSIDERS TO BE OF
7 SUCH A NATURE AS TO POSE A THREAT TO THE GENERAL PUBLIC IF A
8 PERMIT IS ISSUED.

9 (B) THE LICENSEE HAS DEMONSTRATED TO THE COMMISSION THAT AT
10 LEAST 75% OF THE GROSS RECEIPTS OF THE ON-PREMISE LICENSE ARE
11 DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC BEVERAGES PREPARED
12 FOR CONSUMPTION ON THE LICENSED PREMISES.

13 (4) THE LICENSEE SHALL APPLY ON FORMS PROVIDED BY THE COM-
14 MISSION AND PROVIDE INFORMATION CONSIDERED NECESSARY BY THE COM-
15 MISSION TO PROTECT THE PUBLIC INTEREST AND WELFARE INCLUDING, BUT
16 NOT LIMITED TO, A DIAGRAM OF THE PREMISES AND EVIDENCE THAT THE
17 PREMISES MEETS LOCAL SAFETY, BUILDING, AND HEALTH CODES.

18 (5) THE COMMISSION SHALL NOT ISSUE A BANQUET FACILITY PERMIT
19 UNLESS ISSUANCE IS APPROVED THROUGH ADOPTION OF A RESOLUTION OF
20 THE LEGISLATIVE BODY OF THE LOCAL UNIT OF GOVERNMENT WITHIN WHICH
21 THE PERMITTED FACILITY IS LOCATED.

22 Sec. 531. (1) A public license shall not be granted for the
23 sale of alcoholic liquor for consumption on the premises in
24 excess of 1 license for each 1,500 of population or major frac-
25 tion thereof. On-premise escrowed licenses issued under this
26 subsection are available subject to LOCAL LEGISLATIVE APPROVAL
27 UNDER section 501(2) to an applicant whose proposed operation is

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1 located within any local governmental unit in a county with a
2 population of under 500,000 OR A COUNTY WITH A POPULATION OF
3 OVER 700,000 in which the escrowed license was
4 located. If the local governmental unit within which the former
5 licensee's premises were located spans more than 1 county, an
6 escrowed license is available subject to LOCAL LEGISLATIVE
7 APPROVAL UNDER section 501(2) to an applicant whose proposed
8 operation is located within any local governmental unit in either
9 county. If an escrowed license is activated within a local gov-
10 ernmental unit other than that local governmental unit within
11 which the escrowed license was originally issued, the commission
12 shall count that activated license against the local governmental
13 unit originally issuing the license. This quota does not bar the
14 right of an existing licensee to renew a license or transfer the
15 license and does not bar the right of a tavern or class A hotel
16 from requesting reclassification of a license to class C, unless
17 local option laws prevent the sale of spirits and mixed spirit
18 drinks by those licensed premises, subject to the consent of the
19 commission. The upgrading of a license resulting from a request
20 under this subsection shall be approved by the local governmental
21 unit having jurisdiction.

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

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1 more licenses for resort seasons without regard to the calendar
2 year or licensing year.

3 (3) In addition to the resort licenses authorized in subsec-
4 tion (2), the commission may issue not more than 10 additional
5 licenses ~~per year for the years 1996 and 1997~~ FOR THE YEAR 1998
6 to establishments whose business and operation, as determined by
7 the commission, is designed to attract and accommodate tourists
8 and visitors to the resort area —, and whose primary purpose is
9 not for the sale of alcoholic liquor. In counties having a popu-
10 lation of less than 50,000, as determined by the last federal
11 decennial census or as determined pursuant to subsection (11) and
12 subject to subsection (17) in the case of a class A hotel or a
13 class B hotel, the commission shall not require the establish-
14 ments to have dining facilities to seat more than 50 persons.
15 The commission may cancel the license if the resort is no longer
16 active or no longer qualifies for the license. Before January 16
17 of each year the commission shall transmit to the legislature a
18 report giving details as to the number of applications received
19 under this subsection; the number of licenses granted and to
20 whom; the number of applications rejected and the reasons; and
21 the number of the licenses revoked, suspended, or other disci-
22 plinary action taken and against whom and the grounds for revoca-
23 tion, suspension, or disciplinary action.

24 (4) In addition to any licenses for the sale of alcoholic
25 liquor for consumption on the premises that may be available in
26 the local governmental unit under subsection (1) and the resort
27 licenses authorized in subsections (2) and (3), the commission

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1 may issue not more than 25 additional resort ECONOMIC DEVELOPMENT
2 licenses per year for the ~~years 1996 and 1997.~~ The commission
3 ~~may issue any of the 25 licenses not issued but available for~~
4 ~~calendar year 1997 during the calendar~~ year 1998. A person is
5 eligible to apply for a RESORT ECONOMIC DEVELOPMENT license under
6 this subsection upon submitting an application to the commission
7 and demonstrating all of the following:

8 (a) The establishment's business and operation, as deter-
9 mined by the commission, is designed to attract and accommodate
10 tourists and visitors to the resort area.

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

13 (c) The capital investment in real property, leasehold
14 improvement, fixtures, and inventory for the premises to be
15 licensed is in excess of ~~-\$1,000,000.00~~ \$1,500,000.00.

16 (5) In governmental units having a population of 50,000 per-
17 sons or less, as determined by the last federal decennial census
18 or as determined pursuant to subsection (11), in which the quota
19 of specially designated distributor licenses, as provided by com-
20 mission rule, has been exhausted, the commission may issue not
21 more than 10 additional specially designated distributor licenses
22 per year for the ~~years 1996 and 1997~~ YEAR 1998 to established
23 merchants whose business and operation, as determined by the com-
24 mission, is designed to attract and accommodate tourists and vis-
25 itors to the resort area. A specially designated distributor
26 license issued pursuant to this subsection may be issued at a
27 location within 2,640 feet of existing specially designated

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1 distributor license locations. A specially designated
2 distributor license issued pursuant to this subsection shall not
3 bar another specially designated distributor licensee from trans-
4 ferring location to within 2,640 feet of said licensed location.
5 A SPECIALLY DESIGNATED DISTRIBUTOR LICENSE ISSUED PURSUANT TO R
6 436.1141 OF THE MICHIGAN ADMINISTRATIVE CODE MAY BE LOCATED
7 WITHIN 2,640 FEET OF A SPECIALLY DESIGNATED DISTRIBUTOR LICENSE
8 ISSUED PURSUANT TO THIS SUBSECTION.

9 (6) In addition to any licenses for the sale of alcoholic
10 liquor for consumption on the premises that may be available in
11 the local governmental unit under subsection (1), and the resort
12 OR RESORT ECONOMIC DEVELOPMENT licenses authorized in subsections
13 (2), (3), and (4), and notwithstanding section ~~501(3)~~ 519, the
14 commission may issue not more than 5 additional special purpose
15 licenses in any calendar year for the sale of beer and wine for
16 consumption on the premises. A special purpose license issued
17 pursuant to this subsection shall be issued only for events which
18 are to be held from May 1 to September 30, are artistic in
19 nature, and which are to be held on the campus of a public uni-
20 versity with an enrollment of 30,000 or more students. A special
21 purpose license shall be valid for 30 days or for the duration of
22 the event for which it is issued, whichever is less. The fee for
23 a special purpose license shall be \$50.00. A special purpose
24 license may be issued only to a corporation which is all of the
25 following:

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1 (a) Is a nonprofit corporation organized pursuant to the
2 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
3 450.3192.

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

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

9 (7) Notwithstanding the local legislative body approval pro-
10 vision of section 501(2) and notwithstanding the provisions of
11 section 519, the commission may issue, without regard to the
12 quota provisions of subsection (1) and with the approval of the
13 governing board of the university, either a tavern or class C
14 license which may be used only for regularly scheduled events at
15 a public university's established outdoor program or festival at
16 a facility on the campus of a public university having a head
17 count enrollment of 10,000 students or more. A license issued
18 under this subsection may only be issued to the governing board
19 of a public university, a person that is the lessee or conces-
20 sionaire of the governing board of the university, or both. A
21 license issued under this subsection is not transferable as to
22 ownership or location. A license issued under this subsection
23 may not be issued at an outdoor stadium customarily used for
24 intercollegiate athletic events.

25 (8) In issuing a resort OR RESORT ECONOMIC DEVELOPMENT
26 license under subsection (3), (4), or (5) the commission shall
27 consider economic development factors of the area in the issuance

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1 of licenses to establishments designed to stimulate and promote
2 the resort and tourist industry. The commission shall not trans-
3 fer a resort OR RESORT ECONOMIC DEVELOPMENT license issued under
4 subsection (3), (4), or (5) to another location. ~~, and if~~ IF
5 the licensee goes out of business the license shall be surren-
6 dered to the commission.

7 (9) The limitations and quotas of this section ~~shall~~ ARE
8 not ~~be~~ applicable to the issuance of a new license to a veteran
9 of the armed forces of the United States who was honorably dis-
10 charged or released under honorable conditions from the armed
11 forces of the United States and who had by forced sale disposed
12 of a similar license within 90 days before or after entering or
13 while serving in the armed forces of the United States, as a part
14 of the person's preparation for that service if the application
15 for a new license is made for the same governmental unit in which
16 the previous license was issued and within 60 days after the dis-
17 charge of the applicant from the armed forces of the United
18 States.

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

24 (11) For purposes of implementing this section a special
25 state census of a local governmental unit may be taken at the
26 expense of the local governmental unit by the federal bureau of
27 census or the secretary of state under section 6 of 1909 PA 279,

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1 MCL 117.6. The special census shall be initiated by resolution
2 of the governing body of the local governmental unit involved.
3 The secretary of state may promulgate additional rules necessary
4 for implementing this section pursuant to the administrative pro-
5 cedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

6 (12) Before granting an approval as required in
7 section 501(2) for a license to be issued under subsection (2),
8 (3), or (4), a local legislative body shall disclose the avail-
9 ability of transferable licenses held in escrow for more than 1
10 licensing year within that respective local governmental unit.
11 Public notice of the meeting to consider the granting of the
12 license by the local governmental unit shall be made 2 weeks
13 before the meeting.

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

22 (14) The commission shall not issue an on-premise resort OR
23 RESORT ECONOMIC DEVELOPMENT license if the local governmental
24 unit within which the resort OR RESORT ECONOMIC DEVELOPMENT
25 license applicant proposes to operate has not issued all
26 on-premise licenses available under subsection (1) or if an
27 on-premise escrowed license exists and is readily available

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1 within the local governmental unit in which the applicant for the
2 on-premise resort OR RESORT ECONOMIC DEVELOPMENT license proposes
3 to operate. The commission may waive the provisions of this sub-
4 section upon a showing of good cause.

5 (15) THE COMMISSION SHALL ANNUALLY REPORT TO THE LEGISLATURE
6 THE NAMES OF THE BUSINESSES ISSUED LICENSES UNDER THIS SECTION
7 AND THEIR LOCATIONS.

8 (16) ~~(15)~~ The commission shall not require a class A hotel
9 or a class B hotel licensed pursuant to subsection (2), (3), or
10 (4) to provide food service to registered guests or to the
11 public.

12 (17) ~~(16)~~ As used in this section:

13 (a) "Escrowed license" means a license in which the rights
14 of the licensee in the license or to the renewal of the license
15 are still in existence and are subject to renewal and activation
16 in the manner provided for in R 436.1107 of the Michigan adminis-
17 trative code.

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

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

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

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