

# HOUSE BILL NO. 4103

February 03, 2021, Introduced by Reps. Paquette, Glenn, Whitsett, Whiteford, Calley, Kahle, Brabec, Rendon, Bollin, Wozniak, Lasinski, Clemente, Camilleri, Hammoud, Yancey, Hope, Thanedar, Anthony, Puri, Bolden, Stone, Allor and Jones and referred to the Committee on Judiciary.

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending section 906 (MCL 436.1906), as amended by 2008 PA 218.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 906. (1) As used in this section:
- 2       (a) "Administrator" means a qualifying company, postsecondary
- 3       educational institution, or trade association authorized by the
- 4       commission to offer server training programs and instructor
- 5       certification classes in compliance with this section and to

1 certify to the commission that those persons meet the requirements  
2 of this section.

3 (b) "Instructor" means an individual certified by an  
4 administrator and approved by the commission to teach server  
5 training programs. An instructor may be a licensee or an employee  
6 of a licensee.

7 (c) "Prohibited sale" means the sale of alcoholic liquor by an  
8 employee of a licensee to a visibly intoxicated person or to a  
9 minor, or both.

10 (d) "Responsible vendor" means a designation by the commission  
11 of a retail licensee meeting the standards of this section.

12 (e) "Server training program" means an educational program  
13 ~~whose~~**the** curriculum **of which** has been approved by the commission  
14 under the standards described in this section and is offered by an  
15 administrator or instructor to a retail licensee, or a licensee  
16 operating a tasting room or providing samples of alcoholic liquor,  
17 for its employees.

18 (2) The commission shall approve the establishing of a server  
19 training program designed for all new on premises licensees or  
20 transferees of more than a 50% interest in an on premises license  
21 on or after the commencement of the mandatory server training  
22 program, and for any existing retail licensees the commission  
23 determines to be in need of training due to the frequency or types  
24 of violations of this act involving the serving of alcoholic  
25 liquor. This subsection does not apply to special licenses except  
26 that the commission may require server training for certain special  
27 licensees based upon the size and nature of the licensed event. The  
28 commission may adopt the existing standards and programmatic  
29 framework of private entities and may delegate nondiscretionary

1 administrative functions to outside private entities.

2 (3) The commission shall establish a program in which the  
3 commission designates certain retail licensees, except special  
4 licenses, as responsible vendors. The commission may adopt the  
5 existing standards and programmatic framework of private entities  
6 and may delegate nondiscretionary administrative functions to  
7 outside private entities.

8 (4) The commission shall designate as a responsible vendor a  
9 retail licensee who makes available to all full-time and part-time  
10 retail employees, within 60 days after being hired, a server  
11 training program and who is also free of convictions or  
12 administrative determinations involving prohibited sales for not  
13 less than 12 months before applying for the designation. The  
14 designation continues until suspended by the commission.

15 (5) A person may apply to the commission for qualification as  
16 an administrator for the offering of server training programs and  
17 instructor certification classes.

18 (6) The commission shall approve a curriculum for a server  
19 training program presented by a certified instructor in a manner  
20 considered by the commission to be adequate that includes, but is  
21 not limited to, all of the following topics:

22 (a) The identification of progressive stages of intoxication  
23 and the visible signs associated with each stage.

24 (b) The identification of the time delay between consumption  
25 and visibility of signs of progressive intoxication.

26 (c) Basic alcohol content among different types of measured  
27 drinks containing alcoholic liquor.

28 (d) Variables associated with visible intoxication, including  
29 the rate of drinking, experience, weight, food consumption, sex,

1 and use of other drugs.

2 (e) Personal skills to handle ~~slow-down~~**slowdown** of service  
3 and intervention procedures.

4 (f) Procedures for monitoring consumption and maintaining  
5 incident reports.

6 (g) The understanding of acceptable forms of personal  
7 identification, techniques for determining the validity of  
8 identification, and procedures for dealing with fraudulent  
9 identification.

10 (h) Assessment of the need to ask for identification based on  
11 appearance or company policy.

12 (i) The identification of potential second-party sales and  
13 furnishing of alcoholic liquor to minors by persons 21 years of age  
14 or over.

15 (j) The understanding of possible legal, civil, and  
16 administrative consequences of violations of this act, the rules of  
17 the commission, and other pertinent state laws.

18 (k) The understanding of Michigan laws pertaining to minors  
19 attempting to purchase, minors in possession, and second-party  
20 sales or furnishing of alcoholic liquor from adults to minors.

21 (l) Knowledge of the legal hours of alcoholic liquor service  
22 and occupancy.

23 (m) The identification of signs of prohibited activities, such  
24 as gambling, solicitation for ~~prostitution,~~**commercial sexual**  
25 **activity,** and drug sales.

26 (n) Any other pertinent laws as determined by the commission.

27 (7) The commission shall issue an instructor certification to  
28 an individual presenting evidence acceptable to the commission of  
29 having successfully completed instructor certification classes and

1 shall issue an identification card indicating that certification by  
2 the commission.

3 (8) Upon approval by the commission of a server training  
4 program, the commission shall appoint the person sponsoring the  
5 server training program as an administrator of that program. The  
6 administrator shall provide a certification to the commission that  
7 a retail licensee has successfully completed the server training  
8 program offered by a certified instructor and approved by the  
9 commission and shall recommend that the commission designate the  
10 licensee as a responsible vendor.

11 (9) A certified instructor who is a licensee or an employee of  
12 a licensee may offer server training programs approved by the  
13 commission to the employees of the licensee and certify to the  
14 commission those persons who successfully completed the program.

15 (10) An ~~on-premises~~**on-premises** licensee whose license was  
16 issued or who was the transferee of more than a 50% interest in an  
17 ~~on-premises~~**on-premises** license on or after the commencement of the  
18 mandatory server training program or an ~~on-premises~~**on-premises**  
19 licensee determined by the commission to be in need of training due  
20 to the frequency or types of violations of this act involving the  
21 serving of alcoholic liquor must have employed or present on the  
22 licensed premises, at a minimum, supervisory personnel who have  
23 successfully completed a server training program on each shift and  
24 during all hours in which alcoholic liquor is served. An ~~on~~  
25 ~~premises~~**on-premises** licensee must keep a copy of the responsible  
26 vendor designation or proof of completion of server training on the  
27 licensed premises to facilitate the verification of such  
28 designation by the commission, agent of the commission, or law  
29 enforcement officer. An ~~on-premises~~**on-premises** licensee determined

1 by the commission to have violated this subsection is subject to  
2 revocation, suspension, or other sanction as provided for in  
3 section 903. A violation of this subsection is not a violation of  
4 section 909.

5 (11) As a condition of the designation of a licensee as a  
6 responsible vendor, the licensee shall make available to the  
7 administrator in not less than 60-day time increments records  
8 sufficient to verify the names and ~~social security~~ **Social Security**  
9 numbers of his or her employees. The administrator shall provide to  
10 the commission a list of names and ~~social security~~ **Social Security**  
11 numbers of individuals who have successfully completed the server  
12 training program and shall monitor the licensee in a manner  
13 approved by the commission in order to verify continued compliance  
14 of the licensee's status as a responsible vendor. The administrator  
15 shall notify the commission in writing as soon as it determines  
16 that the licensee has failed to maintain the standards for server  
17 training or has failed to cooperate with the administrator's  
18 verification procedure. Upon receipt of such a notice from the  
19 administrator, the commission shall suspend the licensee's  
20 designation as a responsible vendor.

21 (12) The commission may suspend the designation of a retail  
22 licensee as a responsible vendor upon a conviction or  
23 administrative determination of a prohibited sale on the licensee's  
24 licensed premises. The retail licensee losing such a designation  
25 may reapply for designation as a responsible vendor upon the  
26 passage of 12 months from the date of the conviction or  
27 administrative determination of a prohibited sale if the licensee  
28 is not convicted or administratively determined to have engaged in  
29 a prohibited sale on the licensed premises. After the first

1 instance of a retail licensee losing its designation as a  
2 responsible vendor, that retail licensee is not eligible to reapply  
3 for such a designation until an additional 3 months for each  
4 subsequent conviction or determination. The 3-month time periods  
5 are to be in addition to the 12-month period described in this  
6 subsection.

7 (13) A responsible vendor is not considered to be in violation  
8 of the prohibition contained in section 707(4) regarding allowing  
9 an intoxicated person to frequent or loiter on the licensed  
10 premises unless the facts demonstrate otherwise.

11 Enacting section 1. This amendatory act takes effect 90 days  
12 after the date it is enacted into law.

13 Enacting section 2. This amendatory act does not take effect  
14 unless Senate Bill No.\_\_\_\_ or House Bill No. 4112 (request no.  
15 01304'21) of the 101st Legislature is enacted into law.