

The Committee on Regulatory Reform offered the following substitute (H-3):

**SUBSTITUTE FOR
HOUSE BILL NO. 6449**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 501 (MCL 436.1501), as amended by 2000 PA
431.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 501. (1) The commission may issue licenses as provided
2 in this act upon the payment of the fees provided in section 525
3 and the filing of the bonds required in section 801 or liability
4 insurance as provided in section 803. ~~Beginning not later than~~
5 ~~July 1, 2002 and subject~~ **THE COMMISSION SHALL PROVIDE A**
6 **NOTIFICATION OF THE ABILITY OF THE PURCHASER OR TRANSFEREE TO**
7 **OBTAIN A TAX CLEARANCE CERTIFICATE, IN THE MANNER PROVIDED FOR IN**
8 **SUBSECTION (6). SUBJECT** to section 906(2) and (3), the commission

1 shall not issue a new on premises license or transfer more than
2 50% interest in an existing on premises license unless the
3 applicant or transferee offers proof acceptable to the commission
4 that he or she has employed or has present on the licensed
5 premises, at a minimum, supervisory personnel on each shift and
6 during all hours in which alcoholic liquor is served who have
7 successfully completed a server training program as further
8 described in section 906. The commission may consider an
9 individual enrolled and actively participating in a server
10 training program as having successfully completed the program for
11 such time as the individual is participating. The commission may
12 allow an applicant or a conditionally approved licensee at least
13 180 days, or more upon a showing of good cause, to meet the
14 minimum personnel training requirements of this subsection. The
15 commission may suspend the license of a conditionally approved
16 licensee for failure to comply with this subsection. The
17 commission may waive the server training requirements of this
18 subsection on the basis of either of the following circumstances:

19 (a) The licensee's responsible operating experience or
20 training.

21 (b) The person's demonstration of an acceptable level of
22 responsible operation either as a licensee during the preceding 3
23 years or as a manager with substantial experience in serving
24 alcoholic liquor.

25 (2) A full-year license issued by the commission shall
26 expire on April 30 following the date of issuance or the date
27 fixed by the commission. A license issued under this act shall be

1 construed as a contract between the commission and the licensee
2 and shall be signed by both parties. If a licensee dies, the
3 commission may approve the operation of the establishment by a
4 personal representative or independent personal representative
5 duly appointed by a court of competent jurisdiction, pending the
6 settlement of the estate of the deceased licensee. The commission
7 may approve a receiver or trustee appointed by a court of
8 competent jurisdiction to operate the licensed establishment of a
9 licensee. The commission may grant a part-year license for a
10 proportionate part of the license fee specified in section 525.
11 In a resort area the commission shall grant a license for a
12 period of time as short as 3 months. A license may be transferred
13 with the consent of the commission. A class C or specially
14 designated distributor license obtained in a manner other than by
15 transfer shall not be transferred within 3 years after its
16 issuance except under circumstances where the licensee clearly
17 and convincingly demonstrates that unusual hardship will result
18 if the transfer does not receive the consent of the commission.
19 An application for a license to sell alcoholic liquor for
20 consumption on the premises, except in a city having a population
21 of 750,000 or more, shall be approved by the local legislative
22 body in which the applicant's place of business is located before
23 the license is granted by the commission, except that in the case
24 of an application for renewal of an existing license, if an
25 objection to a renewal has not been filed with the commission by
26 the local legislative body not less than 30 days before the date
27 of expiration of the license, the approval of the local

1 legislative body shall not be required. The commission shall
2 provide the local legislative body and the local chief of police
3 with the name, home and business addresses, and home and business
4 phone numbers to accomplish the local legislative reviews of new
5 and transferred license applications required by this subsection.
6 Upon request of the local legislative body after due notice and
7 proper hearing by the local legislative body and the commission,
8 the commission shall revoke the license of a licensee granted a
9 license to sell alcoholic liquor for consumption on the premises
10 or any permit held in conjunction with that license.

11 (3) A local legislative body, by resolution, may request
12 that the commission revoke the license of a licensee granted a
13 license to sell alcoholic liquor for consumption off the premises
14 whose place of business is located within the local legislative
15 body's jurisdiction and who has been determined pursuant to
16 commission violation hearings to have sold or furnished alcoholic
17 liquor, on at least 3 separate occasions in a single calendar
18 year, to a ~~person who is less than 21 years of age~~ **MINOR** if
19 those violations did not involve the use of falsified or
20 fraudulent identification by the ~~person who is less than 21~~
21 ~~years of age~~ **MINOR**. If the commission verifies that the licensee
22 who is the subject of the resolution has been found to have
23 committed the violations as prescribed in this subsection, the
24 commission may suspend or revoke the licensee's license and any
25 permit held in conjunction with that license.

26 (4) This act does not prohibit a hotel which is or was the
27 holder of a license authorizing the retail sale of alcoholic

1 liquor for consumption on the premises from applying for and
2 receiving under this act any other and different type of license
3 authorizing the retail sale of alcoholic liquor for consumption
4 on the premises, and the application for the license shall not be
5 considered a new application for a license so long as the total
6 number of public licenses for consumption on the premises does
7 not exceed the authorized total established in this act and the
8 sale of alcoholic liquor is approved by the electors. The
9 commission may divide the state into 3 zones and establish for
10 each zone an anniversary date for renewal of full-year retail
11 licenses in the licensing year. The commission shall promulgate
12 rules pursuant to the administrative procedures act of 1969, 1969
13 PA 306, MCL 24.201 to 24.328, for the effective administration of
14 the renewal of licenses.

15 (5) The commission, with the written approval of the
16 department of agriculture in the case of the Michigan state
17 fairgrounds and the Upper Peninsula state fairgrounds, may issue
18 without regard to the quota provision of section 531 a tavern
19 license to a person as concessionaire leasing or renting a
20 portion of either the Upper Peninsula state fairgrounds or the
21 state fairgrounds, or both, to service the licensed area in use
22 for recreational or exhibition purposes other than at the time of
23 the annual Upper Peninsula state fair under section 2 of 1927 PA
24 89, MCL 285.142. A license issued under this subsection is not
25 transferable.

26 (6) **THE APPLICATION FOR INITIAL LICENSURE OR FOR A TRANSFER**
27 **OF A LICENSE SHALL CONTAIN A NOTICE IN SUBSTANTIAL COMPLIANCE**

1 WITH THE FOLLOWING:

2 WHEN PURCHASING A LICENSE, A BUYER CAN BE HELD LIABLE
3 FOR TAX DEBTS INCURRED BY THE PREVIOUS OWNER. PRIOR TO
4 COMMITTING TO THE PURCHASE OF ANY LICENSE OR ESTABLISHMENT,
5 THE BUYER SHOULD REQUEST A TAX CLEARANCE CERTIFICATE
6 FROM THE SELLER THAT INDICATES THAT ALL TAXES HAVE BEEN
7 PAID UP TO THE DATE OF ISSUANCE. OBTAINING SOUND
8 PROFESSIONAL ASSISTANCE FROM AN ATTORNEY OR ACCOUNTANT
9 CAN BE HELPFUL TO IDENTIFY AND AVOID ANY PITFALLS
10 AND HIDDEN LIABILITIES WHEN BUYING EVEN A PORTION
11 OF A BUSINESS.
12 SELLERS CAN MAKE A REQUEST FOR THE TAX CLEARANCE
13 CERTIFICATE THROUGH THE MICHIGAN DEPARTMENT OF TREASURY.