

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 257

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 525, 531, and 543 (MCL 436.1525, 436.1531, and
436.1543), section 525 as amended by 2004 PA 266 and sections 531
and 543 as amended by 2004 PA 191.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 525. (1) Except as otherwise provided for in this
2 section, the following license fees shall be paid at the time of
3 filing applications or as otherwise provided in this act:

4 (a) Manufacturers of spirits, but not including makers,
5 blenders, and rectifiers of wines containing 21% or less alcohol by
6 volume, \$1,000.00.

7 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or

1 fraction of a barrel, production annually with a maximum fee of
2 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
3 delivery to retail licensees. A fee increase does not apply to a
4 manufacturer of less than 15,000 barrels production per year.

5 (c) Outstate seller of beer, delivering or selling beer in
6 this state, \$1,000.00.

7 (d) Wine makers, blenders, and rectifiers of wine, including
8 makers, blenders, and rectifiers of wines containing 21% or less
9 alcohol by volume, \$100.00. The small wine maker license fee is
10 \$25.00.

11 (e) Outstate seller of wine, delivering or selling wine in
12 this state, \$300.00.

13 (f) Outstate seller of mixed spirit drink, delivering or
14 selling mixed spirit drink in this state, \$300.00.

15 (g) Dining cars or other railroad or Pullman cars selling
16 alcoholic liquor, \$100.00 per train.

17 (h) Wholesale vendors other than manufacturers of beer,
18 \$300.00 for the first motor vehicle used in delivery to retail
19 licensees and \$50.00 for each additional motor vehicle used in
20 delivery to retail licensees.

21 (i) Watercraft, licensed to carry passengers, selling
22 alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of
23 \$500.00 per year computed on the basis of \$1.00 per person per
24 passenger capacity.

25 (j) Specially designated merchants, for selling beer or wine
26 for consumption off the premises only but not at wholesale, \$100.00
27 for each location regardless of the fact that the location may be a

1 part of a system or chain of merchandising.

2 (k) Specially designated distributors licensed by the
3 commission to distribute spirits and mixed spirit drink in the
4 original package for the commission for consumption off the
5 premises, \$150.00 per year, and an additional fee of \$3.00 for each
6 \$1,000.00 or major fraction of that amount in excess of \$25,000.00
7 of the total retail value of merchandise purchased under each
8 license from the commission during the previous calendar year.

9 (l) Hotels of class A selling beer and wine, a minimum fee of
10 \$250.00 and, for all bedrooms in excess of 20, \$1.00 for each
11 additional bedroom, but not more than \$500.00.

12 (m) Hotels of class B selling beer, wine, mixed spirit drink,
13 and spirits, a minimum fee of \$600.00 and, for all bedrooms in
14 excess of 20, \$3.00 for each additional bedroom. If a hotel of
15 class B sells beer, wine, mixed spirit drink, and spirits in more
16 than 1 public bar, the fee entitles the hotel to sell in only 1
17 public bar, other than a bedroom, and a license shall be secured
18 for each additional public bar, other than a bedroom, the fee for
19 which is \$350.00.

20 (n) Taverns, selling beer and wine, \$250.00.

21 (o) Class C license selling beer, wine, mixed spirit drink,
22 and spirits, \$600.00. If a class C licensee sells beer, wine, mixed
23 spirit drink, and spirits in more than 1 bar, a fee of \$350.00
24 shall be paid for each additional bar. In municipally owned or
25 supported facilities in which nonprofit organizations operate
26 concession stands, a fee of \$100.00 shall be paid for each
27 additional bar.

1 (p) Clubs selling beer, wine, mixed spirit drink, and spirits,
2 \$300.00 for clubs having 150 or fewer duly accredited members and
3 \$1.00 for each additional member. The membership list for the
4 purpose only of determining the license fees to be paid under this
5 ~~section~~ **SUBDIVISION** shall be the accredited list of members as
6 determined by a sworn affidavit 30 days before the closing of the
7 license year. This ~~section~~ **SUBDIVISION** does not prevent the
8 commission from checking a membership list and making its own
9 determination from the list or otherwise. The list of members and
10 additional members is not required of a club paying the maximum
11 fee. The maximum fee shall not exceed \$750.00 for any 1 club.

12 (q) Warehousemen, to be fixed by the commission with a minimum
13 fee for each warehouse of \$50.00.

14 (r) Special licenses, a fee of \$50.00 per day, except that the
15 fee for that license or permit issued to any bona fide nonprofit
16 association, duly organized and in continuous existence for 1 year
17 before the filing of its application, is \$25.00. Not more than 5
18 special licenses may be granted to any organization, including an
19 auxiliary of the organization, in a calendar year.

20 (s) Airlines licensed to carry passengers in this state that
21 sell, offer for sale, provide, or transport alcoholic liquor,
22 \$600.00.

23 (t) Brandy manufacturer, \$100.00.

24 (u) Mixed spirit drink manufacturer, \$100.00.

25 (v) Brewpub, \$100.00.

26 (w) Class G-1, \$1,000.00.

27 (x) Class G-2, \$500.00.

(2) The fees provided in this act for the various types of licenses shall not be prorated for a portion of the effective period of the license. **NOTWITHSTANDING SUBSECTION (1), THE INITIAL LICENSE FEE FOR ANY LICENSES ISSUED UNDER SECTION 531(3) AND (4) IS \$20,000.00. THE RENEWAL LICENSE FEE SHALL BE THE AMOUNT DESCRIBED IN SUBSECTION (1). HOWEVER, THE COMMISSION SHALL NOT IMPOSE THE \$20,000.00 INITIAL LICENSE FEE FOR APPLICANTS WHOSE LICENSE ELIGIBILITY WAS ALREADY APPROVED ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE.**

(3) Beginning ~~the effective date of the amendatory act that added this subsection~~ **JULY 23, 2004**, and except in the case of any resort or resort economic development license issued under section 531(2), (3), (4), and (5) and a license issued under section 521, the commission shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the commission, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled under any of the following circumstances:

1 (a) Notice sent by the commission of a deficiency in the
2 application until the date all of the requested information is
3 received by the commission.

4 (b) The time period during which actions required by a party
5 other than the applicant or the commission are completed that
6 include, but are not limited to, completion of construction or
7 renovation of the licensed premises; mandated inspections by the
8 commission or by any state, local, or federal agency; approval by
9 the legislative body of a local unit of government; criminal
10 history or criminal record checks; financial or court record
11 checks; or other actions mandated by this act or rule or as
12 otherwise mandated by law or local ordinance.

13 (4) If the commission fails to issue or deny a license within
14 the time required by this section, the commission shall return the
15 license fee and shall reduce the license fee for the applicant's
16 next renewal application, if any, by 15%. The failure to issue a
17 license within the time required under this section does not allow
18 the ~~department~~ **COMMISSION** to otherwise delay the processing of
19 the application, and that application, upon completion, shall be
20 placed in sequence with other completed applications received at
21 that same time. The commission shall not discriminate against an
22 applicant in the processing of the application based upon the fact
23 that the license fee was refunded or discounted under this
24 subsection.

25 (5) Beginning October 1, 2005, the chair of the commission
26 shall submit a report by December 1 of each year to the standing
27 committees and appropriations subcommittees of the senate and house

1 of representatives concerned with liquor license issues. The chair
2 of the commission shall include all of the following information in
3 the report concerning the preceding fiscal year:

4 (a) The number of initial and renewal applications the
5 commission received and completed within the 90-day time period
6 described in subsection (3).

7 (b) The number of applications denied.

8 (c) The number of applicants not issued a license within the
9 90-day time period and the amount of money returned to licensees
10 under subsection (4).

11 (6) As used in this section, "completed application" means an
12 application complete on its face and submitted with any applicable
13 licensing fees as well as any other information, records, approval,
14 security, or similar item required by law or rule from a local unit
15 of government, a federal agency, or a private entity but not from
16 another department or agency of the state of Michigan.

17 Sec. 531. (1) A public license shall not be granted for the
18 sale of alcoholic liquor for consumption on the premises in excess
19 of 1 license for each 1,500 of population or major fraction
20 thereof. On-premises escrowed licenses issued under this subsection
21 may be transferred subject to local legislative approval under
22 section 501(2) to an applicant whose proposed operation is located
23 within any local governmental unit in a county in which the
24 escrowed license was located. However, beginning ~~the effective~~
25 ~~date of the amendatory act that added this sentence~~ **JULY 8, 2004,**
26 and until July 1, 2009, if the on-premises escrowed license was
27 issued to a location within a city with a population of over

1 190,000 but under 300,000, the on-premises escrowed license shall
2 not be transferred to an applicant whose proposed operation is
3 located within any other local governmental unit in the county in
4 which that city is located and, in addition, an escrowed license
5 located within any local governmental unit in that county is not
6 transferable into the city with a population of over 190,000 but
7 under 300,000. If the local governmental unit within which the
8 former licensee's premises were located spans more than 1 county,
9 an escrowed license is available subject to local legislative
10 approval under section 501(2) to an applicant whose proposed
11 operation is located within any local governmental unit in either
12 county. If an escrowed license is activated within a local
13 governmental unit other than that local governmental unit within
14 which the escrowed license was originally issued, the commission
15 shall count that activated license against the local governmental
16 unit originally issuing the license. This quota does not bar the
17 right of an existing licensee to renew a license or transfer the
18 license and does not bar the right of an on-premise licensee of any
19 class to reclassify to another class of on-premises license in a
20 manner not in violation of law or this act, subject to the consent
21 of the commission. The upgrading of a license resulting from a
22 request under this subsection shall be approved by the local
23 governmental unit having jurisdiction.

24 (2) In a resort area, the commission may issue 1 or more
25 licenses for a period not to exceed 12 months without regard to a
26 limitation because of population, but not in excess of 550, and
27 with respect to the resort license the commission, by rule, shall

1 define and classify resort seasons by months and may issue 1 or
2 more licenses for resort seasons without regard to the calendar
3 year or licensing year.

4 (3) In addition to the resort licenses authorized in
5 subsection (2), the commission may issue not more than ~~10~~ 5
6 additional licenses per year ~~for the years 2003 and 2004~~ to
7 establishments whose business and operation, as determined by the
8 commission, is designed to attract and accommodate tourists and
9 visitors to the resort area, whose primary purpose is not for the
10 sale of alcoholic liquor, and whose capital investment in real
11 property, leasehold improvement, and fixtures for the premises to
12 be licensed is \$75,000.00 or more. Further, the commission shall
13 issue 1 license under this subsection ~~for the years 2003 and 2004~~
14 **PER YEAR** to an applicant located in a rural area that has a poverty
15 rate, as defined by the latest decennial census, greater than the
16 statewide average, or that is located in a rural area that has an
17 unemployment rate higher than the statewide average for 3 of the 5
18 preceding years. In counties having a population of less than
19 50,000, as determined by the last federal decennial census or as
20 determined pursuant to subsection (11) and subject to subsection
21 (16) in the case of a class A hotel or a class B hotel, the
22 commission shall not require the establishments to have dining
23 facilities to seat more than 50 persons. The commission may cancel
24 the license if the resort is no longer active or no longer
25 qualifies for the license. Before January 16 of each year the
26 commission shall transmit to the legislature a report giving
27 details as to the number of applications received under this

1 subsection; the number of licenses granted and to whom; the number
2 of applications rejected and the reasons; and the number of the
3 licenses revoked, suspended, or other disciplinary action taken and
4 against whom and the grounds for revocation, suspension, or
5 disciplinary action.

6 (4) In addition to any licenses for the sale of alcoholic
7 liquor for consumption on the premises that may be available in the
8 local governmental unit under subsection (1) and the resort
9 licenses authorized in subsections (2) and (3), the commission may
10 issue not more than ~~20~~ 15 resort economic development licenses
11 per year. ~~for the years 2003 and 2004.~~ A person is eligible to
12 apply for a resort economic development license under this
13 subsection upon submitting an application to the commission and
14 demonstrating all of the following:

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

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

20 (c) The capital investment in real property, leasehold
21 improvement, fixtures, and inventory for the premises to be
22 licensed is in excess of \$1,500,000.00.

23 (d) The establishment does not allow or permit casino gambling
24 on the premises.

25 (5) In governmental units having a population of 50,000
26 persons or less, as determined by the last federal decennial census
27 or as determined pursuant to subsection (11), in which the quota of

1 specially designated distributor licenses, as provided by section
2 533, has been exhausted, the commission may issue not more than a
3 total of 10 additional specially designated distributor licenses
4 per year ~~for the years 2003 and 2004~~ to established merchants
5 whose business and operation, as determined by the commission, is
6 designed to attract and accommodate tourists and visitors to the
7 resort area. A specially designated distributor license issued
8 pursuant to this subsection may be issued at a location within
9 2,640 feet of existing specially designated distributor license
10 locations. A specially designated distributor license issued
11 pursuant to this subsection shall not bar another specially
12 designated distributor licensee from transferring location to
13 within 2,640 feet of said licensed location. A specially designated
14 distributor license issued pursuant to section 533 may be located
15 within 2,640 feet of a specially designated distributor license
16 issued pursuant to this subsection.

17 (6) In addition to any licenses for the sale of alcoholic
18 liquor for consumption on the premises that may be available in the
19 local governmental unit under subsection (1), and the resort or
20 resort economic development licenses authorized in subsections (2),
21 (3), and (4), and notwithstanding section 519, the commission may
22 issue not more than 5 additional special purpose licenses in any
23 calendar year for the sale of beer and wine for consumption on the
24 premises. A special purpose license issued pursuant to this
25 subsection shall be issued only for events which are to be held
26 from May 1 to September 30, are artistic in nature, and which are
27 to be held on the campus of a public university with an enrollment

1 of 30,000 or more students. A special purpose license shall be
2 valid for 30 days or for the duration of the event for which it is
3 issued, whichever is less. The fee for a special purpose license
4 shall be \$50.00. A special purpose license may be issued only to a
5 corporation which is all of the following:

6 (a) Is a nonprofit corporation organized pursuant to the
7 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

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

11 (c) Has been in continuous existence for not less than 6
12 years.

13 (7) Notwithstanding the local legislative body approval
14 provision of section 501(2) and notwithstanding the provisions of
15 section 519, the commission may issue, without regard to the quota
16 provisions of subsection (1) and with the approval of the governing
17 board of the university, either a tavern or class C license which
18 may be used only for regularly scheduled events at a public
19 university's established outdoor program or festival at a facility
20 on the campus of a public university having a head count enrollment
21 of 10,000 students or more. A license issued under this subsection
22 may only be issued to the governing board of a public university, a
23 person that is the lessee or concessionaire of the governing board
24 of the university, or both. A license issued under this subsection
25 is not transferable as to ownership or location. A license issued
26 under this subsection may not be issued at an outdoor stadium
27 customarily used for intercollegiate athletic events.

1 (8) In issuing a resort or resort economic development license
2 under subsection (3), (4), or (5), the commission shall consider
3 economic development factors of the area in the issuance of
4 licenses to establishments designed to stimulate and promote the
5 resort and tourist industry. The commission shall not transfer a
6 resort or resort economic development license issued under
7 subsection (3), (4), or (5) to another location. If the licensee
8 goes out of business the license shall be surrendered to the
9 commission.

10 (9) The limitations and quotas of this section are not
11 applicable to the issuance of a new license to a veteran of the
12 armed forces of the United States who was honorably discharged or
13 released under honorable conditions from the armed forces of the
14 United States and who had by forced sale disposed of a similar
15 license within 90 days before or after entering or while serving in
16 the armed forces of the United States, as a part of the person's
17 preparation for that service if the application for a new license
18 is submitted for the same governmental unit in which the previous
19 license was issued and within 60 days after the discharge of the
20 applicant from the armed forces of the United States.

21 (10) The limitations and quotas of this section shall not be
22 applicable to the issuance of a new license or the renewal of an
23 existing license where the property or establishment to be licensed
24 is situated in or on land on which an airport owned by a county or
25 in which a county has an interest is situated.

26 (11) For purposes of implementing this section a special state
27 census of a local governmental unit may be taken at the expense of

1 the local governmental unit by the federal bureau of census or the
2 secretary of state under section 6 of the home rule city act, 1909
3 PA 279, MCL 117.6. The special census shall be initiated by
4 resolution of the governing body of the local governmental unit
5 involved. The secretary of state may promulgate additional rules
6 necessary for implementing this section pursuant to the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

9 (12) Before granting an approval as required in section 501(2)
10 for a license to be issued under subsection (2), (3), or (4), a
11 local legislative body shall disclose the availability of
12 transferable licenses held in escrow for more than 1 licensing year
13 within that respective local governmental unit. Public notice of
14 the meeting to consider the granting of the license by the local
15 governmental unit shall be made 2 weeks before the meeting.

16 (13) The person signing the application for an on-premise
17 resort or resort economic development license shall state and
18 verify that he or she attempted to secure an on-premise escrowed
19 license or quota license and that, to the best of his or her
20 knowledge, an on-premise escrowed license or quota license is not
21 readily available within the county in which the applicant for the
22 on-premise resort or resort economic development license proposes
23 to operate, except that until July 1, 2009, and in the case
24 involving a city with a population of over 190,000 but under
25 300,000 that verification is not required.

26 (14) The commission shall not issue an on-premise resort or
27 resort economic development license if the county within which the

1 resort or resort economic development license applicant proposes to
2 operate has not issued all on-premise licenses available under
3 subsection (1) or if an on-premise escrowed license exists and is
4 readily available within the local governmental unit in which the
5 applicant for the on-premise resort or resort economic development
6 license proposes to operate, except until July 1, 2009, in the case
7 involving a city with a population of over 190,000 but under
8 300,000. The commission may waive the provisions of this subsection
9 upon a showing of good cause.

10 (15) The commission shall annually report to the legislature
11 the names of the businesses issued licenses under this section and
12 their locations.

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

16 (17) Subject to the limitation and quotas of subsection (1)
17 and to local legislative approval under section 501(2), the
18 commission may approve the transfer of ownership and location of an
19 on-premises escrowed license within the same county to a class G-1
20 or class G-2 license or may approve the reclassification of an
21 existing on-premises license at the location to be licensed to a
22 class G-1 license or to a class G-2 license, subject to subsection
23 (1). Resort or economic development on-premises licenses created
24 under subsection (3) or (4) may not be issued as, or reclassified
25 to, a class G-1 or class G-2 license.

26 (18) As used in this section:

27 (a) "Escrowed license" means a license in which the rights of

1 the licensee in the license or to the renewal of the license are
2 still in existence and are subject to renewal and activation in the
3 manner provided for in R 436.1107 of the Michigan administrative
4 code.

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

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

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

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

12 Sec. 543. (1) Quarterly, upon recommendation of the
13 commission, the state shall pay **PURSUANT TO APPROPRIATION** in the
14 manner prescribed by law to the city, village, or township in which
15 a full-time police department or full-time ordinance enforcement
16 department is maintained or, if a police department or full-time
17 ordinance enforcement department is not maintained, to the county,
18 to be credited to the sheriff's department of the county in which
19 the licensed premises are located, 55% of the amount of the
20 proceeds of the retailers' license fees and license renewal fees
21 collected in that jurisdiction, for the specific purpose of
22 enforcing this act and the rules promulgated under this act. Forty-
23 one and one-half percent of the amount of the proceeds of
24 retailers' license and license renewal fees collected shall be
25 deposited in a special fund to be annually appropriated to the
26 commission for carrying out the licensing and enforcement
27 provisions of this act. Any unencumbered or uncommitted money in

1 the special fund shall revert to the general fund of the state 12
2 months after the end of each fiscal year in which the funds were
3 collected. The legislature shall appropriate 3-1/2% of the amount
4 of the proceeds of retailers' license and license renewal fees
5 collected to be credited to a special fund in the state treasury
6 for the purposes of promoting and sustaining programs for the
7 prevention, rehabilitation, care, and treatment of alcoholics. This
8 subsection does not apply to retail license fees collected for
9 railroad or Pullman cars, watercraft, or aircraft, or to the
10 transfer fees provided in section 529.

11 (2) All license and license renewal fees, other than retail
12 license and license renewal fees, shall be credited to the grape
13 and wine industry council created in section 303, to be used as
14 provided in section 303. Money credited to the grape and wine
15 industry council shall not revert to the state general fund at the
16 close of the fiscal year, but shall remain in the account to which
17 it was credited to be used as provided in section 303.

18 (3) All retail license fees collected for railroad or Pullman
19 cars, watercraft, or aircraft, and the transfer fees provided in
20 section 529 shall be deposited in the special fund created in
21 subsection (1) for carrying out the licensing and enforcement
22 provisions of this act.

23 **(4) THE LICENSE FEE ENHANCEMENT IMPOSED FOR LICENSES ISSUED**
24 **UNDER SECTION 531(3) AND (4) SHALL BE DEPOSITED INTO A SPECIAL FUND**
25 **TO BE ANNUALLY APPROPRIATED TO THE COMMISSION FOR ENFORCEMENT AND**
26 **OTHER RELATED PROJECTS DETERMINED APPROPRIATE BY THE COMMISSION.**
27 **THE MONEY REPRESENTING THAT AMOUNT OF THE LICENSE FEES FOR**

1 IDENTICAL LICENSES NOT ISSUED UNDER SECTION 531(3) AND (4) SHALL BE
2 ALLOCATED AND APPROPRIATED UNDER SUBSECTION (1).

3 (5) AS USED IN THIS SECTION, "LICENSE FEE ENHANCEMENT" MEANS
4 THE MONEY REPRESENTING THE DIFFERENCE BETWEEN THE LICENSE FEE
5 IMPOSED FOR A LICENSE UNDER SECTION 525(1) AND THE ADDITIONAL
6 AMOUNT IMPOSED FOR RESORT AND RESORT ECONOMIC DEVELOPMENT LICENSES
7 UNDER SECTION 525(2).