

SENATE BILL No. 257

March 1, 2005, Introduced by Senator HAMMERSTROM and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) A public license shall not be granted for the
2 sale of alcoholic liquor for consumption on the premises in excess
3 of 1 license for each 1,500 of population or major fraction
4 thereof. On-premises escrowed licenses issued under this subsection
5 may be transferred subject to local legislative approval under
6 section 501(2) to an applicant whose proposed operation is located
7 within any local governmental unit in a county in which the
8 escrowed license was located. However, beginning ~~the effective~~
9 ~~date of the amendatory act that added this sentence~~ **JULY 8, 2004**

1 and until July 1, 2009, if the on-premises escrowed license was
2 issued to a location within a city with a population of over
3 190,000 but under 300,000, the on-premises escrowed license shall
4 not be transferred to an applicant whose proposed operation is
5 located within any other local governmental unit in the county in
6 which that city is located and, in addition, an escrowed license
7 located within any local governmental unit in that county is not
8 transferable into the city with a population of over 190,000 but
9 under 300,000. If the local governmental unit within which the
10 former licensee's premises were located spans more than 1 county,
11 an escrowed license is available subject to local legislative
12 approval under section 501(2) to an applicant whose proposed
13 operation is located within any local governmental unit in either
14 county. If an escrowed license is activated within a local
15 governmental unit other than that local governmental unit within
16 which the escrowed license was originally issued, the commission
17 shall count that activated license against the local governmental
18 unit originally issuing the license. This quota does not bar the
19 right of an existing licensee to renew a license or transfer the
20 license and does not bar the right of an on-premise licensee of any
21 class to reclassify to another class of on-premises license in a
22 manner not in violation of law or this act, subject to the consent
23 of the commission. The upgrading of a license resulting from a
24 request under this subsection shall be approved by the local
25 governmental unit having jurisdiction.

26 (2) In a resort area, the commission may issue 1 or more
27 licenses for a period not to exceed 12 months without regard to a

1 limitation because of population, but not in excess of 550, and
2 with respect to the resort license the commission, by rule, shall
3 define and classify resort seasons by months and may issue 1 or
4 more licenses for resort seasons without regard to the calendar
5 year or licensing year.

6 (3) In addition to the resort licenses authorized in
7 subsection (2), the commission may issue not more than 10
8 additional licenses per year for the years ~~2003~~ **2005** and ~~2004~~
9 **2006** to establishments whose business and operation, as determined
10 by the commission, is designed to attract and accommodate tourists
11 and visitors to the resort area, whose primary purpose is not for
12 the sale of alcoholic liquor, and whose capital investment in real
13 property, leasehold improvement, and fixtures for the premises to
14 be licensed is \$75,000.00 or more. Further, the commission shall
15 issue 1 license under this subsection for the years ~~2003~~ **2005** and
16 ~~2004~~ **2006** to an applicant located in a rural area that has a
17 poverty rate, as defined by the latest decennial census, greater
18 than the statewide average, or that is located in a rural area that
19 has an unemployment rate higher than the statewide average for 3 of
20 the 5 preceding years. In counties having a population of less than
21 50,000, as determined by the last federal decennial census or as
22 determined pursuant to subsection (11) and subject to subsection
23 (16) in the case of a class A hotel or a class B hotel, the
24 commission shall not require the establishments to have dining
25 facilities to seat more than 50 persons. The commission may cancel
26 the license if the resort is no longer active or no longer
27 qualifies for the license. Before January 16 of each year the

1 commission shall transmit to the legislature a report giving
2 details as to the number of applications received under this
3 subsection; the number of licenses granted and to whom; the number
4 of applications rejected and the reasons; and the number of the
5 licenses revoked, suspended, or other disciplinary action taken and
6 against whom and the grounds for revocation, suspension, or
7 disciplinary action.

8 (4) In addition to any licenses for the sale of alcoholic
9 liquor for consumption on the premises that may be available in the
10 local governmental unit under subsection (1) and the resort
11 licenses authorized in subsections (2) and (3), the commission may
12 issue not more than 20 resort economic development licenses per
13 year for the years ~~2003~~ 2005 and ~~2004~~ 2006. A person is
14 eligible to apply for a resort economic development license under
15 this subsection upon submitting an application to the commission
16 and demonstrating all of the following:

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

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

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

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

27 (5) In governmental units having a population of 50,000

1 persons or less, as determined by the last federal decennial census
2 or as determined pursuant to subsection (11), in which the quota of
3 specially designated distributor licenses, as provided by section
4 533, has been exhausted, the commission may issue not more than a
5 total of 10 additional specially designated distributor licenses
6 per year for the years ~~2003~~ 2005 and ~~2004~~ 2006 to established
7 merchants whose business and operation, as determined by the
8 commission, is designed to attract and accommodate tourists and
9 visitors to the resort area. A specially designated distributor
10 license issued pursuant to this subsection may be issued at a
11 location within 2,640 feet of existing specially designated
12 distributor license locations. A specially designated distributor
13 license issued pursuant to this subsection shall not bar another
14 specially designated distributor licensee from transferring
15 location to within 2,640 feet of said licensed location. A
16 specially designated distributor license issued pursuant to section
17 533 may be located within 2,640 feet of a specially designated
18 distributor license issued pursuant to this subsection.

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

1 from May 1 to September 30, are artistic in nature, and which are
2 to be held on the campus of a public university with an enrollment
3 of 30,000 or more students. A special purpose license shall be
4 valid for 30 days or for the duration of the event for which it is
5 issued, whichever is less. The fee for a special purpose license
6 shall be \$50.00. A special purpose license may be issued only to a
7 corporation which is all of the following:

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

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

13 (c) Has been in continuous existence for not less than 6
14 years.

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

1 under this subsection may not be issued at an outdoor stadium
2 customarily used for intercollegiate athletic events.

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

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

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

1 (11) For purposes of implementing this section a special state
2 census of a local governmental unit may be taken at the expense of
3 the local governmental unit by the federal bureau of census or the
4 secretary of state under section 6 of the home rule city act, 1909
5 PA 279, MCL 117.6. The special census shall be initiated by
6 resolution of the governing body of the local governmental unit
7 involved. The secretary of state may promulgate additional rules
8 necessary for implementing this section pursuant to the
9 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
10 24.328.

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

18 (13) The person signing the application for an on-premise
19 resort or resort economic development license shall state and
20 verify that he or she attempted to secure an on-premise escrowed
21 license or quota license and that, to the best of his or her
22 knowledge, an on-premise escrowed license or quota license is not
23 readily available within the county in which the applicant for the
24 on-premise resort or resort economic development license proposes
25 to operate, except that until July 1, 2009, and in the case
26 involving a city with a population of over 190,000 but under
27 300,000 that verification is not required.

1 (14) The commission shall not issue an on-premise resort or
2 resort economic development license if the county within which the
3 resort or resort economic development license applicant proposes to
4 operate has not issued all on-premise licenses available under
5 subsection (1) or if an on-premise escrowed license exists and is
6 readily available within the local governmental unit in which the
7 applicant for the on-premise resort or resort economic development
8 license proposes to operate, except until July 1, 2009, in the case
9 involving a city with a population of over 190,000 but under
10 300,000. The commission may waive the provisions of this subsection
11 upon a showing of good cause.

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

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

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

1 (18) As used in this section:

2 (a) "Escrowed license" means a license in which the rights of
3 the licensee in the license or to the renewal of the license are
4 still in existence and are subject to renewal and activation in the
5 manner provided for in R 436.1107 of the Michigan administrative
6 code.

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

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

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

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