

Act No. 386  
Public Acts of 2018  
Approved by the Governor  
December 19, 2018  
Filed with the Secretary of State  
December 19, 2018  
EFFECTIVE DATE: December 19, 2018

**STATE OF MICHIGAN**  
**99TH LEGISLATURE**  
**REGULAR SESSION OF 2018**

Introduced by Reps. VanderWall, Leutheuser, Howell, Hughes, Maturen, Sheppard, Lucido, LaFave,  
Cambensy and Dianda

# ENROLLED HOUSE BILL No. 5719

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending section 533 (MCL 436.1533), as amended by 2016 PA 434.

*The People of the State of Michigan enact:*

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

(a) The applicant holds and maintains a retail food establishment license issued under the food law, 2000 PA 92, MCL 289.1101 to 289.8111. As used in this subdivision, “retail food establishment” means that term as defined in section 1111 of the food law, 2000 PA 92, MCL 289.1111.

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

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

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

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

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

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

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

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

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

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

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

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

(5) Except as otherwise provided in this section, in cities, incorporated villages, or townships, the commission shall issue only 1 specially designated merchant license for each 1,000 of population, or fraction of 1,000. The quota under this subsection does not apply to any of the following:

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

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

(i) Meets both of the following conditions:

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

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

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

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

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

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

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

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

(a) The applicant applies for the specially designated merchant license within 60 days after January 4, 2017.

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

(8) A specially designated merchant license issued under this section may be transferred to an applicant whose proposed operation is located within any local governmental unit in a county in which the specially designated merchant license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, a specially designated merchant license may be transferred to an applicant whose proposed operation is located within any local governmental unit in either county. If a specially designated merchant license is transferred to a local governmental unit other than that local governmental unit within which the specially designated merchant license was originally issued, the commission shall count that transferred specially designated merchant license against the local governmental unit originally issuing the specially designated merchant license.

(9) Except as otherwise provided in subsection (10), the quota under subsection (5) does not bar the right of an existing specially designated merchant to renew the specially designated merchant license or transfer the specially designated merchant license. This subsection applies to a specially designated merchant license issued or renewed before, on, or after January 4, 2017.

(10) A specially designated merchant license issued after January 4, 2017 to a person described in subsection (5)(a) or (b) or to a specially designated merchant license issued under subsection (6) may not be transferred to another location.

(11) An applicant for or the holder of a specially designated merchant license that owns or operates a motor vehicle fuel pump on or adjacent to the licensed premises is not required to meet the conditions under section 541 as that section existed before January 4, 2017.

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

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor