

**SUBSTITUTE FOR
HOUSE BILL NO. 6271**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 205, 501, 513, 522, 531, 533, 811, 903, and
1113 (MCL 436.1205, 436.1501, 436.1513, 436.1522, 436.1531,
436.1533, 436.1811, 436.1903, and 436.2113), section 522 as added
and section 531 as amended by 1998 PA 282.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 205. (1) If the commission privatizes any portion of
2 the system existing on the effective date of the amendatory act
3 that added this section under which spirits are warehoused or
4 distributed, the commission shall, as provided in section 203(1),
5 by order appoint authorized distribution agents to engage in the
6 warehousing and delivery of spirits in this state so as to ensure
7 that all retail licensees continue to be properly serviced with
8 spirits. An authorized distribution agent is subject to uniform

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1 requirements, including business operating procedures, which the
2 commission may prescribe by rule, subject to this section.

3 (2) A person is eligible for appointment by the commission
4 as an authorized distribution agent if the following circum-
5 stances exist:

6 (a) The person satisfies all applicable commission rules
7 prescribing qualifications for licensure promulgated under sec-
8 tion 215.

9 (b) The person has entered into a written agreement or con-
10 tract with a supplier of spirits for the purposes of warehousing
11 and delivering a brand or brands of spirits of that supplier of
12 spirits.

13 (c) The person has an adequate warehousing facility located
14 in this state for the storing of spirits from which all delivery
15 of spirits to retail licensees shall be made.

16 (3) An authorized distribution agent shall not have a direct
17 or indirect interest in a supplier of spirits or in a retailer.
18 A supplier of spirits or a retailer shall not have a direct or
19 indirect interest in an authorized distribution agent. An autho-
20 rized distribution agent shall not hold title to spirits. After
21 September 24, 1996, an authorized distribution agent or an appli-
22 cant to become an authorized distribution agent who directly or
23 indirectly becomes licensed subsequently as a wholesaler shall
24 not be appointed or authorized to sell or distribute a brand of
25 wine in an area for which a wholesaler has been assigned or
26 authorized to sell or distribute that brand under an agreement
27 required by this act. A wholesaler who directly or indirectly

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1 becomes an authorized distribution agent shall not be appointed
2 or authorized to sell or distribute a brand of wine to a retailer
3 in an area for which another wholesaler has been assigned or
4 authorized to sell or distribute that brand under an agreement
5 required by this act, if the wholesaler was not selling or dis-
6 tributing that brand to retailers in that area on or before
7 September 24, 1996.

8 (4) An authorized distribution agent shall deliver to each
9 retailer located in its assigned distribution area on at least a
10 weekly basis if the order meets the minimum requirements. The
11 authorized distribution agent shall provide retailers access to a
12 computer application that includes the capability to determine
13 whether certain spirits are currently available for delivery.
14 The minimum requirements shall be set by the commission and shall
15 be a sufficient number of bottles to comprise not more than 2
16 cases. A retailer may pick up the product at the authorized dis-
17 tribution agent's warehouse. To avoid occasional emergency out-
18 ages of spirits, a retail licensee may make up to 12 special
19 emergency orders to an authorized distribution agent per calendar
20 year which order shall be made available to the retail licensee
21 within 18 hours of the placing of the order. A special emergency
22 order placed on Saturday or Sunday shall be made available to the
23 retail licensee before noon on the following Monday. An autho-
24 rized distribution agent may impose a fee of up to \$20.00 to
25 deliver a special emergency order to a retail licensee.

26 (5) In locations inaccessible to a motor vehicle as that
27 term is defined by the Michigan vehicle code, 1949 PA 300, MCL

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1 257.1 to 257.923, the authorized distribution agent shall arrange
2 that a delivery of spirits to a retailer be in compliance with
3 the following procedures:

4 (a) After processing an order from a retailer, an authorized
5 distribution agent shall contact a retailer to confirm the quan-
6 tity of cases or bottles, or both, and the exact dollar total of
7 the order.

8 (b) The authorized distribution agent shall have the respon-
9 sibility to coordinate with the retailer the date and time a
10 driver is scheduled to deliver the order to a ferry transport
11 dock, shall arrange any ferry, drayage, or other appropriate
12 service, and shall pick up the retailer's payment at that time.

13 (c) The ferry transport company or company representing any
14 other form of conveyance shall take the retailer's payment to the
15 mainland dock and give that payment to the authorized distribu-
16 tion agent's driver.

17 (d) The ferry transport company or company representing any
18 other form of conveyance shall transport the order to the drayage
19 or other appropriate company at the island dock for immediate
20 delivery to the retailer.

21 (e) The drayage or other appropriate company shall deliver
22 the order to the retailer.

23 (6) The authorized distribution agent is responsible for the
24 payment of all transportation and delivery charges imposed by the
25 ferry, drayage, or other conveyance company and is responsible
26 for all breakage and any shortages, whether attributable to the
27 ferry, drayage, or other conveyance company or any combination of

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1 those companies, until the order is delivered to the retailer's
2 establishment. This subsection does not in any way prevent the
3 authorized distribution agent from seeking reimbursement or dam-
4 ages from any company conveying the authorized distribution
5 agent's product.

6 (7) Except as otherwise provided in subsection (4), an
7 authorized distribution agent shall not charge a delivery fee or
8 a split-case fee for delivery of spirits sold by the commission
9 to a retailer.

10 (8) An authorized distribution agent or prospective autho-
11 rized distribution agent shall maintain and make available to the
12 commission or its representatives, upon notice, any contract or
13 written agreement it may have with a supplier of spirits or other
14 authorized distribution agent for the warehousing and delivery of
15 spirits in this state.

16 (9) For any violation of this act, rules promulgated under
17 this act, or the terms of an order appointing an authorized dis-
18 tribution agent, an authorized distribution agent shall be
19 subject to the suspension, revocation, forfeiture, and penalty
20 provisions of sections 903(1) and 907 in the same manner in which
21 a licensee would be subject to those provisions. An authorized
22 distribution agent aggrieved by a penalty imposed by the commis-
23 sion may invoke the hearing and appeal procedures of section
24 903(2) and rules promulgated under that section.

25 (10) A specially designated distributor may sell to an
26 on-premises licensee up to 9 liters of spirits during any 1-month
27 period and an on-premises licensee may purchase, COLLECTIVELY

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1 FROM SPECIALLY DESIGNATED DISTRIBUTORS, up to that amount during
2 any 1-month period. Notwithstanding any other provision of this
3 act or rule promulgated under this act, a specially designated
4 distributor is only liable for knowingly violating this section.
5 Records verifying these purchases shall be maintained by the
6 on-premises licensee and be available to the commission upon
7 request.

8 (11) An authorized distribution agent shall demonstrate that
9 it has made a good faith effort to provide employment to those
10 former state employees who were terminated due to the privatiza-
11 tion of the liquor distribution system. A good faith effort is
12 demonstrated by the authorized distribution agent performing at
13 least the following actions:

14 (a) Seeking from the commission a list of names and resumes
15 of all such former state employees who have indicated a desire
16 for continued employment in the distribution of liquor in
17 Michigan.

18 (b) Providing a list of employment opportunities created by
19 the authorized distribution agent in the distribution of liquor
20 in Michigan to each individual whose name and resume is transmit-
21 ted from the commission.

22 (c) Providing an opportunity for application and interview
23 to any terminated state worker who indicates an interest in pur-
24 suing a job opportunity with the authorized distribution agent.

25 (d) Providing a priority in hiring for those individuals who
26 apply and interview under this process.

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1 (12) Any former state employees terminated due to
2 privatization who have reason to believe that an authorized
3 distribution agent has not made a good faith effort to provide
4 him or her with employment opportunities as described in subsec-
5 tion (11) may file a complaint with the commission who shall hear
6 the complaint and make a determination on its validity. If the
7 commission determines that the complaint is valid, the violation
8 may be treated as a violation of this act and the authorized dis-
9 tribution agent may be subject to the suspension, revocation,
10 forfeiture, and penalty provisions of sections 903(1) and 907.

11 (13) In addition to paying a vendor of spirits the acquisi-
12 tion price for purchasing spirits, the commission may pay a
13 vendor of spirits an additional amount of not less than \$4.50 and
14 not more than \$7.50 for each case of spirits purchased as an
15 offset to the costs being incurred by that vendor of spirits in
16 contracting with an authorized distribution agent for the ware-
17 housing and delivery of spirits to retailers. The payment
18 described in this subsection shall not be included in the cost of
19 purchasing spirits by the commission and shall not be subject to
20 the commission's markup, special taxes, or state sales tax. The
21 per-case offset established by this subsection may be increased
22 by the state administrative board each January to reflect reason-
23 able increases in the authorized distribution agent's cost of
24 warehousing and delivery. As used in this subsection, "case"
25 means a container holding twelve 750 ml bottles of spirits or
26 other containers containing spirits which are standard to the
27 industry.

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

5 (2) A full-year license issued by the commission shall
6 expire on April 30 following the date of issuance or the date
7 fixed by the commission. A license issued under this act shall
8 be construed as a contract between the commission and the
9 licensee and shall be signed by both parties. If a licensee
10 dies, the commission may approve the operation of the establish-
11 ment by a personal representative or independent personal repre-
12 sentative duly appointed by a court of competent jurisdiction,
13 pending the settlement of the estate of the deceased licensee.
14 The commission may approve a receiver or trustee appointed by a
15 court of competent jurisdiction to operate the licensed estab-
16 lishment of a licensee. The commission may grant a part-year
17 license for a proportionate part of the license fee specified in
18 section 525. In a resort area the commission shall grant a
19 license for a period of time as short as 3 months. A license may
20 be transferred with the consent of the commission. A class C or
21 specially designated distributor license obtained in a manner
22 other than by transfer shall not be transferred within 3 years
23 after its issuance except under circumstances where the licensee
24 clearly and convincingly demonstrates that unusual hardship will
25 result if the transfer does not receive the consent of the
26 commission. An application for a license to sell alcoholic
27 liquor for consumption on the premises, except in a city having a

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1 population of ~~1,000,000~~ 750,000 or more, shall be approved by
2 the local legislative body in which the applicant's place of
3 business is located before the license is granted by the commis-
4 sion, except that in the case of an application for renewal of an
5 existing license, if an objection to a renewal has not been filed
6 with the commission by the local legislative body not less than
7 30 days before the date of expiration of the license, the
8 approval of the local legislative body shall not be required.
9 The commission shall provide the local legislative body and the
10 local chief of police with the name, home and business addresses,
11 and home and business phone numbers to accomplish the local leg-
12 islative reviews of new and transferred license applications
13 required by this subsection. Upon request of the local legisla-
14 tive body after due notice and proper hearing by the local legis-
15 lative body and the commission, the commission shall revoke the
16 license of a licensee granted a license to sell alcoholic liquor
17 for consumption on the premises or any permit held in conjunction
18 with that license.

19 (3) A local legislative body, by resolution, may request
20 that the commission revoke the license of a licensee granted a
21 license to sell alcoholic liquor for consumption off the premises
22 whose place of business is located within the local legislative
23 body's jurisdiction and who has been determined pursuant to com-
24 mission violation hearings to have sold or furnished alcoholic
25 liquor, on at least 3 separate occasions in a single calendar
26 year, to a person who is less than 21 years of age if those
27 violations did not involve the use of falsified or fraudulent

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1 identification by the person who is less than 21 years of age.
2 If the commission verifies that the licensee who is the subject
3 of the resolution has been found to have committed the violations
4 as prescribed in this subsection, the commission may suspend or
5 revoke the licensee's license and any permit held in conjunction
6 with that license.

7 (4) This act does not prohibit a hotel which is or was the
8 holder of a license authorizing the retail sale of alcoholic
9 liquor for consumption on the premises from applying for and
10 receiving under this act any other and different type of license
11 authorizing the retail sale of alcoholic liquor for consumption
12 on the premises, and the application for the license shall not be
13 considered a new application for a license so long as the total
14 number of public licenses for consumption on the premises does
15 not exceed the authorized total established in this act and the
16 sale of alcoholic liquor is approved by the electors. The com-
17 mission may divide the state into 3 zones and establish for each
18 zone an anniversary date for renewal of full-year retail licenses
19 in the licensing year. The commission shall promulgate rules
20 pursuant to the administrative procedures act of 1969, 1969 PA
21 306, MCL 24.201 to 24.328, for the effective administration of
22 the renewal of licenses.

23 (5) The commission, with the written approval of the depart-
24 ment of agriculture in the case of the Michigan state fairgrounds
25 and the Upper Peninsula state fairgrounds, may issue without
26 regard to the quota provision of section 531 a tavern license to
27 a person as concessionaire leasing or renting a portion of either

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1 the Upper Peninsula state fairgrounds or the state fairgrounds,
2 or both, to service the licensed area in use for recreational or
3 exhibition purposes other than at the time of the annual Upper
4 Peninsula state fair under section 2 of 1927 PA 89, MCL 285.142.
5 A license issued under this subsection is not transferable.

6 Sec. 513. (1) The commission may issue to the governing
7 board of a college or university, without regard to the quota
8 provisions of section 531, a license to sell alcoholic liquor for
9 consumption on the premises of a conference center operated by
10 the governing board. Licenses granted under this subsection may
11 be used only for the sale of alcoholic liquor at regularly sched-
12 uled conference center activities. The sale of alcoholic liquor
13 to unscheduled patrons or at unscheduled events is prohibited
14 under this subsection.

15 (2) Subject to the provisions of section 531, the commission
16 may issue a license to a private entity for the sale of alcoholic
17 liquor for consumption on the premises of a hotel located on land
18 owned by central Michigan university if both of the following
19 circumstances exist:

20 (a) The land is leased or subleased at fair market value to
21 a private entity that owns, leases, or subleases the hotel build-
22 ing and its fixtures.

23 (b) The hotel and land are located within an industrial,
24 research, or commercial development park established by the gov-
25 erning board of central Michigan university.

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1 (3) Licenses issued pursuant to this section are
2 nontransferable, and the licensee shall pay the fee required
3 under section 525.

4 (4) As used in this section:

5 (a) "College" or "university" means a 2-year or 4-year state
6 supported institution of higher education.

7 (b) "Conference center" means a building or portion of a
8 building, other than a student residence hall or student center,
9 which has meeting rooms, banquet areas, social halls, overnight
10 accommodations, and related facilities for special activities
11 scheduled by the college or university, which in the judgment of
12 the commission, has been regularly used for conferences and lodg-
13 ing of guests. The Hoyt conference center and the corporate edu-
14 cation center at eastern Michigan university, the Kirkhof and
15 Eberhard centers at Grand Valley state university, the Bernhard
16 center at western Michigan university, the Wadsworth center at
17 Michigan technological university, the West complex at Saginaw
18 valley state university, the conference center at Big Rapids,
19 ~~and~~ the applied technology center at Grand Rapids, AND THE
20 FSU-GR CONFERENCE CENTER of Ferris state university, Grand Rapids
21 junior college, the Waterman campus center at Schoolcraft col-
22 lege, the Mendel center at Lake Michigan community college, the
23 McGregor memorial conference center at Wayne state university,
24 the Michigan state university management educational center, the
25 Superior dome at northern Michigan university, Walker Cisler
26 center at Lake Superior state university, and the Marie Prahl

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1 college center at Mott community college are considered
2 conference centers for the purposes of this act.

3 Sec. 522. (1) The commission may issue 1 banquet facility
4 permit to an on-premise licensee, as an extension of that
5 on-premise license, for the serving of alcoholic liquor only on
6 the permitted premises. This section does not limit the number
7 of banquet facility permits that the commission may issue within
8 any local unit of government. The banquet facility shall be used
9 only for scheduled functions and events, shall not have regular
10 meal service, and shall not be generally open to the public. The
11 applicant shall provide documentation that demonstrates a preex-
12 isting ownership or lease interest in the banquet facility.

13 (2) The commission shall charge an initial permit issuance
14 fee and, upon renewal of the permit, a permit renewal fee suffi-
15 cient to cover the cost of administering the issuance and renewal
16 of the permit. The fees shall be ~~established through promulga-~~
17 ~~tion of a rule~~ \$600.00.

18 (3) The banquet facility permit expires on the same date as
19 the on-premise license and may be renewed in conjunction with
20 that license. The commission shall issue the permit only to a
21 licensee to which the following apply:

22 (a) The licensee does not have a record of any prior
23 offenses or violations that the commission considers to be of
24 such a nature as to pose a threat to the general public if a
25 permit is issued.

26 (b) The licensee has demonstrated to the commission that at
27 least ~~75%~~ 50% of the gross receipts of the on-premise license

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1 are derived from the sale of food and nonalcoholic beverages
2 prepared for consumption on the licensed premises.

3 (4) The licensee shall apply on forms provided by the com-
4 mission and provide information considered necessary by the com-
5 mission to protect the public interest and welfare including, but
6 not limited to, a diagram of the premises and evidence that the
7 premises meets local safety, building, and health codes.

8 (5) The commission shall not issue a banquet facility permit
9 unless issuance is approved through adoption of a resolution of
10 the legislative body of the local unit of government within which
11 the permitted facility is located.

12 Sec. 531. (1) A public license shall not be granted for the
13 sale of alcoholic liquor for consumption on the premises in
14 excess of 1 license for each 1,500 of population or major frac-
15 tion thereof. On-premise escrowed licenses issued under this
16 subsection are available subject to local legislative approval
17 under section 501(2) to an applicant whose proposed operation is
18 located within any local governmental unit in a county with a
19 population of under 500,000 or a county with a population of over
20 700,000 in which the escrowed license was located. If the local
21 governmental unit within which the former licensee's premises
22 were located spans more than 1 county, an escrowed license is
23 available subject to local legislative approval under section
24 501(2) to an applicant whose proposed operation is located within
25 any local governmental unit in either county. If an escrowed
26 license is activated within a local governmental unit other than
27 that local governmental unit within which the escrowed license

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1 was originally issued, the commission shall count that activated
2 license against the local governmental unit originally issuing
3 the license. This quota does not bar the right of an existing
4 licensee to renew a license or transfer the license and does not
5 bar the right of a tavern or class A hotel from requesting
6 reclassification of a license to class C, unless local option
7 laws prevent the sale of spirits and mixed spirit drinks by those
8 licensed premises, subject to the consent of the commission. The
9 upgrading of a license resulting from a request under this sub-
10 section shall be approved by the local governmental unit having
11 jurisdiction.

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

19 (3) In addition to the resort licenses authorized in subsec-
20 tion (2), the commission may issue not more than 10 additional
21 licenses for the year 1998 to establishments whose business and
22 operation, as determined by the commission, is designed to
23 attract and accommodate tourists and visitors to the resort area
24 and whose primary purpose is not for the sale of alcoholic
25 liquor. In counties having a population of less than 50,000, as
26 determined by the last federal decennial census or as determined
27 pursuant to subsection (11) and subject to subsection (17) in the

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1 case of a class A hotel or a class B hotel, the commission shall
2 not require the establishments to have dining facilities to seat
3 more than 50 persons. The commission may cancel the license if
4 the resort is no longer active or no longer qualifies for the
5 license. Before January 16 of each year the commission shall
6 transmit to the legislature a report giving details as to the
7 number of applications received under this subsection; the number
8 of licenses granted and to whom; the number of applications
9 rejected and the reasons; and the number of the licenses revoked,
10 suspended, or other disciplinary action taken and against whom
11 and the grounds for revocation, suspension, or disciplinary
12 action.

13 (4) In addition to any licenses for the sale of alcoholic
14 liquor for consumption on the premises that may be available in
15 the local governmental unit under subsection (1) and the resort
16 licenses authorized in subsections (2) and (3), the commission
17 may issue not more than 25 additional resort economic development
18 licenses per year for the year 1998. THE COMMISSION MAY ISSUE OR
19 APPROVE BEFORE JULY 1, 1999 ANY OF THE 25 LICENSES NOT ISSUED OR
20 APPROVED BUT AVAILABLE FOR CALENDAR YEAR 1998. A person is eligi-
21 ble to apply for a resort economic development license under this
22 subsection upon submitting an application to the commission and
23 demonstrating all of the following:

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

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

3 (c) The capital investment in real property, leasehold
4 improvement, fixtures, and inventory for the premises to be
5 licensed is in excess of \$1,500,000.00.

6 (5) In governmental units having a population of 50,000 per-
7 sons or less, as determined by the last federal decennial census
8 or as determined pursuant to subsection (11), in which the quota
9 of specially designated distributor licenses, as provided by com-
10 mission rule, has been exhausted, the commission may issue not
11 more than 10 additional specially designated distributor licenses
12 per year for the ~~year~~ YEARS 1998 AND 1999 to established mer-
13 chants whose business and operation, as determined by the commis-
14 sion, is designed to attract and accommodate tourists and vis-
15 itors to the resort area. A specially designated distributor
16 license issued pursuant to this subsection may be issued at a
17 location within 2,640 feet of existing specially designated dis-
18 tributor license locations. A specially designated distributor
19 license issued pursuant to this subsection shall not bar another
20 specially designated distributor licensee from transferring loca-
21 tion to within 2,640 feet of said licensed location. A specially
22 designated distributor license issued pursuant to R 436.1141 of
23 the Michigan administrative code may be located within 2,640 feet
24 of a specially designated distributor license issued pursuant to
25 this subsection.

26 (6) In addition to any licenses for the sale of alcoholic
27 liquor for consumption on the premises that may be available in

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1 the local governmental unit under subsection (1), and the resort
2 or resort economic development licenses authorized in subsections
3 (2), (3), and (4), and notwithstanding section 519, the commis-
4 sion may issue not more than 5 additional special purpose
5 licenses in any calendar year for the sale of beer and wine for
6 consumption on the premises. A special purpose license issued
7 pursuant to this subsection shall be issued only for events which
8 are to be held from May 1 to September 30, are artistic in
9 nature, and which are to be held on the campus of a public uni-
10 versity with an enrollment of 30,000 or more students. A special
11 purpose license shall be valid for 30 days or for the duration of
12 the event for which it is issued, whichever is less. The fee for
13 a special purpose license shall be \$50.00. A special purpose
14 license may be issued only to a corporation which is all of the
15 following:

16 (a) Is a nonprofit corporation organized pursuant to the
17 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
18 450.3192.

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

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

24 (7) Notwithstanding the local legislative body approval pro-
25 vision of section 501(2) and notwithstanding the provisions of
26 section 519, the commission may issue, without regard to the
27 quota provisions of subsection (1) and with the approval of the

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1 governing board of the university, either a tavern or class C
2 license which may be used only for regularly scheduled events at
3 a public university's established outdoor program or festival at
4 a facility on the campus of a public university having a head
5 count enrollment of 10,000 students or more. A license issued
6 under this subsection may only be issued to the governing board
7 of a public university, a person that is the lessee or conces-
8 sionaire of the governing board of the university, or both. A
9 license issued under this subsection is not transferable as to
10 ownership or location. A license issued under this subsection
11 may not be issued at an outdoor stadium customarily used for
12 intercollegiate athletic events.

13 (8) In issuing a resort or resort economic development
14 license under subsection (3), (4), or (5) the commission shall
15 consider economic development factors of the area in the issuance
16 of licenses to establishments designed to stimulate and promote
17 the resort and tourist industry. The commission shall not trans-
18 fer a resort or resort economic development license issued under
19 subsection (3), (4), or (5) to another location. If the licensee
20 goes out of business the license shall be surrendered to the
21 commission.

22 (9) The limitations and quotas of this section are not
23 applicable to the issuance of a new license to a veteran of the
24 armed forces of the United States who was honorably discharged or
25 released under honorable conditions from the armed forces of the
26 United States and who had by forced sale disposed of a similar
27 license within 90 days before or after entering or while serving

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1 in the armed forces of the United States, as a part of the
2 person's preparation for that service if the application for a
3 new license is made for the same governmental unit in which the
4 previous license was issued and within 60 days after the dis-
5 charge of the applicant from the armed forces of the United
6 States.

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

12 (11) For purposes of implementing this section a special
13 state census of a local governmental unit may be taken at the
14 expense of the local governmental unit by the federal bureau of
15 census or the secretary of state under section 6 of 1909 PA 279,
16 MCL 117.6. The special census shall be initiated by resolution
17 of the governing body of the local governmental unit involved.
18 The secretary of state may promulgate additional rules necessary
19 for implementing this section pursuant to the administrative pro-
20 cedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 (12) Before granting an approval as required in
22 section 501(2) for a license to be issued under subsection (2),
23 (3), or (4), a local legislative body shall disclose the avail-
24 ability of transferable licenses held in escrow for more than 1
25 licensing year within that respective local governmental unit.
26 Public notice of the meeting to consider the granting of the

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1 license by the local governmental unit shall be made 2 weeks
2 before the meeting.

3 (13) The person signing the application for an on-premise
4 resort or resort economic development license shall state and
5 verify that he or she attempted to secure an on-premise escrowed
6 or quota license and that, to the best of his or her knowledge,
7 an on-premise escrowed or quota license is not readily available
8 within the local governmental unit in which the applicant for the
9 on-premise resort or resort economic development license proposes
10 to operate.

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

21 (15) The commission shall annually report to the legislature
22 the names of the businesses issued licenses under this section
23 and their locations.

24 (16) The commission shall not require a class A hotel or a
25 class B hotel licensed pursuant to subsection (2), (3), or (4) to
26 provide food service to registered guests or to the public.

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1 (17) As used in this section:

2 (a) "Escrowed license" means a license in which the rights
3 of the licensee in the license or to the renewal of the license
4 are still in existence and are subject to renewal and activation
5 in the manner provided for in R 436.1107 of the Michigan adminis-
6 trative code.

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

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

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

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

15 Sec. 533. A retail vendor licensed under this act to sell
16 for consumption on the premises may apply for a license as a spe-
17 cially designated merchant. A specially designated distributor
18 may apply for a license as a specially designated merchant. In
19 cities, incorporated villages, or townships, the commission shall
20 issue only 1 specially designated distributor license for each
21 3,000 of population, or fraction of 3,000. THE QUOTA REQUIREMENT
22 MAY BE WAIVED AT THE DISCRETION OF THE COMMISSION IF THERE IS NO
23 EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSEE WITHIN 2 MILES
24 OF THE APPLICANT, MEASURED ALONG THE NEAREST TRAFFIC ROUTE.

25 Sec. 811. The insurance policy described in this chapter
26 shall cover the liability imposed by section 801 and shall
27 contain the following conditions:

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1 That no condition, provision, stipulation or limitation
2 contained in the policy, or any other endorsement thereon, shall
3 relieve the insurer from liability (within the statutory limits
4 provided by section 803 of the Michigan liquor control code of
5 ~~1997~~ 1998), for the payment of any claim for which the insured
6 may be held legally liable under section 801 of said act.

7 Sec. 903. (1) The commission or any commissioner or duly
8 authorized agent of the commission designated by the chairperson
9 of the commission, upon due notice and proper hearing, may sus-
10 pend or revoke any license upon a violation of this act or any of
11 the rules promulgated by the commission under this act. The com-
12 mission or any commissioner or duly authorized agent of the com-
13 mission designated by the chairperson of the commission, may
14 assess a penalty of not more than \$300.00 for each violation of
15 this act or rules promulgated under this act, or not more than
16 \$1,000.00 for each violation of section 801(2), in addition to or
17 in lieu of revocation or suspension of the license, which penalty
18 shall be paid to the commission and deposited with the state
19 treasurer and shall be credited to the general fund of the
20 state. The commission shall hold a hearing and order the suspen-
21 sion or revocation of a license if the licensee has been found
22 liable ~~, within a 24-month period,~~ for 3 or more separate vio-
23 lations of section 801(2) which violations occurred on different
24 occasions WITHIN A 24-MONTH PERIOD.

25 (2) The commission shall provide a procedure by which a
26 licensee who is aggrieved by any penalty imposed under subsection
27 (1) and any suspension or revocation of a license ordered by the

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1 commission, a commissioner, or a duly authorized agent of the
2 commission may request a hearing for the purpose of presenting
3 any facts or reasons to the commission as to why the penalty,
4 suspension, or revocation should be modified or rescinded. Any
5 such request shall be in writing and accompanied by a fee of
6 \$25.00. The commission, after reviewing the record made before a
7 commissioner or a duly authorized agent of the commission, may
8 allow or refuse to allow the hearing in accordance with the
9 commission's rules. The right to a hearing provided in this sub-
10 section, however, shall not be interpreted by any court as cur-
11 tailing, removing, or annulling the right of the commission to
12 suspend or revoke licenses as provided for in this act. A
13 licensee does not have a right of appeal from the final determi-
14 nation of the commission, except by leave of the circuit court.
15 Notice of the order of suspension or revocation of a license or
16 of the assessment of a penalty, or both, shall be given in the
17 manner prescribed by the commission. The suspension or revoca-
18 tion of a license or the assessment of a penalty, or both, by the
19 commission or a duly authorized agent of the commission does not
20 prohibit the institution of a criminal prosecution for a viola-
21 tion of this act. The institution of a criminal prosecution for
22 a violation of this act or the acquittal or conviction of a
23 person for a violation of this act does not prevent the suspen-
24 sion or revocation of a license or the assessment of a penalty,
25 or both, by the commission. In a hearing for the suspension or
26 revocation of a license issued under this act, proof that the
27 defendant licensee or an agent or employee of the licensee

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1 demanded and was shown, before furnishing any alcoholic liquor to
2 a minor, a motor vehicle operator or chauffeur license or a reg-
3 istration certificate issued by the federal selective service, or
4 other bona fide documentary evidence of majority and identity of
5 the person, may be offered as evidence in a defense to a proceed-
6 ing for the suspension or revocation of a license issued under
7 this act. A licensee who has reason to believe that a minor has
8 used fraudulent identification to purchase alcoholic liquor in
9 violation of section 703 shall file a police report concerning
10 the violation with a local law enforcement agency and shall also
11 present the alleged fraudulent identification to the local law
12 enforcement agency at the time of filing the report if the iden-
13 tification is in the possession of the licensee. The commission
14 may promulgate rules pursuant to the administrative procedures
15 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the
16 utilization by licensees of equipment designed to detect altered
17 or forged driver licenses, state identification cards, and other
18 forms of identification.

19 (3) In addition to the hearing commissioners provided for in
20 section 209, the chairperson of the commission may designate not
21 more than 2 duly authorized agents to hear violation cases. A
22 person appointed under this subsection shall be a member in good
23 standing of the state bar of Michigan.

24 (4) A duly authorized agent who has been designated by the
25 chairperson pursuant to subsection (3) shall have, in the hearing
26 of violation cases, the same authority and responsibility as does

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1 a hearing commissioner under this act and the rules promulgated
2 under this act.

3 (5) A duly authorized agent who has been designated by the
4 chairperson pursuant to subsection (3) shall be ineligible for
5 appointment to the commission for a period of 1 year after the
6 person ceases to serve as a duly authorized agent.

7 Sec. 1113. (1) Except as provided in subsection (2), (3),
8 or (5), a licensee enumerated under section 525 or any other
9 person shall not sell at retail, give away, or furnish, and a
10 person shall not knowingly and willfully buy, spirits or mixed
11 spirit drink between the hours of 2 a.m. and 12 midnight on
12 Sunday. If January 1 falls on Sunday, the hours may be extended
13 to 4 a.m.

14 (2) If the legislative body of a county has authorized the
15 sale of spirits and mixed spirit drink for consumption on the
16 premises on Sunday, by resolution approved by a majority of the
17 legislative body voting on that resolution, the spirits and mixed
18 spirit drink may be sold after 12 noon in an establishment
19 licensed under this act in which the gross receipts derived from
20 the sale of food and other goods and services exceed 50% of the
21 total gross receipts. With respect to an action taken by the
22 legislative body or if the legislative body fails to act, a peti-
23 tion may be filed with the county clerk requesting the submission
24 of the question of the sale of spirits and mixed spirit drink for
25 consumption on the premises in addition to beer and wine on
26 Sunday. The petition shall be signed by a number of the
27 registered and qualified electors of the county that is not less

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1 than 8% of the total number of votes cast for all candidates for
2 the office of secretary of state in the county at the last gen-
3 eral election held for that purpose. The question shall not be
4 submitted to the electors of a county more than once every 4
5 years. The county clerk shall submit the question at the next
6 regular state election held in the county if the petitions are
7 filed not less than 60 days before the election. The question of
8 the sale of spirits and mixed spirit drink for consumption on the
9 premises, in addition to beer and wine, on Sunday shall be sub-
10 mitted by ballot in substantially the following form:

11 "Shall the sale of spirits and mixed spirit drink for con-
12 sumption on the premises be permitted on Sunday in an establish-
13 ment licensed under the Michigan liquor control code of ~~1997~~
14 1998 in which the gross receipts derived from the sale of food or
15 other goods and services exceed 50% of the total gross receipts
16 within the county of under the provisions of the law
17 governing the sale of spirits and mixed spirit drink for
18 consumption?

19 Yes

20 No "

21 (3) If the legislative body of a county has authorized the
22 sale of spirits and mixed spirit drink for consumption off the
23 premises on Sunday by resolution approved by a majority of the
24 legislative body voting on the resolution, spirits and mixed
25 spirit drink may be sold after 12 noon in a retail establishment
26 licensed under this act. With respect to an action taken by the
27 legislative body or if the legislative body fails to act, a

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1 petition may be filed with the county clerk requesting the
2 submission of the question of the sale of spirits and mixed
3 spirit drink for consumption off the premises, in addition to
4 beer and wine, in a retail establishment licensed under this act
5 on Sunday. The petition shall be signed by a number of the reg-
6 istered and qualified electors of the county that is not less
7 than 8% of the total number of votes cast for all candidates for
8 the office of secretary of state in the county at the last gen-
9 eral election shall not be held for that purpose. The question
10 submitted to the electors of a county more than once every 4
11 years. The county clerk shall submit the question at the next
12 regular state election held in the county if the petitions are
13 filed not less than 60 days before the election. The question of
14 the sale of spirits and mixed spirit drink for consumption off
15 the premises, in addition to beer and wine, in a retail estab-
16 lishment licensed under this act on Sunday shall be submitted by
17 ballot in substantially the following form:

18 "Shall the sale of spirits and mixed spirit drink for con-
19 sumption off the premises be permitted on Sunday in a retail
20 establishment licensed under the Michigan liquor control code of
21 ~~1997~~ 1998 within the county of under the provisions
22 of the law governing the sale of spirits and mixed spirit drink
23 for consumption?

24 Yes

25 No".

26 (4) Votes on a question submitted under this section shall
27 be taken, counted, and canvassed in the same manner as votes cast

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1 in county elections are taken, counted, and canvassed. A ballot
2 shall be furnished by the election commission or similar body of
3 the county. If a majority of the electors voting at an election
4 vote in favor of the proposal, spirits and mixed spirit drink may
5 be sold in the county under this act for consumption on the
6 premises or by a retail establishment for consumption off the
7 premises, in addition to beer and wine, on Sunday. The sale
8 shall not be permitted in a city, village, or township in which
9 the sale of spirits and mixed spirit drink is prohibited under
10 this act. A violation of this section is a misdemeanor. This
11 section does not apply to spirits and mixed spirit drink served
12 to a bona fide guest in the residence of a person or sold or fur-
13 nished for medicinal purposes as provided for in this act.

14 (5) A licensee enumerated under section 525 or any other
15 person shall not sell at retail, and a person shall not knowingly
16 and willfully buy, alcoholic liquor between the hours of
17 9 p.m. on December 24 and 7 a.m. on December 26. If December 26
18 falls on Sunday, the hours of closing shall be determined pursu-
19 ant to this act. The legislative body of a city, village, or
20 township, by resolution or ordinance, may prohibit the sale of
21 alcoholic liquor on Sunday or a legal holiday, primary election
22 day, general election day, or municipal election day.