

# HOUSE BILL No. 4156

January 30, 2007, Introduced by Reps. Wojno, Meadows, Hansen, Miller and Gonzales and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 501 (MCL 436.1501), as amended by 2006 PA 547.

**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. The commission shall  
5 provide a notification of the ability of the purchaser or  
6 transferee to obtain a tax clearance certificate, in the manner  
7 provided for in subsection (6). Subject to section 906(2) and

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

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

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

26 (2) A full-year license issued by the commission shall  
27 expire on April 30 following the date of issuance or the date

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

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

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

26 (4) A LOCAL LEGISLATIVE BODY, BY RESOLUTION, MAY REQUEST  
27 THAT THE COMMISSION REVOKE THE LICENSE OF A LICENSEE GRANTED A

1 LICENSE TO SELL ALCOHOLIC LIQUOR FOR CONSUMPTION ON THE PREMISES  
2 WHOSE PLACE OF BUSINESS IS LOCATED WITHIN THE LOCAL LEGISLATIVE  
3 BODY'S JURISDICTION AND WHO HAS BEEN DETERMINED PURSUANT TO  
4 COMMISSION VIOLATION HEARINGS TO HAVE HAD VIOLENT INCIDENTS OCCUR  
5 ON THE LICENSED PREMISES OR IN AREAS ADJACENT TO THE LICENSED  
6 PREMISES OWNED OR CONTROLLED BY THE LICENSEE. IF THE COMMISSION  
7 VERIFIES THAT THE LICENSEE WHO IS SUBJECT TO THE RESOLUTION HAS  
8 BEEN FOUND, ON AT LEAST 3 SEPARATE OCCASIONS IN A SINGLE CALENDAR  
9 YEAR, TO HAVE HAD VIOLENT INCIDENTS OCCUR ON THE LICENSED  
10 PREMISES OR IN AREAS ADJACENT TO THE LICENSED PREMISES OWNED OR  
11 CONTROLLED BY THE LICENSEE, THE COMMISSION SHALL SUSPEND OR  
12 REVOKE THE LICENSEE'S LICENSE AND ANY PERMIT HELD IN CONJUNCTION  
13 WITH THAT LICENSE. THE COMMISSION MAY MAKE A DETERMINATION THAT A  
14 VIOLENT INCIDENT HAS OCCURRED EVEN IF THE INCIDENT HAS NOT  
15 RESULTED IN A CONVICTION OF A CRIME DESCRIBED IN SUBSECTION (8).

16 (5) ~~(4)~~—This act does not prohibit a hotel which is or was  
17 the holder of a license authorizing the retail sale of alcoholic  
18 liquor for consumption on the premises from applying for and  
19 receiving under this act any other and different type of license  
20 authorizing the retail sale of alcoholic liquor for consumption  
21 on the premises, and the application for the license shall not be  
22 considered a new application for a license so long as the total  
23 number of public licenses for consumption on the premises does  
24 not exceed the authorized total established in this act and the  
25 sale of alcoholic liquor is approved by the electors. The  
26 commission may divide the state into 3 zones and establish for  
27 each zone an anniversary date for renewal of full-year retail

1 licenses in the licensing year. The commission shall promulgate  
2 rules pursuant to the administrative procedures act of 1969, 1969  
3 PA 306, MCL 24.201 to 24.328, for the effective administration of  
4 the renewal of licenses.

5       (6) ~~(5)~~—The commission, with the written approval of the  
6 department of agriculture in the case of the Michigan state  
7 fairgrounds and the Upper Peninsula state fairgrounds, may issue  
8 without regard to the quota provision of section 531 a tavern  
9 license to a person as concessionaire leasing or renting a  
10 portion of either the Upper Peninsula state fairgrounds or the  
11 state fairgrounds, or both, to service the licensed area in use  
12 for recreational or exhibition purposes other than at the time of  
13 the annual Upper Peninsula state fair under section 2 of 1927 PA  
14 89, MCL 285.142. A license issued under this subsection is not  
15 transferable.

16       (7) ~~(6)~~—The application for initial licensure or for a  
17 transfer of a license shall contain a notice in substantial  
18 compliance with the following:

19       When purchasing a license, a buyer can be held liable  
20 for tax debts incurred by the previous owner. Prior to  
21 committing to the purchase of any license or establishment,  
22 the buyer should request a tax clearance certificate  
23 from the seller that indicates that all taxes have been  
24 paid up to the date of issuance. Obtaining sound  
25 professional assistance from an attorney or accountant  
26 can be helpful to identify and avoid any pitfalls  
27 and hidden liabilities when buying even a portion  
28 of a business.

1 Sellers can make a request for the tax clearance  
2 certificate through the Michigan department of treasury.

3 (8) AS USED IN THIS SECTION, "VIOLENT INCIDENT" MEANS THE  
4 COMMITTING OF ANY ACT BY ANY INDIVIDUAL OCCURRING ON THE LICENSED  
5 PREMISES OR IN AREAS ADJACENT TO THE LICENSED PREMISES OWNED OR  
6 CONTROLLED BY THE LICENSEE THAT COULD REASONABLY BE CONSIDERED BY  
7 THE COMMISSION AS A VIOLATION OF ANY OF THE FOLLOWING:

8 (A) CHAPTER XI OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
9 750.81 TO 750.90G.

10 (B) CHAPTER XLV OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
11 750.316 TO 750.329A.

12 (C) CHAPTER L OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
13 750.349 TO 750.350A.

14 (D) CHAPTER LVIII OF THE MICHIGAN PENAL CODE, 1931 PA 328,  
15 MCL 750.397 TO 750.397A.

16 (E) CHAPTER LXXVI OF THE MICHIGAN PENAL CODE, 1931 PA 328,  
17 MCL 750.520A TO 750.520N.

18 (F) CHAPTER LXXVIII OF THE MICHIGAN PENAL CODE, 1931 PA 328,  
19 MCL 750.529 TO 750.531.