

HOUSE BILL No. 5641

March 10, 1998, Introduced by Rep. Profit 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
440.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 19c. (1) ~~—A—~~ THE COMMISSION SHALL NOT GRANT A public
2 license ~~shall not be granted~~ for the sale of alcoholic liquor
3 for consumption on the premises in excess of 1 license for each
4 1,500 of population or major fraction thereof. ~~—On-premise~~
5 ~~escrowed licenses issued under this subsection are available~~
6 ~~subject to section 17(3) to an applicant whose proposed operation~~
7 ~~is located within any local governmental unit in a county with a~~
8 ~~population of under 500,000 in which the escrowed license was~~
9 ~~located. If the local governmental unit within which the former~~
10 ~~licensee's premises were located spans more than 1 county, an~~

1 ~~escrowed license is available subject to section 17(3) to an~~
2 ~~applicant whose proposed operation is located within any local~~
3 ~~governmental unit in either county. If an escrowed license is~~
4 ~~activated within a local governmental unit other than that local~~
5 ~~governmental unit within which the escrowed license was origi-~~
6 ~~nally issued, the commission shall count that activated license~~
7 ~~against the local governmental unit originally issuing the~~
8 ~~license.~~ This quota does not bar the right of an existing
9 licensee to renew a license or transfer the license and does not
10 bar the right of a tavern or class A hotel from requesting
11 reclassification of a license to class C ~~—~~, unless local option
12 laws prevent the sale of spirits and mixed spirit drinks by those
13 licensed premises, subject to the consent of the commission.
14 ~~The~~ A LOCAL GOVERNMENTAL UNIT HAVING JURISDICTION SHALL APPROVE
15 THE upgrading of a license resulting from a RECLASSIFICATION
16 request under this subsection. ~~shall be approved by the local~~
17 ~~governmental unit having jurisdiction.~~

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

25 (3) In addition to the resort licenses authorized in subsec-
26 tion (2), the commission may issue not more than 10 additional
27 licenses per year for the years 1996 and 1997 to establishments

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

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

1 (a) The establishment's business and operation, as
2 determined by the commission, is designed to attract and
3 accommodate tourists and visitors to the resort area.

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

6 (c) The capital investment in real property, leasehold
7 improvement, fixtures, and inventory for the premises to be
8 licensed is in excess of \$1,000,000.00.

9 (5) In governmental units having a population of 50,000 per-
10 sons or less, as determined by the last federal decennial census
11 or as determined pursuant to subsection (11), in which the quota
12 of specially designated distributor licenses, as provided by com-
13 mission rule, has been exhausted, the commission may issue not
14 more than 10 additional specially designated distributor licenses
15 per year for the years 1996 and 1997 to established merchants
16 whose business and operation, as determined by the commission, is
17 designed to attract and accommodate tourists and visitors to the
18 resort area. ~~A~~ THE COMMISSION MAY ISSUE A specially designated
19 distributor license issued pursuant to this subsection ~~may be~~
20 ~~issued~~ at a location within 2,640 feet of existing specially
21 designated distributor license locations. A specially designated
22 distributor license issued pursuant to this subsection ~~shall~~
23 DOES not bar another specially designated distributor licensee
24 from transferring location to within 2,640 feet of ~~said~~ THAT
25 licensed location.

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

1 the local governmental unit under subsection (1), and the resort
2 licenses authorized in subsections (2), (3), and (4), and not-
3 withstanding section 17(4), the commission may issue not more
4 than 5 additional special purpose licenses in any calendar year
5 for the sale of beer and wine for consumption on the premises.

6 ~~A THE COMMISSION SHALL ISSUE A special purpose license issued~~
7 pursuant to this subsection ~~shall be issued~~ only for events
8 which 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~~ IS valid for 30 days or for the dura-
12 tion of the event for which it is issued, whichever is less. The
13 fee for a special purpose license ~~shall be~~ IS \$50.00. ~~A THE~~
14 COMMISSION MAY ISSUE A special purpose license ~~may be issued~~
15 only to a corporation which is all of the following:

16 (a) Is a nonprofit corporation organized pursuant to the
17 nonprofit corporation act, ~~Act No. 162 of the Public Acts of~~
18 ~~1982, being sections 450.2101 to 450.3192 of the Michigan~~
19 ~~Compiled Laws~~ 1982 PA 162, MCL 450.2101 TO 450.3192.

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

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

25 (7) Notwithstanding the local legislative body approval pro-
26 vision of section 17(3) and notwithstanding the provisions of
27 section 17(5), the commission may issue, without regard to the

1 quota provisions of subsection (1) and with the approval of the
2 governing board of the university, either a tavern or class C
3 license which may be used only for regularly scheduled events at
4 a public university's established outdoor program or festival at
5 a facility on the campus of a public university having a head
6 count enrollment of 10,000 students or more. ~~—A—~~ THE COMMISSION
7 MAY ISSUE A license ~~—issued—~~ under this subsection ~~—may—~~ only ~~—be~~
8 ~~issued—~~ to the governing board of a public university, a person
9 that is the lessee or concessionaire of the governing board of
10 the university, or both. A license issued under this subsection
11 is not transferable as to ownership or location. A license
12 issued under this subsection may not be issued at an outdoor sta-
13 dium customarily used for intercollegiate athletic events.

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

22 (9) The limitations and quotas of this section shall not be
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

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~~ DO
8 not ~~be applicable~~ APPLY to the issuance of a new license or the
9 renewal of an existing license where the property or establish-
10 ment to be licensed is situated in or on land on which an airport
11 owned by a county or in which a county has an interest is
12 situated.

13 (11) For purposes of implementing this section a special
14 state census of a local governmental unit may be taken at the
15 expense of the local governmental unit by the federal bureau of
16 census or the secretary of state under section 6 of ~~Act No. 279~~
17 ~~of the Public Acts of 1909, as amended, being section 117.6 of~~
18 ~~the Michigan Compiled Laws~~ THE HOME RULE CITY ACT, 1909 PA 279,
19 MCL 117.6. The special census shall be initiated by resolution
20 of the governing body of the local governmental unit involved.
21 The secretary of state may promulgate additional rules necessary
22 for implementing this section pursuant to the administrative pro-
23 cedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
24 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws~~
25 1969 PA 306, MCL 24.201 TO 24.328.

26 (12) The limitations and quotas of this section ~~shall~~ ARE
27 not ~~be~~ applicable to the issuance of a new license to the

1 governing board of a college or university pursuant to section
2 17h.

3 (13) The limitations and quotas of this section ~~shall~~ ARE
4 not ~~be~~ applicable to the issuance of a national sporting event
5 license pursuant to section 17b.

6 (14) Before granting an approval as required in
7 section 17(3) 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 (15) The person signing the application for an on-premise
15 resort license shall state and verify that he or she attempted to
16 secure an on-premise escrowed or quota license and that, to the
17 best of his or her knowledge, an on-premise escrowed or quota
18 license is not readily available within the local governmental
19 unit in which the applicant for the on-premise resort license
20 proposes to operate.

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

1 may waive the provisions of this subsection upon a showing of
2 good cause.

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

6 (18) As used in this section:

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

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

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

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

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