

HOUSE BILL No. 4410

March 4, 1997, Introduced by Reps. Hammerstrom, Dobb, Mathieu, Schauer, Law, Prusi, Vaughn, Owen, McManus, Wetters, Kelly, DeHart, Bodem, Crissman, Tesanovich, Galloway and McBryde and referred to the Committee on House Oversight and Ethics.

A bill to amend 1933 (Ex Sess) PA 8, entitled "The Michigan liquor control act," by amending sections 7a, 20, and 28a (MCL 436.7a, 436.20, and 436.28a), section 20 as amended by 1986 PA 176.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7a. (1) The commission may make investigations ~~which~~
2 THAT it considers proper in the administration of this act and
3 the rules promulgated pursuant to this act concerning alcoholic
4 liquor, ~~or~~ the manufacture, distribution, or sale of alcoholic
5 liquor, ~~or~~ the collection of taxes on alcoholic liquor, OR VIO-
6 LATIONS CONCERNING THE VIDEO LOTTERY PURSUANT TO THE MICHIGAN
7 VIDEO GAMING ACT AND RULES PROMULGATED UNDER THAT ACT.
8 (2) A licensee shall make the licensed premises available
9 for inspection and search by a commission investigator or law
10 enforcement officer empowered to enforce the commission's rules

1 and ~~Act No. 8 of the Public Acts of the Extra Session of 1933,~~
2 ~~as amended, being sections 436.1 to 436.58 of the Michigan~~
3 ~~Compiled Laws~~ THIS ACT during regular business hours or when the
4 licensed premises are occupied by the licensee or a clerk, ser-
5 vant, agent, or employee of the licensee. Evidence of a viola-
6 tion discovered pursuant to this subsection may be seized and
7 used in an administrative or court proceeding.

8 (3) The commission ~~,~~ or ~~a duly~~ AN authorized agent of
9 the commission ~~,~~ may examine or copy the books, records, and
10 papers of any person relative to a requirement pertaining to this
11 act access to which has been obtained pursuant to this section.

12 (4) A member of the commission ~~,~~ or ~~a duly~~ AN authorized
13 agent of the commission ~~,~~ may issue a subpoena requiring a
14 person to appear before the commission ~~,~~ or its ~~duly~~ autho-
15 rized agent ~~,~~ at any reasonable time and place ~~,~~ and be
16 examined with reference to any matter within the scope of the
17 inquiry or investigation being conducted by the commission, and
18 to produce any books, records, or papers pertaining to the ques-
19 tion involved.

20 (5) A member of the commission ~~,~~ or ~~a duly~~ AN authorized
21 agent of the commission ~~,~~ may administer an oath or affirmation
22 to a witness in any matter before the commission, certify to
23 official acts, and take depositions.

24 (6) In case of disobedience of a subpoena, the commission or
25 ~~its duly~~ AN authorized ~~agents~~ AGENT OF THE COMMISSION may
26 invoke the aid of any circuit court of the state in requiring the
27 attendance and testimony of witnesses and the production of

1 books, records, and papers pertaining to the question involved.
2 Any of the circuit courts of the state within the jurisdiction of
3 which the inquiry is carried on may, in case of contumacy or
4 refusal to obey a subpoena, issue an order requiring the person
5 to appear before the commission or ~~its duty~~ AN authorized
6 ~~agents~~ AGENT OF THE COMMISSION and to produce books, records,
7 and papers if so ordered, and to give evidence touching the
8 matter in question. ~~and a~~ A failure to obey the order of the
9 court may be punished by the court as a contempt of court.

10 (7) The fees of witnesses required to appear before the com-
11 mission shall be the same as those allowed to witnesses in the
12 circuit courts ~~and~~ and shall be paid by the commission.

13 (8) A sheriff's department or police department, ~~shall,~~
14 upon request of the commission, SHALL cause to be served a sub-
15 poena which may be directed to any person located within the
16 jurisdiction of the sheriff's department or police department. A
17 fee shall not be charged for this service by the sheriff's
18 department or police department. Subpoenas may also be served by
19 an investigator of the commission.

20 Sec. 20. (1) The commission ~~and~~ and any commissioner or
21 ~~duty~~ authorized agent of the commission designated by the
22 chairperson of the commission, upon due notice and proper hear-
23 ing, may suspend or revoke any license upon a violation of this
24 act or any of the rules promulgated by the commission under this
25 act. IN THE CASE OF A LICENSEE HOLDING A VIDEO LOTTERY ESTAB-
26 LISHMENT LICENSE, THE COMMISSION MAY SUSPEND OR REVOKE A
27 LICENSEE'S LICENSE FOR A VIOLATION OF THE MICHIGAN VIDEO GAMING

1 ACT AND ANY RULES PROMULGATED UNDER THAT ACT. The commission ~~,~~
2 and any commissioner or ~~duly~~ authorized agent of the commission
3 designated by the chairperson of the commission ~~,~~ may assess a
4 penalty of not more than \$300.00 for each violation ~~of this act~~
5 ~~or rules promulgated under this act,~~ or not more than \$1,000.00
6 for each violation of section 22(3), in addition to or ~~in lieu~~
7 INSTEAD of revocation or suspension of the license, which penalty
8 shall be paid to the commission and deposited with the state
9 treasurer and shall be credited to the general fund of the
10 state. The commission shall hold a hearing and order the suspen-
11 sion or revocation of a license if the licensee has been found
12 liable, within a 24-month period, ~~for~~ OF 3 or more separate
13 violations of section 22(3), which violations occurred on differ-
14 ent occasions.

15 (2) The commission shall provide the procedure by which any
16 licensee feeling aggrieved by any penalty imposed under subsec-
17 tion (1) ~~and~~ OR any suspension or revocation of a license
18 ordered by the commission, a commissioner, or ~~a duly~~ AN autho-
19 rized agent of the commission ~~,~~ may request a hearing for the
20 purpose of presenting any facts or reasons to the commission why
21 the penalty, ~~or the~~ suspension, or revocation should be modi-
22 fied or rescinded. Any such request shall be in writing and
23 accompanied by a fee of \$25.00. The commission after reviewing
24 the record made before a commissioner or ~~a duly~~ AN authorized
25 agent of the commission may allow or refuse to allow the hearing
26 in accordance with the commission's rules. ~~Such~~ THIS right,
27 however, shall not be interpreted by any court as curtailing,

1 removing, or annulling the right of the commission to suspend or
2 revoke licenses as provided for in this act. A licensee ~~shall~~
3 DOES not have a right of appeal from the final determination of
4 the commission ~~,~~ except by ~~writ~~ LEAVE of ~~certiorari to the~~
5 circuit court. Notice of the order of suspension or revocation
6 of a license or assessment of a penalty, or both, shall be given
7 in the manner prescribed by the commission. The suspension or
8 revocation of a license or assessment of a penalty, or both, by
9 the commission or ~~a duly~~ AN authorized agent of the commission
10 ~~shall~~ DOES not prohibit the institution of a criminal prosecu-
11 tion for a violation of this act. The institution of a criminal
12 prosecution for a violation of this act, or the acquittal or con-
13 viction of any person for a violation of this act, ~~shall~~ DOES
14 not prevent the suspension or revocation of a license or assess-
15 ment of a penalty, or both, by the commission. In a hearing for
16 the suspension or revocation of a license issued pursuant to this
17 act, proof that the defendant licensee or an agent or employee of
18 the licensee demanded and was shown, before furnishing any alco-
19 holic liquor to a person less than 21 years of age, a motor vehi-
20 cle operator or chauffeur license, a registration certificate
21 issued by the federal selective service, or other bona fide docu-
22 mentary evidence of majority and identity of the person ~~,~~ may
23 be offered as evidence in a defense to a proceeding for the sus-
24 pension or revocation of a license issued under this act. A
25 licensee who has reason to believe that a person less than 21
26 years of age has used fraudulent identification to purchase
27 alcoholic liquor in violation of section 33b shall file a police

1 report concerning the violation with a local law enforcement
2 agency and shall also present the alleged fraudulent identifica-
3 tion to the local law enforcement agency at the time of filing
4 the report if the identification is in the possession of the
5 licensee. The commission may promulgate rules pursuant to the
6 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
7 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
8 ~~Compiled Laws~~ 1969 PA 306, MCL 24.201 to 24.328, regarding the
9 utilization by licensees of equipment designed to detect altered
10 or forged driver licenses, state identification cards, and other
11 forms of identification.

12 (3) In addition to the hearing commissioners provided for in
13 section 5, the chairperson of the commission may designate not
14 more than 2 ~~duly~~ authorized agents to hear violation cases. A
15 person appointed under this subsection shall be a member in good
16 standing of the state bar of Michigan.

17 (4) ~~A duly~~ AN authorized agent who has been designated by
18 the chairperson pursuant to subsection (3) ~~shall have~~ HAS the
19 same authority and responsibility as does a hearing commissioner
20 under this act and the rules promulgated ~~pursuant to~~ UNDER this
21 act ~~,~~ in the hearing of violation cases.

22 (5) ~~A duly~~ AN authorized agent who has been designated by
23 the chairperson pursuant to subsection (3) ~~shall be~~ IS ineligi-
24 ble for appointment to the commission for a period of 1 year
25 after the person ceases to serve as ~~a duly~~ AN authorized
26 agent.

1 Sec. 28a. (1) The commission shall not prohibit licensees
2 from allowing pinball machines on the premises for the purpose of
3 amusement.

4 (2) THE COMMISSION SHALL NOT PROHIBIT LICENSEES FROM OBTAIN-
5 ING A VIDEO LOTTERY ESTABLISHMENT LICENSE UNDER THE MICHIGAN
6 VIDEO GAMING ACT. THE MONEY GENERATED BY A LICENSEE THROUGH THE
7 CONDUCT OF A VIDEO LOTTERY IS SUBJECT TO THE REGULATION AND ALLO-
8 CATION FORMULA PROVIDED FOR IN THE MICHIGAN VIDEO GAMING ACT.

9 Enacting section 1. This amendatory act does not take
10 effect unless all of the following bills of the 89th Legislature
11 are enacted into law:

12 (a) Senate Bill No. ____ or House Bill No. ____ (request
13 no. 00613'97 **).

14 (b) Senate Bill No. ____ or House Bill No. ____ (request
15 no. 00613'97 b **).