

House Bill No. 5946

(As amended December 3, 1998)

(Page 1 of 3)

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 501 (MCL 436.1501), as added by 1998 PA 58 and
by adding section 1016.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

[Sec. 501. (1) The commission may issue licenses as provided in this act upon the payment of the fees provided in section 525 and the filing of the bonds required in section 801 or liability insurance as provided in section 803.

(2) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act shall be construed as a contract between the commission and the licensee and shall be signed by both parties. If a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by a court of competent jurisdiction, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee. The commission may grant a part-year license for a proportionate part of the license fee specified in section 525. In a resort area the commission shall grant a license for a period of time as short as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained in a manner other than by transfer shall not be transferred within 3 years after its issuance except under circumstances where the licensee clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of ~~1,000,000~~ 750,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body shall not be required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. Upon request of the local

legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell alcoholic liquor for consumption on the premises or any permit held in conjunction with that license.

H.B. 5946 as amended December 3, 1998

1 (2 of 3)

(3) A local legislative body, by resolution, may request that the commission revoke the license of a licensee granted a license to sell alcoholic liquor for consumption off the premises whose place of business is located within the local legislative body's jurisdiction and who has been determined pursuant to commission violation hearings to have sold or furnished alcoholic liquor, on at least 3 separate occasions in a single calendar year, to a person who is less than 21 years of age if those violations did not involve the use of falsified or fraudulent identification by the person who is less than 21 years of age. If the commission verifies that the licensee who is the subject of the resolution has been found to have committed the violations as prescribed in this subsection, the commission may suspend or revoke the licensee's license and any permit held in conjunction with that license.

(4) This act does not prohibit a hotel which is or was the holder of a license authorizing the retail sale of alcoholic liquor for consumption on the premises from applying for and receiving under this act any other and different type of license authorizing the retail sale of alcoholic liquor for consumption on the premises, and the application for the license shall not be considered a new application for a license so long as the total number of public licenses for consumption on the premises does not exceed the authorized total established in this act and the sale of alcoholic liquor is approved by the electors. The commission may divide the state into 3 zones and establish for each zone an anniversary date for renewal of full-year retail licenses in the licensing year. The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the effective administration of the renewal of licenses.

(5) The commission, with the written approval of the department of agriculture in the case of the Michigan state fairgrounds and the Upper Peninsula state fairgrounds, may issue without regard to the quota provision of section 531 a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds, or both, to service the licensed area in use for recreational or exhibition purposes other than at the time of the annual Upper Peninsula state fair under section 2 of 1927 PA 89, MCL 285.142. A license issued under this subsection is not transferable.

Sec. 916. (1) An on-premises licensee shall not allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises unless the licensee has applied for and been granted an entertainment permit by the commission. Issuance of an entertainment permit under this subsection does not allow topless activity on the licensed premises.

(2) An on-premises licensee shall not allow dancing by customers on the licensed premises unless the licensee has applied for and been granted a dance permit by the commission. Issuance of a dance permit under this subsection does not allow topless activity on the licensed premises.

(3) An on-premises licensee shall not allow topless activity on the licensed premises unless the licensee has applied for and been granted a topless activity permit by the commission. This section is not intended to prevent a local unit of government from enacting an ordinance prohibiting topless activity or nudity on a licensed premises located within that local unit of government. This subsection applies only to topless activity permits issued by the commission to on-premises licensees located in counties with a population of 95,000 or less.

(4) The commission may issue to an on-premises licensee a

combination dance-entertainment permit or topless activity-entertainment permit after application requesting a permit for both types of activities.

(5) An on-premises licensee shall not allow the activities allowed by a permit issued under this section at any time other than the legal hours for sale and consumption of alcoholic liquor.

(6) Before the issuance of any permit under this section, the on-premises licensee shall obtain the approval of all of the following:

(a) The commission.

(b) Except in cities with a population of ~~1,000,000~~ 750,000 or more, the local legislative body of the jurisdiction within which the premises are located.

H.B. 5946 as amended December 3, 1998

1 (3 of 3)

(c) The chief law enforcement officer of the jurisdiction within which the premises are located or the entity contractually designated to enforce the law in that jurisdiction.

(7) The following activities are allowed without the granting of a permit under this section:

(a) The performance or playing of an orchestra, piano, or other types of musical instruments, or singing.

(b) Any publicly broadcast television transmission from a federally licensed station.

(8) In the case of a licensee granted an entertainment or dance permit under R 436.1407 of the Michigan administrative code who, after January 1, 1998, extended the activities conducted under that permit to regular or full-time topless activity, that licensee shall apply to the commission for a topless activity permit under this section within 60 days after the effective date of this section in order to continue topless activity. Except as otherwise provided for in this subsection, this section applies only to entertainment or dance permits issued after the effective date of this section.

(9) The fees imposed by the commission for a permit under this section remain the same as the fees imposed under a permit issued under R 436.1407 of the Michigan administrative code.

(10) Except as otherwise provided, this section does not change the renewal or application process for a license under section 17 or the renewal process for permits issued under

(11) As used in this section:

(a) "Nudity" means exposure to public view of the whole or part of the pubic region; the whole or part of the anus; the whole or part of the buttocks; the whole or part of the genitals; or the breast area including the nipple or more than 1/2 of the area of the breast.

(b) "Topless activity" means activity that includes, but is not limited to, entertainment or work-related activity performed by any of the following persons on the licensed premises in which the female breast area, including the nipple, or more than 1/2 of the area of the breast, is directly exposed or exposed by means of see-through clothing or a body stocking:

(i) A licensee.

(ii) An employee, agent, or contractor of the licensee.

(iii) A person acting under the control of or with the permission of the licensee.]

1 SEC. 1016. (1) AN ON-PREMISE LICENSEE SHALL NOT ALLOW CON-
2 TESTS IN WHICH THE LICENSEE OR ANY OTHER PERSON GIVES AWAY ANY-
3 THING OF VALUE IN EXCESS OF [\$1,000.00], EXCEPT UPON WRITTEN ORDER
 OF
4 THE COMMISSION, AND SHALL NOT ACCEPT OR RETAIN ANYTHING OF VALUE
5 FROM A PERSON IN EXCHANGE FOR SPONSORING OR PROMOTING A CONTEST
6 OR TOURNAMENT.

HB5946, As Passed House, December 3, 1998

7 (2) AN ON-PREMISE LICENSEE SHALL NOT ALLOW A CONTEST OR
8 TOURNAMENT OF ANY KIND IN WHICH THE SALE, USE, OR CONSUMPTION OF
9 ALCOHOLIC LIQUOR IS A NECESSARY PART OF THE CONTEST OR TOURNAMENT
10 OR IN WHICH ALCOHOLIC LIQUOR IS GIVEN AS A PRIZE TO THE
11 PARTICIPANTS OF THE CONTEST OR TOURNAMENT.

06526'98

LBO

1 (3) AN ON-PREMISE LICENSEE SHALL NOT ALLOW A PROMOTION ON
2 THE LICENSED PREMISES IN WHICH ANYTHING OF VALUE IS GIVEN AWAY
3 WITHOUT ADEQUATE AND APPROPRIATE CONSIDERATION, EXCEPT AS PRO-
4 VIDED IN THIS SECTION OR UPON WRITTEN ORDER OF THE COMMISSION,
5 AND SHALL NOT ACCEPT OR RETAIN ANYTHING OF VALUE FROM A PERSON IN
6 EXCHANGE FOR SPONSORING A PROMOTION, EXCEPT UPON WRITTEN ORDER OF
7 THE COMMISSION.