

Act No. 369  
Public Acts of 2010  
Approved by the Governor  
December 22, 2010  
Filed with the Secretary of State  
December 22, 2010  
EFFECTIVE DATE: December 22, 2010

**STATE OF MICHIGAN**  
**95TH LEGISLATURE**  
**REGULAR SESSION OF 2010**

Introduced by Senator Allen

# **ENROLLED SENATE BILL No. 1493**

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 521a (MCL 436.1521a), as added by 2006 PA 501.

*The People of the State of Michigan enact:*

Sec. 521a. (1) In order to allow cities to enhance the quality of life for their residents and visitors to their communities, the commission may issue public on-premises licenses in addition to those quota licenses allowed in cities under section 531(1). The licenses under this section shall be issued to businesses that meet 1 of the following conditions:

(a) Are located in a city redevelopment project area meeting the criteria described in subsections (3) and (4) and are engaged in activities determined by the commission to be related to dining, entertainment, or recreation.

(b) Are located in a development district or area that is any of the following:

(i) An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(ii) A development area established under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.

(iii) A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.

(iv) A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.990m.

(2) The commission shall not issue a license under subsection (1)(a) unless the applicant fulfills the following in relation to the licensed premises:

(a) Provides the activity described in subsection (1)(a) not less than 5 days per week.

(b) Is open to the public not less than 10 hours per day, 5 days per week.

(c) Presents verification of redevelopment project area status to the commission that shall include the following:

(i) A resolution of the governing body of the city establishing its status as a redevelopment project area.

(ii) An affidavit from the assessor, as certified by the city clerk, stating the total amount of investment in real and personal property within the redevelopment project area of the city during the preceding 3 years. In the case of an applicant seeking a license under this section within the first license cycle after December 29, 2006, the time period described in this subdivision may be up to 5 years, or 7 years for a city having a population between 80,000 and 85,000 according to the 2000 federal decennial census and the application is submitted within the first 6 months after December 29, 2006.

(iii) An affidavit from the assessor, as certified by the city clerk, separately stating the amount of investment money expended for manufacturing, industrial, residential, and commercial development within the redevelopment project area of the city during the preceding 3 years. In the case of an applicant seeking a license under this section within the first license cycle after December 29, 2006, the time period described in this subdivision may be up to 5 years, or 7 years for a city having a population between 80,000 and 85,000 according to the 2000 federal decennial census and the application is submitted within the first 6 months after December 29, 2006.

(3) Relative to the licenses issued under subsection (1)(a), the amount of commercial investment in the redevelopment project area within the city shall constitute not less than 25% of the total investment in real and personal property in that redevelopment project area as evidenced by an affidavit of the city assessor. This subsection does not prevent the city from realigning the redevelopment project area in the presentment of verification provided for under subsection (2)(c).

(4) In relation to a license issued under subsection (1)(a), an applicant shall be located in a city that meets at least 1 of the investment requirements of subsection (1)(a) during the 3 years preceding the submission of its application, or within the preceding 5 years in the case of an applicant applying during the first license cycle after December 29, 2006. The total investment in real and personal property in the redevelopment project area within the city over the appropriate time period described in this subsection shall be at least 1 of the following:

(a) Not less than \$50,000,000.00 in cities having a population of 50,000 or more.

(b) Not less than an amount reflecting \$1,000,000.00 per 1,000 people in cities having a population of less than 50,000.

(5) The commission may issue a license under subsection (1)(a) for each monetary threshold described in subsection (4)(a) and (b), and, after reaching the initial threshold, 1 additional license for each major fraction thereof above that original threshold.

(6) The following apply to a license issued under subsection (1)(b):

(a) The amount expended for the rehabilitation or restoration of the building that housed the licensed premises shall be not less than \$75,000.00 over a period of the preceding 5 years or a commitment for a capital investment of at least that amount in the building that houses the licensed premises, which must be expended before the issuance of the license.

(b) The total amount of public and private investment in real and personal property within the qualified redevelopment project area shall not be less than \$200,000.00 over a period of the preceding 5 years as verified to the commission by means of an affidavit from the assessor, as certified by the clerk of the local governmental unit.

(c) The licensed business is engaged in dining, entertainment, or recreation, is open to the general public, and has a seating capacity of not less than 25 persons.

(7) The commission may issue 1 license for each monetary threshold described in subsection (6)(b), or for each major fraction thereof. The initial enhanced license fee for a license issued under this section is \$20,000.00.

(8) The commission shall not transfer a license issued under this section to another location. If the licensee goes out of business, the licensee shall surrender the license to the commission. The governing body of the local governmental unit may approve another applicant within a city redevelopment project area to replace a licensee who has surrendered the license issued under this section provided the new applicant's business meets the requirements of this section but without regard to subsections (2)(c), (3), and (4) or subsection (6)(b).

(9) The individual signing the application for the license shall state and demonstrate that the applicant attempted to secure an appropriate on-premise escrowed license or quota license issued under section 531 and that, to the best of his or her knowledge, an on-premise license or quota license issued under section 531 is not readily available within the local unit of government in which the applicant proposes to operate.

(10) As used in this section:

(a) "City" means a city established under either of the following:

(i) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

(ii) The fourth class city act, 1895 PA 215, MCL 81.1 to 113.20.

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

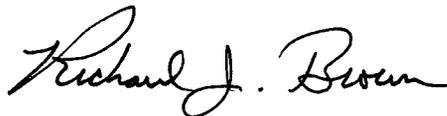
(c) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

- (i) The fair market value of the license, if determinable.
- (ii) The size and scope of the proposed operation.
- (iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor