

HOUSE BILL No. 4232

February 13, 2003, Introduced by Rep. Koetje 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 2002 PA 725.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) A public license shall not be granted for the
2 sale of alcoholic liquor for consumption on the premises in
3 excess of 1 license for each 1,500 of population or major
4 fraction thereof. On-premises escrowed licenses issued under
5 this subsection may be transferred subject to local legislative
6 approval under section 501(2) to an applicant whose proposed
7 operation is located within any local governmental unit in a
8 county ~~with a population of under 500,000 or a county with a~~
9 ~~population of over 700,000~~ in which the escrowed license was
10 located. If the local governmental unit within which the former

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1 licensee's premises were located spans more than 1 county, an
2 escrowed license is available subject to local legislative
3 approval under section 501(2) to an applicant whose proposed
4 operation is located within any local governmental unit in either
5 county. If an escrowed license is activated within a local
6 governmental unit other than that local governmental unit within
7 which the escrowed license was originally issued, the commission
8 shall count that activated license against the local governmental
9 unit originally issuing the license. This quota 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-premise licensee of
12 any class to reclassify to another class of on-premises license
13 in 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 shall be approved by the
16 local governmental unit having jurisdiction.

17 (2) In a resort area, the commission may issue 1 or more
18 licenses for a period not to exceed 12 months without regard to a
19 limitation because of population, but not in excess of 550, and
20 with respect to the resort license the commission, by rule, shall
21 define and classify resort seasons by months and may issue 1 or
22 more licenses for resort seasons without regard to the calendar
23 year or licensing year.

24 (3) In addition to the resort licenses authorized in
25 subsection (2), the commission may issue not more than 10
26 additional licenses per year for the years 2003 and 2004 to
27 establishments whose business and operation, as determined by the

1 commission, is designed to attract and accommodate tourists and
2 visitors to the resort area, whose primary purpose is not for the
3 sale of alcoholic liquor, and whose capital investment in real
4 property, leasehold improvement, and fixtures for the premises to
5 be licensed is \$75,000.00 or more. Further, the commission shall
6 issue 1 license under this subsection for the years 2003 and 2004
7 to an applicant located in a rural area that has a poverty rate,
8 as defined by the latest decennial census, greater than the
9 statewide average, or that is located in a rural area that has an
10 unemployment rate higher than the statewide average for 3 of the
11 5 preceding years. In counties having a population of less than
12 50,000, as determined by the last federal decennial census or as
13 determined pursuant to subsection (11) and subject to subsection
14 (16) in the case of a class A hotel or a class B hotel, the
15 commission shall not require the establishments to have dining
16 facilities to seat more than 50 persons. The commission may
17 cancel the license if the resort is no longer active or no longer
18 qualifies for the license. Before January 16 of each year the
19 commission shall transmit to the legislature a report giving
20 details as to the number of applications received under this
21 subsection; the number of licenses granted and to whom; the
22 number of applications rejected and the reasons; and the number
23 of the licenses revoked, suspended, or other disciplinary action
24 taken and against whom and the grounds for revocation,
25 suspension, or disciplinary action.

26 (4) In addition to any licenses for the sale of alcoholic
27 liquor for consumption on the premises that may be available in

1 the local governmental unit under subsection (1) and the resort
2 licenses authorized in subsections (2) and (3), the commission
3 may issue not more than 20 resort economic development licenses
4 per year for the years 2003 and 2004. A person is eligible to
5 apply for a resort economic development license under this
6 subsection upon submitting an application to the commission and
7 demonstrating all of the following:

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

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

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

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

18 (5) In governmental units having a population of 50,000
19 persons or less, as determined by the last federal decennial
20 census or as determined pursuant to subsection (11), in which the
21 quota of specially designated distributor licenses, as provided
22 by ~~commission rule~~ **section 533**, has been exhausted, the
23 commission may issue not more than a total of 10 additional
24 specially designated distributor licenses per year for the years
25 2003 and 2004 to established merchants whose business and
26 operation, as determined by the commission, is designed to
27 attract and accommodate tourists and visitors to the resort

1 area. A specially designated distributor license issued pursuant
2 to this subsection may be issued at a location within 2,640 feet
3 of existing specially designated distributor license locations.
4 A specially designated distributor license issued pursuant to
5 this subsection shall not bar another specially designated
6 distributor licensee from transferring location to within 2,640
7 feet of said licensed location. A specially designated
8 distributor license issued pursuant to section 533 may be located
9 within 2,640 feet of a specially designated distributor license
10 issued pursuant to this subsection.

11 (6) In addition to any licenses for the sale of alcoholic
12 liquor for consumption on the premises that may be available in
13 the local governmental unit under subsection (1), and the resort
14 or resort economic development licenses authorized in subsections
15 (2), (3), and (4), and notwithstanding section 519, the
16 commission may issue not more than 5 additional special purpose
17 licenses in any calendar year for the sale of beer and wine for
18 consumption on the premises. A special purpose license issued
19 pursuant to this subsection shall be issued only for events which
20 are to be held from May 1 to September 30, are artistic in
21 nature, and which are to be held on the campus of a public
22 university with an enrollment of 30,000 or more students. A
23 special purpose license shall be valid for 30 days or for the
24 duration of the event for which it is issued, whichever is less.
25 The fee for a special purpose license shall be \$50.00. A special
26 purpose license may be issued only to a corporation which is all
27 of the following:

1 (a) Is a nonprofit corporation organized pursuant to the
2 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
3 450.3192.

4 (b) Has a board of directors constituted of members of whom
5 half are elected by the public university at which the event is
6 scheduled and half are elected by the local governmental unit.

7 (c) Has been in continuous existence for not less than 6
8 years.

9 (7) Notwithstanding the local legislative body approval
10 provision of section 501(2) and notwithstanding the provisions of
11 section 519, the commission may issue, without regard to the
12 quota provisions of subsection (1) and with the approval of the
13 governing board of the university, either a tavern or class C
14 license which may be used only for regularly scheduled events at
15 a public university's established outdoor program or festival at
16 a facility on the campus of a public university having a head
17 count enrollment of 10,000 students or more. A license issued
18 under this subsection may only be issued to the governing board
19 of a public university, a person that is the lessee or
20 concessionaire of the governing board of the university, or
21 both. A license issued under this subsection is not transferable
22 as to ownership or location. A license issued under this
23 subsection may not be issued at an outdoor stadium customarily
24 used for intercollegiate athletic events.

25 (8) In issuing a resort or resort economic development
26 license under subsection (3), (4), or (5), the commission shall
27 consider economic development factors of the area in the issuance

1 of licenses to establishments designed to stimulate and promote
2 the resort and tourist industry. The commission shall not
3 transfer a resort or resort economic development license issued
4 under subsection (3), (4), or (5) to another location. If the
5 licensee goes out of business the license shall be surrendered to
6 the commission.

7 (9) The limitations and quotas of this section are not
8 applicable to the issuance of a new license to a veteran of the
9 armed forces of the United States who was honorably discharged or
10 released under honorable conditions from the armed forces of the
11 United States and who had by forced sale disposed of a similar
12 license within 90 days before or after entering or while serving
13 in the armed forces of the United States, as a part of the
14 person's preparation for that service if the application for a
15 new license is ~~made~~ **submitted** for the same governmental unit in
16 which the previous license was issued and within 60 days after
17 the discharge of the applicant from the armed forces of the
18 United States.

19 (10) The limitations and quotas of this section shall not be
20 applicable to the issuance of a new license or the renewal of an
21 existing license where the property or establishment to be
22 licensed is situated in or on land on which an airport owned by a
23 county or in which a county has an interest is situated.

24 (11) For purposes of implementing this section a special
25 state census of a local governmental unit may be taken at the
26 expense of the local governmental unit by the federal bureau of
27 census or the secretary of state under section 6 of the home rule

1 city act, 1909 PA 279, MCL 117.6. The special census shall be
2 initiated by resolution of the governing body of the local
3 governmental unit involved. The secretary of state may
4 promulgate additional rules necessary for implementing this
5 section pursuant to the administrative procedures act of 1969,
6 1969 PA 306, MCL 24.201 to 24.328.

7 (12) Before granting an approval as required in section
8 501(2) for a license to be issued under subsection (2), (3), or
9 (4), a local legislative body shall disclose the availability of
10 transferable licenses held in escrow for more than 1 licensing
11 year within that respective local governmental unit. Public
12 notice of the meeting to consider the granting of the license by
13 the local governmental unit shall be made 2 weeks before the
14 meeting.

15 (13) The person signing the application for an on-premise
16 resort or resort economic development license shall state and
17 verify that he or she attempted to secure an on-premise escrowed
18 **license** or quota license and that, to the best of his or her
19 knowledge, an on-premise escrowed **license** or quota license is not
20 readily available within ~~1 of the following:~~

21 ~~—— (a) In a county with a population under 500,000 or over~~
22 ~~700,000, the county in which the applicant for the on-premise~~
23 ~~resort or resort economic development license proposes to~~
24 ~~operate.~~

25 ~~(b) In a county not described in subdivision (a), the local~~
26 ~~governmental unit in which the applicant for the on-premise~~
27 ~~resort or resort economic development license proposes to~~

1 operate.

2 (14) The commission shall not issue an on-premise resort or
3 resort economic development license if the ~~local governmental~~
4 ~~unit or~~ county ~~, as appropriate,~~ within which the resort or
5 resort economic development license applicant proposes to operate
6 has not issued all on-premise licenses available under subsection
7 (1) or if an on-premise escrowed license exists and is readily
8 available within the local governmental unit in which the
9 applicant for the on-premise resort or resort economic
10 development license proposes to operate. The commission may
11 waive the provisions of this subsection upon a showing of good
12 cause.

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

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

19 (17) Subject to the limitation and quotas of subsection (1)
20 and to local legislative approval under section 501(2), the
21 commission may approve the transfer of ownership and location of
22 an on-premises escrowed license within the same county to a class
23 G-1 or class G-2 license or may approve the reclassification of
24 an existing on-premises license at the location to be licensed to
25 a class G-1 license or to a class G-2 license, subject to
26 subsection (1). Resort or economic development on-premises
27 licenses created under subsection (3) or (4) may not be issued

1 as, or reclassified to, a class G-1 or class G-2 license.

2 (18) As used in this section:

3 (a) "Escrowed license" means a license in which the rights of
4 the licensee in the license or to the renewal of the license are
5 still in existence and are subject to renewal and activation in
6 the manner provided for in R 436.1107 of the Michigan
7 administrative code.

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

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

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

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