

HOUSE BILL No. 4332

February 13, 1997, Introduced by Reps. Bodem, McBryde, Gilmer, Gernaat and Prusi and referred to the Committee on Regulatory Affairs.

A bill to amend 1933 (Ex Sess) PA 8, entitled
"The Michigan liquor control act,"
by amending section 19c (MCL 436.19c), as amended by 1996 PA
379.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 19c. (1) A public license shall not be granted for the
2 sale of alcoholic liquor for consumption on the premises in
3 excess of 1 license for each 1,500 of population or major frac-
4 tion thereof. ON-PREMISE ESCROWED LICENSES ISSUED UNDER THIS
5 SUBSECTION ARE AVAILABLE, SUBJECT TO LOCAL LEGISLATIVE APPROVAL
6 UNDER SECTION 17(3), TO AN APPLICANT WHOSE PROPOSED OPERATION IS
7 LOCATED WITHIN ANY LOCAL GOVERNMENTAL UNIT IN THE COUNTY IN WHICH
8 THE ESCROWED LICENSE WAS LOCATED. IF THE LOCAL GOVERNMENTAL UNIT
9 WITHIN WHICH THE FORMER LICENSEE'S PREMISES WERE LOCATED SPANS
10 MORE THAN 1 COUNTY, AN ESCROWED LICENSE IS AVAILABLE SUBJECT TO

1 APPROVAL UNDER SECTION 17(3) TO AN APPLICANT WHOSE PROPOSED
2 OPERATION IS LOCATED WITHIN ANY LOCAL GOVERNMENTAL UNIT IN EITHER
3 COUNTY. IF AN ESCROWED LICENSE IS ACTIVATED WITHIN A LOCAL GOV-
4 ERNMENTAL UNIT OTHER THAN THAT LOCAL GOVERNMENTAL UNIT WITHIN
5 WHICH THE ESCROWED LICENSE WAS ORIGINALLY ISSUED, THE COMMISSION
6 SHALL COUNT THAT ACTIVATED LICENSE AGAINST THE LOCAL GOVERNMENTAL
7 UNIT ORIGINALLY ISSUING THE LICENSE. This quota does not bar the
8 right of an existing licensee to renew a license or transfer the
9 license and does not bar the right of a tavern or class A hotel
10 from requesting reclassification of a license to class C, unless
11 local option laws prevent the sale of spirits and mixed spirit
12 drinks by those licensed premises, subject to the consent of the
13 commission. The upgrading of a license resulting from a request
14 under this subsection shall be approved by the local governmental
15 unit having jurisdiction.

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

23 (3) In addition to the resort licenses authorized in subsec-
24 tion (2), the commission may issue not more than 10 additional
25 licenses per year for the years 1996 and 1997 to establishments
26 whose business and operation, as determined by the commission, is
27 designed to attract and accommodate tourists and visitors to the

1 resort area, and whose primary purpose is not for the sale of
2 alcoholic liquor. In counties having a population of less than
3 50,000, as determined by the last federal decennial census or as
4 determined pursuant to subsection (11) and subject to subsection
5 ~~-(17)-~~ (16) in the case of a class A hotel or a class B hotel,
6 the commission shall not require the establishments to have
7 dining facilities to seat more than 50 persons. The commission
8 may cancel the license if the resort is no longer active or no
9 longer qualifies for the license. Before January 16 of each year
10 the commission shall transmit to the legislature a report giving
11 details as to the number of applications received under this sub-
12 section; the number of licenses granted and to whom; the number
13 of applications rejected and the reasons; and the number of the
14 licenses revoked, suspended, or other disciplinary action taken
15 and against whom and the grounds for revocation, suspension, or
16 disciplinary action.

17 (4) In addition to any licenses for the sale of alcoholic
18 liquor for consumption on the premises that may be available in
19 the local governmental unit under subsection (1) and the resort
20 licenses authorized in subsections (2) and (3), the commission
21 may issue not more than 25 additional resort licenses per year
22 for the years 1996 and 1997 if all of the following conditions
23 are met:

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.

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 \$1,000,000.00.

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~~
10 ~~commission rule~~ FOR IN R 436.1141 OF THE MICHIGAN ADMINISTRATIVE
11 CODE, has been exhausted, the commission may issue not more than
12 10 additional specially designated distributor licenses per year
13 for the years 1996 and 1997 to established merchants whose busi-
14 ness and operation, as determined by the commission, is designed
15 to attract and accommodate tourists and visitors to the resort
16 area. A specially designated distributor license issued pursuant
17 to this subsection may be issued at a location within 2,640 feet
18 of existing specially designated distributor license locations.
19 A specially designated distributor license issued pursuant to
20 this subsection shall not bar another specially designated dis-
21 tributor licensee from transferring location to within 2,640 feet
22 of said licensed location.

23 (6) In addition to any licenses for the sale of alcoholic
24 liquor for consumption on the premises that may be available in
25 the local governmental unit under subsection (1), and the resort
26 licenses authorized in subsections (2), (3), and (4), and
27 notwithstanding section ~~17(4)~~ 17(5), the commission may issue

1 not more than 5 additional special purpose licenses in any
2 calendar year for the sale of beer and wine for consumption on
3 the premises. A special purpose license issued pursuant to this
4 subsection shall be issued only for events which are to be held
5 from May 1 to September 30, are artistic in nature, and which are
6 to be held on the campus of a public university with an enroll-
7 ment of 30,000 or more students. A special purpose license shall
8 be valid for 30 days or for the duration of the event for which
9 it is issued, whichever is less. The fee for a special purpose
10 license shall be \$50.00. A special purpose license may be issued
11 only to a corporation which is all of the following:

12 (a) Is a nonprofit corporation organized pursuant to the
13 nonprofit corporation act, ~~Act No. 162 of the Public Acts of~~
14 ~~1982, being sections 450.2101 to 450.3192 of the Michigan~~
15 ~~Compiled Laws~~ 1982 PA 162, MCL 450.2101 TO 450.3192.

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

19 (c) Has been in continuous existence for not less than 6
20 years.

21 (7) Notwithstanding the local legislative body approval pro-
22 vision of section 17(3) and notwithstanding the provisions of
23 section 17(5), the commission may issue, without regard to the
24 quota provisions of subsection (1) and with the approval of the
25 governing board of the university, either a tavern or class C
26 license which may be used only for regularly scheduled events at
27 a public university's established outdoor program or festival at

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

10 (8) In issuing a resort license under subsection (3), (4),
11 or (5) the commission shall consider economic development factors
12 of the area in the issuance of licenses to establishments
13 designed to stimulate and promote the resort and tourist
14 industry. The commission shall not transfer a resort license
15 issued under subsection (3), (4), or (5) to another location, and
16 if the licensee goes out of business the license shall be surren-
17 dered to the commission.

18 (9) The limitations and quotas of this section shall not be
19 applicable to the issuance of a new license to a veteran of the
20 armed forces of the United States who was honorably discharged or
21 released under honorable conditions from the armed forces of the
22 United States and who had by forced sale disposed of a similar
23 license within 90 days before or after entering or while serving
24 in the armed forces of the United States, as a part of the
25 person's preparation for that service if the application for a
26 new license is made for the same governmental unit in which the
27 previous license was issued and within 60 days after the

1 discharge of the applicant from the armed forces of the United
2 States.

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

8 (11) For purposes of implementing this section a special
9 state census of a local governmental unit may be taken at the
10 expense of the local governmental unit by the federal bureau of
11 census or the secretary of state under section 6 of ~~Act No. 279~~
12 ~~of the Public Acts of 1909, as amended, being section 117.6 of~~
13 ~~the Michigan Compiled Laws~~ 1909 PA 279, MCL 117.6. The special
14 census shall be initiated by resolution of the governing body of
15 the local governmental unit involved. The secretary of state may
16 promulgate additional rules necessary for implementing this sec-
17 tion pursuant to the administrative procedures act of 1969, ~~Act~~
18 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
19 ~~24.328 of the Michigan Compiled Laws~~ 1989 PA 306, MCL 24.201 TO
20 24.328.

21 (12) The limitations and quotas of this section shall not be
22 applicable to the issuance of a new license to the governing
23 board of a college or university pursuant to section 17h.

24 ~~-(13) The limitations and quotas of this section shall not~~
25 ~~be applicable to the issuance of a national sporting event~~
26 ~~license pursuant to section 17b.~~

1 (13) ~~-(14)-~~ Before granting an approval as required in
2 section 17(3) for a license to be issued under subsection (2),
3 (3), or (4), a local legislative body shall disclose the avail-
4 ability of transferable licenses held in escrow for more than 1
5 licensing year within that respective local governmental unit.
6 Public notice of the meeting to consider the granting of the
7 license by the local governmental unit shall be made 2 weeks
8 before the meeting.

9 (14) ~~-(15)-~~ The person signing the application for an
10 on-premise resort license shall state and verify that he or she
11 attempted to secure an on-premise escrowed LICENSE or quota
12 license and that, to the best of his or her knowledge, an
13 on-premise escrowed LICENSE or quota license is not readily
14 available within the local governmental unit in which the appli-
15 cant for the on-premise resort license proposes to operate.

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

25 (16) ~~-(17)-~~ The commission shall not require a class A hotel
26 or a class B hotel licensed pursuant to subsection (2), (3), or

1 (4) to provide food service to registered guests or to the
2 public.

3 (17) ~~—(18)—~~ As used in this section:

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

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

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

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

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