

**SENATE BILL NO. 477**

March 24, 1999, Introduced by Senator KOIVISTO and referred to the Committee on Gaming and Casino Oversight.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 217, 903, and 1023 (MCL 436.1217, 436.1903, and 436.2023), section 903 as amended by 1998 PA 416.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 217. (1) The commission may make investigations that  
2 it considers proper in the administration of this act and the  
3 rules promulgated under this act concerning alcoholic liquor,  
4 ~~or~~ the manufacture, distribution, or sale of alcoholic liquor,  
5 ~~or~~ the collection of taxes on alcoholic liquor, OR VIDEO LOT-  
6 TERY VIOLATIONS UNDER THE MICHIGAN VIDEO GAMING ACT OR RULES  
7 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 this act OR THE MICHIGAN VIDEO GAMING ACT AND RULES UNDER  
2 THAT ACT during regular business hours or when the licensed  
3 premises are occupied by the licensee or a clerk, servant, agent,  
4 or employee of the licensee. Evidence of a violation ~~of this~~  
5 ~~act or rules promulgated under this act~~ discovered under this  
6 subsection may be seized and used in an administrative or court  
7 proceeding.

8 (3) The commission or ~~a duly~~ AN authorized agent of the  
9 commission may examine or copy the books, records, or papers of a  
10 person relative to a requirement pertaining to this act, access  
11 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 person  
14 to appear before the commission or its ~~duly~~ authorized agent at  
15 any reasonable time and place, to be examined with reference to  
16 any matter within the scope of the inquiry or investigation being  
17 conducted by the commission, and to produce any books, records,  
18 or papers pertaining to the question involved.

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

23 (6) In case of disobedience of a subpoena, the commission or  
24 its ~~duly~~ authorized agent may invoke the aid of any circuit  
25 court of the state to compel the attendance and testimony of wit-  
26 nesses and the production of books, records, and papers  
27 pertaining to the question involved. A circuit court of this

1 state within the jurisdiction of which the inquiry is conducted  
2 may, in case of contumacy or refusal to obey a subpoena, issue an  
3 order requiring the person to appear before the commission or  
4 ~~its duty~~ AN authorized agent OF THE COMMISSION, to produce  
5 books, records, and papers if so ordered, and to give evidence  
6 regarding the matter in question. Failure to obey the order of  
7 the court may be punished by the court as a contempt of court.

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

11 (8) A sheriff's department or police department, ~~shall,~~  
12 upon request of the commission, SHALL cause to be served a sub-  
13 poena that is directed to a person located within the jurisdic-  
14 tion of the sheriff's department or police department. A fee  
15 shall not be charged for this service by the sheriff's department  
16 or police department. Subpoenas may also be served by an inves-  
17 tigator of the commission.

18 (9) The commission shall adopt a suitable seal, of which all  
19 courts of the state shall take judicial notice, and all proceed-  
20 ings, orders, licenses, and official acts of the commission shall  
21 be authenticated by that seal. Certified copies of the orders  
22 and records of the commission shall be prima facie evidence of  
23 the acts of the commission in any court of this state.

24 Sec. 903. (1) The commission or any commissioner or ~~duly~~  
25 authorized agent of the commission designated by the chairperson  
26 of the commission, upon due notice and proper hearing, may  
27 suspend or revoke any license upon a violation of this act or any

1 of the rules promulgated by the commission under this act. IN  
2 THE CASE OF A LICENSEE HOLDING A VIDEO LOTTERY ESTABLISHMENT  
3 LICENSE UNDER THE MICHIGAN VIDEO GAMING ACT, THE COMMISSION MAY  
4 SUSPEND OR REVOKE A LICENSEE'S LICENSE FOR A VIOLATION OF THE  
5 MICHIGAN VIDEO GAMING ACT OR ANY RULES PROMULGATED UNDER THAT  
6 ACT. The commission or any commissioner or ~~duly~~ authorized  
7 agent of the commission designated by the chairperson of the com-  
8 mission ~~,~~ may assess a penalty of not more than \$300.00 for  
9 each violation, ~~of this act or rules promulgated under this~~  
10 ~~act,~~ or not more than \$1,000.00 for each violation of  
11 section 801(2), in addition to or ~~in lieu~~ INSTEAD of revocation  
12 or suspension of the license, which penalty shall be paid to the  
13 commission and deposited with the state treasurer and shall be  
14 credited to the general fund of the state. The commission shall  
15 hold a hearing and order the suspension or revocation of a  
16 license if the licensee has been found liable for 3 or more sepa-  
17 rate violations of section 801(2), which violations occurred on  
18 different occasions within a 24-month period.

19 (2) The commission shall provide a procedure by which a  
20 licensee who is aggrieved by any penalty imposed under subsection  
21 (1) ~~and~~ OR any suspension or revocation of a license ordered by  
22 the commission, a commissioner, or ~~a duly~~ AN authorized agent  
23 of the commission may request a hearing for the purpose of  
24 presenting any facts or reasons to the commission as to why the  
25 penalty, suspension, or revocation should be modified or  
26 rescinded. Any such request shall be in writing and accompanied  
27 by a fee of \$25.00. The commission, after reviewing the record

1 made before a commissioner or ~~a duly~~ AN authorized agent of the  
2 commission, may allow or refuse to allow the hearing in accord-  
3 ance with the commission's rules. The right to a hearing pro-  
4 vided in this subsection, however, shall not be interpreted by  
5 any court as curtailing, removing, or annulling the right of the  
6 commission to suspend or revoke licenses as provided for in this  
7 act. A licensee does not have a right of appeal from the final  
8 determination of the commission, except by leave of the circuit  
9 court. Notice of the order of suspension or revocation of a  
10 license or of the assessment of a penalty, or both, shall be  
11 given in the manner prescribed by the commission. The suspension  
12 or revocation of a license or the assessment of a penalty, or  
13 both, by the commission or ~~a duly~~ AN authorized agent of the  
14 commission does not prohibit the institution of a criminal prose-  
15 cution for a violation of this act. The institution of a crimi-  
16 nal prosecution for a violation of this act or the acquittal or  
17 conviction of a person for a violation of this act does not pre-  
18 vent the suspension or revocation of a license or the assessment  
19 of a penalty, or both, by the commission. In a hearing for the  
20 suspension or revocation of a license issued under this act,  
21 proof that the defendant licensee or an agent or employee of the  
22 licensee demanded and was shown, before furnishing any alcoholic  
23 liquor to a minor, a motor vehicle operator or chauffeur license  
24 or a registration certificate issued by the federal selective  
25 service, or other bona fide documentary evidence of majority and  
26 identity of the person, may be offered as evidence in a defense  
27 to a proceeding for the suspension or revocation of a license

1 issued under this act. A licensee who has reason to believe that  
2 a minor has used fraudulent identification to purchase alcoholic  
3 liquor in violation of section 703 shall file a police report  
4 concerning the violation with a local law enforcement agency and  
5 shall also present the alleged fraudulent identification to the  
6 local law enforcement agency at the time of filing the report if  
7 the identification is in the possession of the licensee. The  
8 commission may promulgate rules pursuant to the administrative  
9 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328,  
10 regarding the utilization by licensees of equipment designed to  
11 detect altered or forged driver licenses, state identification  
12 cards, and other forms of identification.

13 (3) In addition to the hearing commissioners provided for in  
14 section 209, the chairperson of the commission may designate not  
15 more than 2 ~~fully~~ authorized agents to hear violation cases. A  
16 person appointed under this subsection shall be a member in good  
17 standing of the state bar of Michigan.

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

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

1           Sec. 1023. The commission shall not prohibit licensees from  
2 allowing pinball machines on the premises for the purpose of  
3 amusement.

4           (2) THE COMMISSION SHALL NOT PROHIBIT A LICENSEE FROM  
5 OBTAINING A VIDEO LOTTERY ESTABLISHMENT LICENSE UNDER THE  
6 MICHIGAN VIDEO GAMING ACT. THE REVENUE GENERATED BY A LICENSEE  
7 THROUGH THE CONDUCT OF A VIDEO LOTTERY IS SUBJECT TO THE REGULA-  
8 TION AND ALLOCATION FORMULA PROVIDED FOR IN THE MICHIGAN VIDEO  
9 GAMING ACT.

10          Enacting section 1. This amendatory act does not take  
11 effect unless all of the following bills of the 90th Legislature  
12 are enacted into law:

13           (a) Senate Bill No. 480.

14

15           (b) Senate Bill No. 478.

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