

HOUSE BILL No. 5719

March 14, 2018, Introduced by Reps. VanderWall, Leutheuser, Howell, Hughes, Maturen, Sheppard, Lucido, LaFave, Cambensy and Dianda 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 533 (MCL 436.1533), as amended by 2016 PA 434.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 533. (1) Subject to subsection (12), the commission shall
2 not issue a new specially designated merchant license or transfer
3 an existing specially designated merchant license unless the
4 applicant is an approved type of business. An applicant is not an
5 approved type of business unless the applicant meets 1 or more of
6 the following conditions:

7 (a) The applicant holds and maintains a retail food
8 establishment license issued under the food law, 2000 PA 92, MCL
9 289.1101 to 289.8111. As used in this subdivision, "retail food

1 establishment" means that term as defined in section 1111 of the
2 food law, 2000 PA 92, MCL 289.1111.

3 (b) The applicant holds and maintains an extended retail food
4 establishment license issued under the food law, 2000 PA 92, MCL
5 289.1101 to 289.8111. As used in this subdivision, "extended retail
6 food establishment" means that term as defined in section 1107 of
7 the food law, 2000 PA 92, MCL 289.1107.

8 (c) The applicant holds or the commission approves the
9 issuance of a specially designated distributor license to the
10 applicant.

11 (d) The applicant holds or the commission approves the
12 issuance of a class C license to the applicant.

13 (e) The applicant holds or the commission approves the
14 issuance of a class A hotel license to the applicant.

15 (f) The applicant holds or the commission approves the
16 issuance of a class B hotel license to the applicant.

17 (g) The applicant holds or the commission approves the
18 issuance of a club license to the applicant.

19 (h) The applicant holds or the commission approves the
20 issuance of a tavern license to the applicant.

21 (i) The applicant holds or the commission approves the
22 issuance of a class G-1 license to the applicant.

23 (j) The applicant holds or the commission approves the
24 issuance of a class G-2 license to the applicant.

25 (2) A specially designated distributor may apply for a license
26 as a specially designated merchant.

27 (3) An applicant for a specially designated merchant license

1 not in conjunction with an on-premises license, except as provided
2 in section 229(1), or a person licensed under this act as a
3 specially designated merchant only or a class B hotel may apply for
4 a license as a specially designated distributor.

5 (4) In cities, incorporated villages, or townships, the
6 commission shall issue only 1 specially designated distributor
7 license for each 3,000 of population, or fraction of 3,000. The
8 commission may waive the quota requirement under this subsection if
9 there is no existing specially designated distributor licensee
10 within 2 miles of the applicant, measured along the nearest traffic
11 route.

12 (5) Except as otherwise provided in this section, in cities,
13 incorporated villages, or townships, the commission shall issue
14 only 1 specially designated merchant license for each 1,000 of
15 population. **IF A CITY, INCORPORATED VILLAGE, OR TOWNSHIP HAS A**
16 **POPULATION OF LESS THAN 1,000, THE COMMISSION MAY ISSUE 1 SPECIALLY**
17 **DESIGNATED MERCHANT LICENSE IN THE CITY, INCORPORATED VILLAGE, OR**
18 **TOWNSHIP.** The quota under this subsection does not apply to any of
19 the following:

20 (a) An applicant for a specially designated merchant license
21 that is an applicant for or the holder of a license listed in
22 subsection (1)(d) to (j).

23 (b) An applicant for or the holder of a specially designated
24 merchant license whose licensed establishment meets 1 or more of
25 the following conditions:

26 (i) Meets both of the following conditions:

27 (A) The licensed establishment is at least 20,000 square feet.

1 (B) The licensed establishment's gross receipts derived from
2 the sale of food are at least 20% of the total gross receipts.

3 (ii) The licensed establishment is also a pharmacy as that
4 term is defined in section 17707 of the public health code, 1978 PA
5 368, MCL 333.17707.

6 (c) A secondary location permit issued to a specially
7 designated merchant under section 541.

8 (d) A specially designated merchant license issued under
9 subsection (7).

10 (e) A specially designated merchant license issued to a marina
11 under section 539.

12 (6) The commission may waive the quota under subsection (5) if
13 there is no existing specially designated merchant within 2 miles
14 of the applicant, measured along the nearest traffic route.

15 (7) The commission shall waive the quota under subsection (5)
16 if both of the following apply:

17 (a) The applicant applies for the specially designated
18 merchant license within 60 days after ~~the effective date of the~~
19 ~~amendatory act that added subsection (5)~~. **JANUARY 4, 2017.**

20 (b) The applicant is a retail dealer that holds a license
21 issued under section 6(1) of the motor fuels quality act, 1984 PA
22 44, MCL 290.646. The applicant shall include a copy of the license
23 described in this subdivision with the applicant's application
24 under this subsection. As used in this subdivision, "retail dealer"
25 means that term as defined in section 2 of the motor fuels quality
26 act, 1984 PA 44, MCL 290.642.

27 (8) A specially designated merchant license issued under this

1 section may be transferred to an applicant whose proposed operation
2 is located within any local governmental unit in a county in which
3 the specially designated merchant license was located. If the local
4 governmental unit within which the former licensee's premises were
5 located spans more than 1 county, a specially designated merchant
6 license may be transferred to an applicant whose proposed operation
7 is located within any local governmental unit in either county. If
8 a specially designated merchant license is transferred to a local
9 governmental unit other than that local governmental unit within
10 which the specially designated merchant license was originally
11 issued, the commission shall count that transferred specially
12 designated merchant license against the local governmental unit
13 originally issuing the specially designated merchant license.

14 (9) Except as otherwise provided in subsection (10), the quota
15 under subsection (5) does not bar the right of an existing
16 specially designated merchant to renew the specially designated
17 merchant license or transfer the specially designated merchant
18 license. This subsection applies to a specially designated merchant
19 license issued or renewed before, on, or after ~~the effective date~~
20 ~~of the amendatory act that added subsection (5).~~ **JANUARY 4, 2017.**

21 (10) A specially designated merchant license issued after ~~the~~
22 ~~effective date of the amendatory act that added subsection (5)~~
23 **JANUARY 4, 2017** to a person described in subsection (5) (a) or (b)
24 or to a specially designated merchant license issued under
25 subsection (6) may not be transferred to another location.

26 (11) An applicant for or the holder of a specially designated
27 merchant license that owns or operates a motor vehicle fuel pump on

1 or adjacent to the licensed premises is not required to meet the
2 conditions under section 541 as that section existed before ~~the~~
3 ~~effective date of the amendatory act that added subsection~~
4 ~~(5)~~. **JANUARY 4, 2017.**

5 (12) For a marina that maintains motor vehicle fuel pumps on
6 or adjacent to the licensed premises, or maintains a financial
7 interest in any motor vehicle fuel pumps, the commission may only
8 issue a special designated merchant license to the marina under
9 section 539.

10 (13) For purposes of this section, population is determined by
11 the latest federal decennial census, by a special census under
12 section 6 of the home rule city act, 1909 PA 279, MCL 117.6, or
13 section 7 of the Glenn Steil state revenue sharing act of 1971,
14 1971 PA 140, MCL 141.907, or by the latest census and corrections
15 published by the United States Department of Commerce, Bureau of
16 the Census, whichever is later.