

Act No. 391
Public Acts of 1998
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Bullard, Steil, Cherry, Miller, Byrum, Koivisto, Dingell, Hart, DeBeaussiaert and V. Smith

ENROLLED SENATE BILL No. 1030

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," (MCL 436.1101 to 436.2303) by adding section 906.

The People of the State of Michigan enact:

Sec. 906. (1) As used in this section:

(a) "Administrator" means a qualifying company, postsecondary educational institution, or trade association authorized by the commission to offer server training programs and instructor certification classes in compliance with this section and to certify to the commission that those persons meet the requirements of this section.

(b) "Instructor" means an individual certified by an administrator and approved by the commission to teach server training programs.

(c) "Prohibited sale" means the sale of alcoholic liquor by an employee of a licensee to a visibly intoxicated person or to a minor, or both.

(d) "Responsible vendor" means a designation by the commission of a retail licensee meeting the standards of this section.

(e) "Server training program" means an educational program whose curriculum has been approved by the commission under the standards described in this section and is offered by an administrator to a retail licensee for its employees.

(2) The commission shall establish a program in which the commission designates certain retail licensees as responsible vendors. The commission may adopt the existing standards and programmatic framework of private entities and may delegate nondiscretionary administrative functions to outside private entities.

(3) The commission shall designate as a responsible vendor a retail licensee who makes available to all full-time and part-time retail employees, within 60 days after being hired, a server training program and who is also free of convictions or administrative determinations involving prohibited sales for not less than 12 months before applying for the designation. The designation continues until suspended by the commission.

(4) A person may apply to the commission for qualification as an administrator for the offering of server training programs and instructor certification classes.

(5) The commission shall approve a curriculum for a server training program presented by a certified instructor in a manner considered by the commission to be adequate that includes, but is not limited to, all of the following topics:

- (a) The identification of progressive stages of intoxication and the visible signs associated with each stage.
- (b) The identification of the time delay between consumption and visibility of signs of progressive intoxication.
- (c) Basic alcohol content among different types of measured drinks containing alcoholic liquor.
- (d) Variables associated with visible intoxication, including the rate of drinking, experience, weight, food consumption, sex, and use of other drugs.
- (e) Personal skills to handle slow-down of service and intervention procedures.
- (f) Procedures for monitoring consumption and maintaining incident reports.
- (g) The understanding of acceptable forms of personal identification, techniques for determining the validity of identification, and procedures for dealing with fraudulent identification.
- (h) Assessment of the need to ask for identification based on appearance or company policy.
- (i) The identification of potential second-party sales and furnishing alcohol to minors by persons 21 years of age or over.
- (j) The understanding of possible legal, civil, and administrative consequences of violations of this act, the rules of the commission, and other pertinent state laws.
- (k) The understanding of Michigan laws pertaining to minors attempting to purchase, minors in possession, and second-party sales or furnishing of alcohol from adults to minors.
- (l) Knowledge of the legal hours of alcohol service and occupancy.
- (m) The identification of signs of prohibited activities, such as gambling, solicitation for prostitution, and drug sales.
- (n) Any other pertinent laws as determined by the commission.

(6) The commission shall issue an instructor certification to an individual presenting evidence acceptable to the commission of having successfully completed instructor certification classes and shall issue an identification card indicating that certification by the commission.

(7) Upon approval by the commission of a server training program, the commission shall appoint the person sponsoring the server training program as an administrator of that program. The administrator shall provide a certification to the commission that a retail licensee has successfully completed the server training program offered by a certified instructor and approved by the commission and shall recommend that the commission designate the licensee as a responsible vendor.

(8) As a condition of the designation of a licensee as a responsible vendor, the licensee shall make available to the administrator in not less than 60-day time increments records sufficient to verify the names and social security numbers of his or her employees. The administrator shall provide to the commission a list of names and social security numbers of individuals who have successfully completed the server training program and shall monitor the licensee in a manner approved by the commission in order to verify continued compliance of the licensee's status as a responsible vendor. The administrator shall notify the commission in writing as soon as it determines that the licensee has failed to maintain the standards for server training or has failed to cooperate with the administrator's verification procedure. Upon receipt of such a notice from the administrator, the commission shall suspend the licensee's designation as a responsible vendor.

(9) The commission may suspend the designation of a retail licensee as a responsible vendor upon a conviction or administrative determination of a prohibited sale on the licensee's licensed premises. The retail licensee losing such a designation may reapply for designation as a responsible vendor upon the passage of 12 months from the date of the conviction or administrative determination of a prohibited sale if the licensee is not convicted or administratively determined to have engaged in a prohibited sale on the licensed premises. After the first instance of a retail licensee losing its designation as a responsible vendor, that retail licensee is not eligible to reapply for such a designation until an additional 3 months for each subsequent conviction or determination. The 3-month time periods are to be in addition to the 12-month period described in this subsection.

(10) A responsible vendor is not considered to be in violation of the prohibition contained in R 436.1005(4) of the Michigan administrative code regarding allowing an intoxicated person to frequent or loiter on the licensed premises unless the facts demonstrate otherwise.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Maya R. Sullivan

Clerk of the House of Representatives.

Approved _____

Governor.