

SENATE BILL No. 712

January 20, 2016, Introduced by Senators MARLEAU, JONES and KOWALL 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 531 (MCL 436.1531), as amended by 2014 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) ~~A~~**THE COMMISSION SHALL NOT ISSUE A** public
2 license ~~shall not be granted~~ for the sale of alcoholic liquor for
3 consumption on the premises **IF THE ISSUANCE WOULD RESULT** in excess
4 ~~of~~**MORE THAN** 1 license for each 1,500 of population or major
5 fraction thereof.**OF 1,500 OF POPULATION.** An on-premises escrowed
6 license issued under this subsection may be transferred, subject to
7 local legislative approval under section 501(2), to an applicant
8 whose proposed operation is located within any local governmental
9 unit in a county in which the escrowed license was located. If the
10 local governmental unit within which the former licensee's premises

1 were located spans more than 1 county, an escrowed license may be
2 transferred, subject to local legislative approval under section
3 501(2), to an applicant whose proposed operation is located within
4 any local governmental unit in either county. If an escrowed
5 license is activated within a local governmental unit other than
6 that local governmental unit within which the escrowed license was
7 originally issued, the commission shall count that activated
8 license against the local governmental unit originally issuing the
9 license. ~~This~~**THE** quota **UNDER THIS SUBSECTION** does not bar the
10 right of an existing licensee to renew a license or transfer the
11 license and does not bar the right of an on-premises licensee of
12 any class to reclassify to another class of on-premises license in
13 a manner not in violation of law or this act, subject to the
14 consent of the commission. The upgrading of a license resulting
15 from a request under this subsection is subject to approval by the
16 local governmental unit having jurisdiction.

17 (2) In a resort area, the commission may issue no more than
18 550 licenses for a period not to exceed 12 months without regard to
19 a limitation because of population and with respect to the resort
20 license the commission, by rule, shall define and classify resort
21 seasons by months and may issue 1 or more licenses for resort
22 seasons without regard to the calendar year or licensing year.

23 (3) In addition to the resort licenses authorized in
24 subsection (2), the commission may issue not more than 5 additional
25 licenses per year to establishments whose business and operation,
26 as determined by the commission, is designed to attract and
27 accommodate tourists and visitors to the resort area, whose primary

1 purpose is not for the sale of alcoholic liquor, and whose capital
2 investment in real property, leasehold improvement, and fixtures
3 for the premises to be licensed is \$75,000.00 or more. Further, the
4 commission shall issue 1 license under this subsection per year to
5 an applicant located in a rural area that has a poverty rate, as
6 defined by the latest decennial census, greater than the statewide
7 average, or that is located in a rural area that has an
8 unemployment rate higher than the statewide average for 3 of the 5
9 preceding years. In counties having a population of less than
10 50,000, as determined by the last federal decennial census or as
11 determined under subsection (11) and subject to subsection (16) ~~in~~
12 ~~the case of~~ **FOR** a class A hotel or a class B hotel, the commission
13 shall not require the establishments to have dining facilities to
14 seat more than 50 persons. The commission may cancel the license if
15 the resort is no longer active or no longer qualifies for the
16 license. Before January 16 of each year the commission shall
17 transmit to the legislature a report ~~giving details as to~~ **THAT**
18 **INCLUDES** all of the following:

19 (a) The number of applications received under this subsection.

20 (b) The number of licenses granted and to whom.

21 (c) The number of applications rejected and the reasons they
22 were rejected.

23 (d) The number of the licenses revoked, suspended, or **AS TO**
24 **WHICH** other disciplinary action **WAS** taken, ~~and against whom~~ **THE**
25 **NAMES OF THE LICENSEES**, and the grounds for revocation, suspension,
26 or disciplinary action.

27 (4) In addition to any licenses for the sale of alcoholic

1 liquor for consumption on the premises that may be available in the
2 local governmental unit under subsection (1) and the resort
3 licenses authorized in subsections (2) and (3), the commission may
4 issue not more than 15 resort economic development licenses per
5 year. A person is eligible to apply for a resort economic
6 development license under this subsection ~~upon~~ **ON** submitting an
7 application to the commission and demonstrating all of the
8 following:

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

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

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

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

19 (5) In governmental units having a population of ~~50,000~~ **10,000**
20 or less, as determined by the last federal decennial census or as
21 determined under subsection (11), in which the quota of specially
22 designated distributor licenses, as provided by section 533, has
23 been exhausted, the commission may issue not more than a total of
24 15 additional specially designated distributor licenses per year to
25 established merchants whose business and operation, as determined
26 by the commission, is designed to attract and accommodate tourists
27 and visitors to the resort area. ~~A specially designated distributor~~

1 ~~license issued under this subsection may be issued at a location~~
2 ~~within 2,640 feet of existing specially designated distributor~~
3 ~~license locations. A specially designated distributor license~~
4 issued under this subsection ~~shall~~ **DOES** not bar another specially
5 designated distributor licensee from transferring location to
6 within 2,640 feet of that licensed location. ~~A specially designated~~
7 ~~distributor license issued under section 533 may be located within~~
8 ~~2,640 feet of a specially designated distributor license issued~~
9 ~~under this subsection.~~ The person signing the application for a
10 specially designated distributor license under this subsection
11 shall state that he or she attempted to secure an escrowed
12 specially designated distributor license or quota license and that,
13 to the best of his or her knowledge, an escrowed specially
14 designated distributor license or quota license is not readily
15 available within the county in which the applicant for the
16 specially designated distributor license under this subsection
17 proposes to operate.

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

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

7 (a) ~~Is~~ **THE CORPORATION IS** a nonprofit corporation organized
8 under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
9 450.3192.

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

14 (c) ~~Has~~ **THE CORPORATION HAS** been in continuous existence for
15 not less than 6 years.

16 (7) Notwithstanding the local legislative body approval
17 provision of section 501(2) and notwithstanding the provisions of
18 section 519, the commission may issue, without regard to the quota
19 provisions of subsection (1) and with the approval of the governing
20 board of the university, either a tavern or class C license ~~which~~
21 **THAT** may be used only for regularly scheduled events at a public
22 university's established outdoor program or festival at a facility
23 on the campus of a public university having a head count enrollment
24 of 10,000 students or more. A license issued under this subsection
25 may only be issued to the governing board of a public university, a
26 person that is the lessee or concessionaire of the governing board
27 of the university, or both. A license issued under this subsection

1 is not transferable as to ownership or location. Except as
2 otherwise provided in this subsection, a license issued under this
3 subsection may not be issued at an outdoor stadium customarily used
4 for intercollegiate athletic events. A license may be issued at an
5 outdoor stadium customarily used for intercollegiate athletic
6 events for not more than 30 consecutive days to a concessionaire of
7 an entity granted exclusive use of a public university's property
8 in conjunction with a hockey game sanctioned by an unincorporated
9 not-for-profit association that operates a major professional ice
10 hockey league consisting of teams located in Canada and in the
11 United States or in conjunction with a professional international
12 soccer match between 2 international soccer clubs as part of a
13 tournament sanctioned by a not-for-profit association that is the
14 governing body for soccer in the United States and organized and
15 promoted by a match agent that is licensed by the international
16 governing body for soccer if the concessionaire has entered into an
17 agreement granting it control of the licensed premises for the
18 purposes of complying with this act and rules promulgated under
19 this act regarding the sale of alcoholic liquor. A nationally
20 televised game between 2 professional hockey teams or 2
21 professional international soccer clubs played outdoors is
22 considered an established outdoor program for the purposes of this
23 subsection. Notwithstanding any provision of this act or any rule
24 promulgated under this act, a concessionaire obtaining a license
25 under this subsection may share the profits generated from that
26 license with an unincorporated not-for-profit association that
27 operates a major professional ice hockey league consisting of teams

1 located in Canada and in the United States or an affiliated entity
2 under a written contract reviewed by the commission or with a
3 licensed match agent and a promoter that organizes and promotes
4 international soccer matches under a written contract reviewed by
5 the commission. If the established outdoor program is a nationally
6 televised game between 2 professional hockey teams or 2
7 professional international soccer clubs, the commission may allow
8 the promotion and advertising of alcoholic liquor brands on the
9 campus of a public university where a concessionaire has been
10 issued a license under this subsection for the duration of the
11 license.

12 (8) In issuing a resort or resort economic development license
13 under subsection (3), (4), or (5), the commission shall consider
14 economic development factors of the area in issuing licenses to
15 establishments designed to stimulate and promote the resort and
16 tourist industry. The commission shall not transfer a resort or
17 resort economic development license issued under subsection (3),
18 (4), or (5) to another location. If the licensee goes out of
19 business the license shall be surrendered to the commission.

20 (9) The limitations and quotas of this section are not
21 applicable to issuing a new license to a veteran of the armed
22 forces of the United States who was honorably discharged or
23 released under honorable conditions from the armed forces of the
24 United States and who had by forced sale disposed of a similar
25 license within 90 days before or after entering or while serving in
26 the armed forces of the United States, as a part of the person's
27 preparation for that service if the application for a new license

1 is submitted for the same governmental unit in which the previous
2 license was issued and within 60 days after the discharge of the
3 applicant from the armed forces of the United States.

4 (10) The limitations and quotas of this section are not
5 applicable to issuing a new license or renewing an existing license
6 ~~where~~**IF** the property or establishment to be licensed is situated
7 in or on land on which an airport owned by a county or in which a
8 county has an interest is situated.

9 (11) For purposes of implementing this section, a special
10 state census of a local governmental unit may be taken at the
11 expense of the local governmental unit by the ~~federal bureau of~~
12 ~~census~~**FEDERAL BUREAU OF THE CENSUS** or the secretary of state under
13 section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The
14 special census ~~shall~~**MUST** be initiated by resolution of the
15 governing body of the local governmental unit involved. The
16 secretary of state may promulgate additional rules necessary for
17 implementing this section ~~pursuant to~~**UNDER** the administrative
18 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

19 (12) Before granting an approval as required in section 501(2)
20 for a license to be issued under subsection (2), (3), or (4), a
21 local legislative body shall disclose the availability of
22 transferable licenses held in escrow for more than 1 licensing year
23 within that ~~respective~~ local governmental unit. The local
24 governmental unit shall provide public notice of the meeting to
25 consider the granting of the license by the local governmental unit
26 2 weeks before the meeting.

27 (13) The person signing the application for an on-premises

1 resort or resort economic development license shall state and
2 verify that he or she attempted to secure an on-premises escrowed
3 license or quota license and that, to the best of his or her
4 knowledge, an on-premises escrowed license or quota license is not
5 readily available within the county in which the applicant for the
6 on-premises resort or resort economic development license proposes
7 to operate.

8 (14) The commission shall not issue an on-premises resort or
9 resort economic development license if the county within which the
10 resort or resort economic development license applicant proposes to
11 operate has not issued all on-premises licenses available under
12 subsection (1) or if an on-premises escrowed license exists and is
13 readily available within the local governmental unit in which the
14 applicant for the on-premises resort or resort economic development
15 license proposes to operate. The commission may waive the
16 provisions of this subsection ~~upon~~**ON** a showing of good cause.

17 (15) The commission shall annually report to the legislature
18 the names of the businesses issued licenses under this section and
19 their locations.

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

23 (17) Subject to the limitation and quotas of subsection (1)
24 and to local legislative approval under section 501(2), the
25 commission may approve the transfer of ownership and location of an
26 on-premises escrowed license within the same county to a class G-1
27 or class G-2 license or may approve the reclassification of an

1 existing on-premises license at the location to be licensed to a
2 class G-1 license or to a class G-2 license, subject to subsection
3 (1). Resort or economic development on-premises licenses created
4 under subsection (3) or (4) may not be issued as, or reclassified
5 to, a class G-1 or class G-2 license.

6 (18) An escrowed specially designated distributor license may
7 be transferred, with the consent of the commission, to an applicant
8 whose proposed operation is located within any local governmental
9 unit in a county in which the specially designated distributor
10 license is located. If the local governmental unit within which the
11 escrowed specially designated distributor license is located spans
12 more than 1 county, the license may be transferred to an applicant
13 whose proposed operation is located within any local governmental
14 unit in either county. If the specially designated distributor
15 license is activated within a local governmental unit other than
16 that local governmental unit within which the specially designated
17 distributor license was originally issued, the commission shall
18 count that activated license against the local governmental unit
19 originally issuing the specially designated distributor license.

20 (19) Subsection (8) of R 436.1135 of the Michigan
21 administrative code does not apply to a transfer under subsection
22 (18).

23 (20) As used in this section:

24 (a) "Escrowed license" means a license ~~in~~**AS TO** which the
25 rights of the licensee in the license or to the renewal of the
26 license are still in existence and are subject to renewal and
27 activation in the manner provided for in R 436.1107 of the Michigan

1 administrative code.

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

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

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

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