

HOUSE BILL No. 5508

October 13, 2009, Introduced by Rep. Johnson and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 525 and 913 (MCL 436.1525 and 436.1913),
section 525 as amended by 2008 PA 218 and section 913 as amended by
2006 PA 131, and by adding section 544.

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
8 fraction of a barrel, production annually with a maximum fee of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (p) Clubs selling beer, wine, mixed spirit drink, and spirits,

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

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

13 (r) Special licenses, a fee of \$50.00 per day, except that the
14 fee for that license or permit issued to any bona fide nonprofit
15 association, duly organized and in continuous existence for 1 year
16 before the filing of its application, is \$25.00. Not more than 12
17 special licenses may be granted to any organization, including an
18 auxiliary of the organization, in a calendar year.

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

22 (t) Brandy manufacturer, \$100.00.

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

24 (v) Brewpub, \$100.00.

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

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

27 (y) Motorsports event license, \$250.00.

1 (z) Small distiller, \$100.00.

2 **(AA) CABARET LICENSE, \$600.00.**

3 (2) The fees provided in this act for the various types of
4 licenses shall not be prorated for a portion of the effective
5 period of the license. Notwithstanding subsection (1), the initial
6 license fee for any licenses issued under section 531(3) and (4) is
7 \$20,000.00. The renewal license fee shall be the amount described
8 in subsection (1). However, the commission shall not impose the
9 \$20,000.00 initial license fee for applicants whose license
10 eligibility was already approved on July 20, 2005.

11 (3) Beginning July 23, 2004, and except in the case of any
12 resort or resort economic development license issued under section
13 531(2), (3), (4), and (5) and a license issued under section 521,
14 the commission shall issue an initial or renewal license not later
15 than 90 days after the applicant files a completed application.
16 Receipt of the application is considered the date the application
17 is received by any agency or department of the state of Michigan.
18 If the application is considered incomplete by the commission, the
19 commission shall notify the applicant in writing, or make the
20 information electronically available, within 30 days after receipt
21 of the incomplete application, describing the deficiency and
22 requesting the additional information. The determination of the
23 completeness of an application does not operate as an approval of
24 the application for the license and does not confer eligibility
25 upon an applicant determined otherwise ineligible for issuance of a
26 license. The 90-day period is tolled under any of the following
27 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 commission to otherwise delay the processing of the
19 application, and that application, upon completion, shall be placed
20 in sequence with other completed applications received at that same
21 time. The commission shall not discriminate against an applicant in
22 the processing of the application based upon the fact that the
23 license fee was refunded or discounted under this subsection.

24 (5) Beginning October 1, 2005, the chair of the commission
25 shall submit a report by December 1 of each year to the standing
26 committees and appropriations subcommittees of the senate and house
27 of representatives concerned with liquor license issues. The chair

1 of the commission shall include all of the following information in
2 the report concerning the preceding fiscal year:

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

6 (b) The number of applications denied.

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

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

16 **SEC. 544. (1) AS USED IN THIS SECTION:**

17 **(A) "CABARET LICENSE" MEANS A LICENSE ISSUED BY THE COMMISSION**
18 **WHERE THE LICENSEE, FOR CONSIDERATION, MAY ALLOW ONLY THE**
19 **CONSUMPTION OF ALCOHOLIC LIQUOR ON THE LICENSED PREMISES AND DOES**
20 **NOT ALLOW THE LICENSEE TO SELL OR FURNISH ALCOHOLIC LIQUOR ON THOSE**
21 **PREMISES.**

22 **(B) "CONSIDERATION" MEANS ANY FEE, COVER CHARGE, TICKET**
23 **PURCHASE, THE STORAGE OF ALCOHOLIC LIQUOR, THE SALE OF FOOD, ICE,**
24 **MIXERS, OR OTHER LIQUIDS USED WITH ALCOHOLIC LIQUOR DRINKS, OR THE**
25 **PURCHASING OF ANY SERVICE OR ITEM, OR COMBINATION OF SERVICE AND**
26 **ITEM; OR INCLUDES THE FURNISHING OF GLASSWARE OR OTHER CONTAINERS**
27 **FOR USE IN THE CONSUMPTION OF ALCOHOLIC LIQUOR IN CONJUNCTION WITH**

1 THE SALE OF FOOD.

2 (2) THE COMMISSION, UPON SUBMISSION OF A COMPLETED APPLICATION
3 AND PROOF DEMONSTRATING COMPLIANCE WITH THE CONDITIONS IMPOSED IN
4 SUBSECTION (3), SHALL ISSUE A CABARET LICENSE TO A QUALIFIED
5 APPLICANT. A CABARET LICENSE ALLOWS THE LICENSEE TO REQUEST AND
6 ACCEPT CONSIDERATION FOR THE ADMISSION OF AN INDIVIDUAL TO THE
7 LICENSED PREMISES FOR THE CONSUMPTION OF ALCOHOLIC LIQUOR ON A
8 BRING-YOUR-OWN BASIS AS WELL AS FOR OTHER ACTIVITIES ALLOWABLE
9 WITHIN THE PREMISES AS PROVIDED BY LAW OR ORDINANCE. THE CABARET
10 LICENSE DOES NOT ALLOW THE SALE OF ALCOHOLIC LIQUOR AT RETAIL TO
11 ANY PERSON FOR CONSUMPTION ON OR OFF THE LICENSED PREMISES. THE
12 COMMISSION SHALL NOT ISSUE A CABARET LICENSE TO ANY PERSON HOLDING
13 ANY OTHER LICENSE ISSUED UNDER THIS ACT. THE CABARET LICENSE IS NOT
14 TRANSFERABLE AS TO HOLDER OR LOCATION.

15 (3) THE COMMISSION SHALL ISSUE A CABARET LICENSE TO AN
16 APPLICANT DEMONSTRATING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

17 (A) LOCATION IN A CITY WITH A POPULATION OF AT LEAST 500,000.

18 (B) THE EXISTENCE OF A DULY ENACTED CITY ORDINANCE ALLOWING
19 THE PRESENCE OF ESTABLISHMENTS THAT PROVIDE FOR THE CONSUMPTION OF
20 ALCOHOLIC LIQUOR, ON A BRING-YOUR-OWN BASIS, BUT NOT ALLOWING FOR
21 THE SALE OR FURNISHING OF ALCOHOLIC LIQUOR BY THE LICENSE HOLDERS
22 OR THE OWNERS OF THE ESTABLISHMENT.

23 (C) LACK OF ANY CURRENT LICENSE ISSUED UNDER THIS ACT.

24 (D) COMPLIANCE OF THE PREMISES WITH ANY APPLICABLE CODES,
25 ORDINANCES, OR STATE OR FEDERAL LAWS.

26 (E) A DULY APPROVED RESOLUTION ISSUED BY THE LOCAL LEGISLATIVE
27 BODY APPROVING AND RECOMMENDING THE ISSUANCE OF THE LICENSE.

1 (4) AN APPLICATION FOR A CABARET LICENSE SHALL BE APPROVED BY
2 THE LOCAL LEGISLATIVE BODY IN WHICH THE APPLICANT'S PLACE OF
3 BUSINESS IS LOCATED BEFORE THE LICENSE IS GRANTED BY THE
4 COMMISSION, EXCEPT THAT IN THE CASE OF AN APPLICATION FOR RENEWAL
5 OF AN EXISTING LICENSE, IF AN OBJECTION TO A RENEWAL HAS NOT BEEN
6 FILED WITH THE COMMISSION BY THE LOCAL LEGISLATIVE BODY NOT LESS
7 THAN 30 DAYS BEFORE THE DATE OF EXPIRATION OF THE LICENSE, THE
8 APPROVAL OF THE LOCAL LEGISLATIVE BODY IS NOT REQUIRED. THE
9 COMMISSION SHALL PROVIDE THE LOCAL LEGISLATIVE BODY AND THE LOCAL
10 CHIEF OF POLICE WITH THE NAME, HOME AND BUSINESS ADDRESSES, AND
11 HOME AND BUSINESS TELEPHONE NUMBERS TO ACCOMPLISH THE LOCAL
12 LEGISLATIVE REVIEWS OF NEW LICENSE APPLICATIONS REQUIRED BY THIS
13 SECTION. UPON REQUEST OF THE LOCAL LEGISLATIVE BODY AFTER DUE
14 NOTICE AND OPPORTUNITY FOR AN ADMINISTRATIVE HEARING BY THE LOCAL
15 LEGISLATIVE BODY AND THE COMMISSION, THE COMMISSION SHALL REVOKE
16 THE CABARET LICENSE OF A LICENSEE GRANTED A LICENSE UNDER THIS
17 SECTION IF THE LOCAL LEGISLATIVE BODY PRESENTS EVIDENCE ACCEPTABLE
18 TO THE COMMISSION THAT A RENEWAL LICENSE SHOULD NOT BE ISSUED BASED
19 UPON VIOLATIONS OF THIS ACT.

20 Sec. 913. (1) A person shall not do either of the following:

21 (a) Maintain, operate, or lease, or otherwise furnish to any
22 person, any premises or place that is not licensed under this act
23 within which the other person may engage in the drinking of
24 alcoholic liquor for consideration.

25 (b) Obtain by way of lease or rental agreement, and furnish or
26 provide to any other person, any premises or place that is not
27 licensed under this act within which any other person may engage in

1 the drinking of alcoholic liquor for consideration.

2 (2) A person shall not consume alcoholic liquor in a
3 commercial establishment selling food if the commercial
4 establishment is not licensed under this act. A person owning,
5 operating, or leasing a commercial establishment selling food which
6 is not licensed under this act shall not allow the consumption of
7 alcoholic liquor on its premises.

8 (3) This section shall not apply to any hotel, **A LICENSED**
9 **CABARET**, or any **OTHER** licensee under this act.

10 (4) This section shall not be construed to repeal or amend
11 section 1019.

12 (5) As used in this section, "consideration" includes any fee,
13 cover charge, ticket purchase, the storage of alcoholic liquor, the
14 sale of food, ice, mixers, or other liquids used with alcoholic
15 liquor drinks, or the purchasing of any service or item, or
16 combination of service and item; or includes the furnishing of
17 glassware or other containers for use in the consumption of
18 alcoholic liquor in conjunction with the sale of food.