

# HOUSE BILL No. 6489

November 7, 2002, 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 2001 PA 223.

**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 frac-  
4 tion thereof. On-premises escrowed licenses issued under this  
5 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

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 gov-  
6 ernmental 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 subsec-  
25 tion (2), the commission may issue not more than 10 additional  
26 licenses per year for the years 2001 and 2002 to establishments  
27 whose business and operation, as determined by the commission, is

1 designed to attract and accommodate tourists and visitors to the  
2 resort area, whose primary purpose is not for the sale of alco-  
3 holic liquor, and whose capital investment in real property,  
4 leasehold improvement, and fixtures for the premises to be  
5 licensed is \$75,000.00 or more. Further, the commission shall  
6 issue 1 license under this subsection for the years 2001 and 2002  
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 com-  
15 mission 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 sub-  
21 section; the number of licenses granted and to whom; the number  
22 of applications rejected and the reasons; and the number of the  
23 licenses revoked, suspended, or other disciplinary action taken  
24 and against whom and the grounds for revocation, suspension, or  
25 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 2001 and 2002. A person is eligible to  
5 apply for a resort economic development license under this sub-  
6 section upon submitting an application to the commission and  
7 demonstrating all of the following:

8 (a) The establishment's business and operation, as deter-  
9 mined 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 gamb-  
17 ling on the premises.

18 (5) In governmental units having a population of 50,000 per-  
19 sons or less, as determined by the last federal decennial census  
20 or as determined pursuant to subsection (11), in which the quota  
21 of specially designated distributor licenses, as provided by  
22 ~~commission rule~~ SECTION 533, has been exhausted, the commission  
23 may issue not more than a total of 10 additional specially desig-  
24 nated distributor licenses per year for the years 2001 and 2002  
25 to established merchants whose business and operation, as deter-  
26 mined by the commission, is designed to attract and accommodate  
27 tourists and visitors to the resort area. A specially designated

1 distributor license issued pursuant to this subsection may be  
2 issued at a location within 2,640 feet of existing specially des-  
3 igned distributor license locations. A specially designated  
4 distributor license issued pursuant to this subsection shall not  
5 bar another specially designated distributor licensee from trans-  
6 ferring location to within 2,640 feet of said licensed location.  
7 A specially designated distributor license issued pursuant to  
8 R 436.1141 of the Michigan administrative code 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 commis-  
16 sion 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 uni-  
22 versity with an enrollment of 30,000 or more students. A special  
23 purpose license shall be valid for 30 days or for the duration of  
24 the event for which it is issued, whichever is less. The fee for  
25 a special purpose license shall be \$50.00. A special purpose  
26 license may be issued only to a corporation which is all of the  
27 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 pro-  
10 vision 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 conces-  
20 sionaire of the governing board of the university, or both. A  
21 license issued under this subsection is not transferable as to  
22 ownership or location. A license issued under this subsection  
23 may not be issued at an outdoor stadium customarily used for  
24 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 trans-  
3 fer a resort or resort economic development license issued under  
4 subsection (3), (4), or (5) to another location. If the licensee  
5 goes out of business the license shall be surrendered to the  
6 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 for the same governmental unit in which the  
16 previous license was issued and within 60 days after the dis-  
17 charge of the applicant from the armed forces of the United  
18 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 gov-  
3 ernmental unit involved. The secretary of state may promulgate  
4 additional rules necessary for implementing this section pursuant  
5 to the administrative procedures act of 1969, 1969 PA 306,  
6 MCL 24.201 to 24.328.

7 (12) Before granting an approval as required in  
8 section 501(2) for a license to be issued under subsection (2),  
9 (3), or (4), a local legislative body shall disclose the avail-  
10 ability of transferable licenses held in escrow for more than 1  
11 licensing year within that respective local governmental unit.  
12 Public notice of the meeting to consider the granting of the  
13 license by the local governmental unit shall be made 2 weeks  
14 before the 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 or quota license and that, to the best of his or her knowledge,  
19 an on-premise escrowed or quota license is not readily available  
20 within the local governmental unit in which the applicant for the  
21 on-premise resort or resort economic development license proposes  
22 to operate.

23 (14) The commission shall not issue an on-premise resort or  
24 resort economic development license if the local governmental  
25 unit within which the resort or resort economic development  
26 license applicant proposes to operate has not issued all  
27 on-premise licenses available under subsection (1) or if an



1 on-premise escrowed license exists and is readily available  
2 within the local governmental unit in which the applicant for the  
3 on-premise resort or resort economic development license proposes  
4 to operate. The commission may waive the provisions of this sub-  
5 section upon a showing of good cause.

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

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

12 (17) Subject to the limitation and quotas of subsection (1)  
13 and to local legislative approval under section 501(2), the com-  
14 mission may approve the transfer of ownership and location of an  
15 on-premises escrowed license within the same county to a class  
16 G-1 or class G-2 license or may approve the reclassification of  
17 an existing on-premises license at the location to be licensed to  
18 a class G-1 license or to a class G-2 license, subject to subsec-  
19 tion (1). Resort or economic development on-premises licenses  
20 created under subsection (3) or (4) may not be issued as, or  
21 reclassified to, a class G-1 or class G-2 license.

22 (18) As used in this section:

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

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