

## LIQUOR LICENSE: REDEVELOPMENT PROJECT

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**Senate Bill 162 with committee amendment**  
**Sponsor: Sen. Gilda Z. Jacobs**

**Senate Bill 163 as passed by the Senate**  
**Sponsor: Sen. Jason E. Allen**  
**House Committee: Regulatory Reform**  
**Senate Committee: Economic Development, Small Business and Regulatory Reform**

**Complete to 11-29-06**

## A SUMMARY OF SENATE BILLS 162 AND 163 AS REPORTED FROM COMMITTEE 11-14-06

**BRIEF SUMMARY:** The bills would allow on-premises liquor licenses to be issued to businesses located in *city redevelopment projects* or in *development districts*. These new kind of licenses would not be subject to the liquor code's quota system. The bill would also eliminate the authority to issue new development district licenses of the kind that currently can be awarded (though current licenses would still be valid and could be renewed). The bills are tie-barred to each other, meaning neither could take effect unless both were enacted. A more detailed description follows later.

**FISCAL IMPACT:** Senate Bill 162 provides for additional State and local revenue from the creation of a new liquor license fee of \$20,000 for city redevelopment projects meeting certain criteria. The Michigan Liquor Control Code says that 41.5 percent of the new revenue will be allocated to the Liquor Control Commission for its operations, 55 percent will go to the local community, and 3.5 percent will be used for alcohol treatment and prevention programs. These licenses are not transferable, and if a licensee goes out of business, the license reverts to the Liquor Control Commission. The amount of the revenue increase will depend on the number of qualifying businesses and localities seeking the new licenses, and the approval of the Liquor Control Commission. Therefore, the number of new licenses to be granted annually is currently not determinable.

## DETAILED SUMMARY:

### Senate Bill 162

Senate Bill 162 would amend the Michigan Liquor Control Code (MCL 436.1521a) to do the following:

- Allow the Liquor Control Commission to issue public on-premises licenses, in addition to the quota licenses allowed, to businesses engaged in activities related to dining, entertainment, and recreation, and located in city redevelopment project areas or in development districts established under various statutes.
- Set an initial license fee of \$20,000.
- Establish thresholds on the amount of investment in a project area or a development district.

- Prohibit the LCC from transferring a license to another location and require the licensee to surrender the license if it goes out of business.
- Allow a local governmental unit to approve another applicant within a city redevelopment project area to replace a business that had surrendered a license.
- Require a license applicant to demonstrate that he or she attempted to secure an on-premises escrowed license or quota license and that such a license was not readily available within the local unit where the applicant proposed to operate.

Under the bill, the Liquor Control Commission could issue public on-premises licenses in addition to those quota licenses allowed in cities under Section 531(1) (which limits the number of public licenses granted for the sale of alcoholic liquor for on-premises consumption to one for each 1,500 of population). The LCC could issue the licenses "in order to allow cities to enhance the quality of life for their residents and visitors to their communities." The licenses would have to be issued to businesses that were located either in a city redevelopment project area, or in a development district or area that was any of the following:

- \*\* An authority district established under the Tax Increment Finance Authority Act.
- \*\* A development area established under the Corridor Improvement Authority Act.
- \*\* A downtown district established under the Downtown Development Authority Act.
- \*\* A principal shopping district established under the Principal Shopping District Act.

Redevelopment Project Area License. The LCC could not issue a license to a business located in a city redevelopment project area unless the applicant fulfilled the following in relation to the licensed premises:

- \*\* Provided activities determined by the LCC to be related to dining, entertainment, or recreation at least five days a week.
- \*\* Was open to the public at least 10 hours per day, five days a week.
- \*\* Presented verification of redevelopment project area status to the LCC.

The verification would have to include a resolution of the governing body of the city establishing its status as a redevelopment project area; and an affidavit from the assessor, as certified by the city clerk, stating the total amount of investment in real and personal property within the redevelopment project area of the city during the preceding three years. Additionally, the verification would have to include an affidavit from the assessor, as certified by the city clerk, separately stating the amount of investment money spent for manufacturing, industrial, residential, and commercial development within the redevelopment area of the city during the preceding three years.

In the case of an applicant seeking a license within the first license cycle after the bill's effective date, the time period covered by the assessor's affidavits could be up to five years, or seven years for a city having a population between 80,000 and 85,000 according to the 2000 federal decennial census if the application were submitted within six months after the bill's effective date.

The amount of commercial investment in the redevelopment project area within the city would have to constitute at least 25 percent of the total investment in real and personal property in that redevelopment project area as evidenced by an affidavit of the city assessor.

This would not prevent the city from realigning the redevelopment project area in the presentment of verification provided for above.

An applicant would have to be located in a city that met at least one of the investment requirements described below during the three years preceding application, or within the preceding five years in the case of an applicant applying during the first license cycle after the bill's effective date. The total investment in real and personal property in the redevelopment project area within the city over the appropriate time period would have to be one of the following:

- At least \$50 million in cities having a population of 50,000 or more.
- At least an amount reflecting \$1 million per 1,000 people in cities with a population under 50,000.

The LCC could issue a license for each monetary threshold and, after reaching the initial threshold, one additional license for each major fraction of it above the original threshold.

Development District or Area License. A licensed business located in a development district or area would have to be engaged in dining, entertainment, or recreation; be open to the general public; and have a minimum seating capacity of 50 people.

The amount spent for the rehabilitation or restoration of the building that housed the licensed premises would have to be at least \$75,000 over the preceding five years or a commitment for a capital investment of at least that amount in the building, which would have to be spent before the license was issued.

In addition, the total amount of public or private investment in real and personal property within the qualified redevelopment project area would have to be at least \$200,000 over the preceding five years, as verified to the LCC by an affidavit from the assessor, certified by the clerk of the local governmental unit. The commission could issue one license for each \$200,000 of investment, or for each major fraction of that amount.

License Transfer. The LCC could not transfer a license issued under the bill to another location. A licensee that went out of business would have to surrender the license to the LCC. The governing body of the local governmental unit could approve another applicant within a city redevelopment project area to replace a licensee that had surrendered the license, if the new applicant's business met the requirements of the bill (except those related to verification of redevelopment project area status, investment in the redevelopment project area, and investment within the qualified redevelopment project area).

Unavailability of Quota License. The individual signing the application for a license under the bill would have to state and demonstrate that the applicant attempted to secure an appropriate on-premises escrowed license or quota license issued under Section 531 and that, to the best of his or her knowledge, such a license was not readily available within the local unit of government in which the applicant proposed to operate.

The bill would define "readily available" as available under a standard of economic feasibility, as applied to the applicant's specific circumstances, that included the following:

- \*\* The fair market value of the license, if determinable.
- \*\* The size and scope of the proposed operation.
- \*\* The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

"Escrowed license" would mean a license in which the rights of the licensee in the license or to the renewal of the license still exist and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan Administrative Code. (Under that rule, a license that is not in active operation must be placed in escrow with the LCC, and the licensee has five licensing years after the expiration date of the escrowed license to put it into active operation. A license held in escrow must be renewed each year in the same manner as an active license.)

### Senate Bill 163

Senate Bill 163 would amend the Michigan Liquor Control Code (MCL 436.1521) to eliminate the LCC's authority to issue development district licenses to restaurants that meet certain criteria; however, current licenses would remain valid and could be renewed if licensing requirements continued to be met. An explanation of those kind of licenses follows.

Under the Michigan Liquor Control Code, in addition to any licenses for the sale of alcoholic liquor for on-premises consumption that may be available in the local governmental unit under Section 531(1), and resort and economic development licenses, the Liquor Control Commission may issue a maximum of 50 tavern or Class C licenses to people who operate businesses in development districts. (Tavern licenses allow the sale of beer and wine for consumption on the premises. Class C licenses allow the sale of beer, wine, mixed drinks, and spirits for on-premises consumption.) The businesses must meet all of the following conditions:

- The business is a full-service restaurant, is open to the public, and prepares food on the premises.
- The business is open for food service at least 10 hours per day, five days a week.
- At least 50 percent of the gross receipts of the business are derived from the sale of food (excluding beer and wine) for consumption on the premises.
- The business has dining facilities to seat at least 25 people.
- The business is located in a development district with a population of not more than 50,000, in which the authority, after a public hearing, has found that the issuance of the license would prevent further deterioration within the development district and promote economic growth within it.

"Development district" means any of the following:

- An authority district established under the Tax Increment Financing Authority Act.
- An authority district established under the Local Development Financing Act.
- A downtown district established under the Downtown Development Authority Act.
- A principal shopping district established under the Principal Shopping District Act.

Under the bill, beginning on the effective date of Senate Bill 162, the commission could not issue any tavern or Class C licenses under these provisions. The licenses issued before the effective date of that bill would remain valid and could be renewed if in compliance with the licensing requirements. The bill would also delete provisions related to the issuance of development district licenses.

#### **HOUSE COMMITTEE ACTION:**

An amendment was adopted for Senate Bill 162 to clarify that the \$20,000 fee for a redevelopment project liquor license was for the initial license.

#### **BACKGROUND:**

The bills would address a situation that has resulted from previous legislation that allowed for the county-wide transfer of escrowed liquor licenses. Class C licenses, which allow for the on-premises consumption of beer, wine, and spirits, are issued on a population quota system. Once a community's licenses are issued to existing businesses, or sold to businesses in other communities in the same county, a business wanting a Class C license would have to try to buy an escrowed license from elsewhere in the county, if available. The bills would instead create a new revitalization project license that was not subject to the quota system, but would have to meet strict criteria outlined in the bills.

#### **POSITIONS:**

The Michigan Economic Development Corporation supports the bills. (11-28-06)

The Michigan Liquor Control Commission indicated support for the bills. (11-28-06)

The Michigan Municipal League indicated support for the bills. (11-28-06)

The Michigan Restaurant Association is neutral on the bills. (11-28-06)

The Michigan Licensed Beverage Association is neutral on the bills. (11-28-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.