

SB 1349, As Passed Senate, December 5, 2000

**SUBSTITUTE FOR
SENATE BILL NO. 1349**

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 531 (MCL 436.1531), as amended by 1999 PA
91.

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-premise escrowed licenses issued under this
5 subsection are available subject to local legislative approval
6 under section 501(2) to an applicant whose proposed operation is
7 located within any local governmental unit in a county with a
8 population of under 500,000 or a county with a population of over
9 700,000 in which the escrowed license was located. If the local
10 governmental unit within which the former licensee's premises

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1 were located spans more than 1 county, an escrowed license is
2 available subject to local legislative approval under section
3 501(2) to an applicant whose proposed operation is located within
4 any local governmental unit in either county. If an escrowed
5 license is activated within a local governmental unit other than
6 that local governmental unit within which the escrowed license
7 was originally issued, the commission shall count that activated
8 license against the local governmental unit originally issuing
9 the license. This quota does not bar the right of an existing
10 licensee to renew a license or transfer the license and does not
11 bar the right of a tavern or class A hotel from requesting
12 reclassification of a license to class C, unless local option
13 laws prevent the sale of spirits and mixed spirit drinks by those
14 licensed premises, subject to the consent of the commission. The
15 upgrading of a license resulting from a request under this sub-
16 section shall be approved by the local governmental unit having
17 jurisdiction.

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

25 (3) In addition to the resort licenses authorized in subsec-
26 tion (2), the commission may issue not more than 10 additional
27 licenses per year for the years ~~1999 and 2000~~ 2001 AND 2002 to

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1 establishments whose business and operation, as determined by the
2 commission, is designed to attract and accommodate tourists and
3 visitors to the resort area, whose primary purpose is not for the
4 sale of alcoholic liquor, and whose capital investment in real
5 property, leasehold improvement, and fixtures for the premises to
6 be licensed is \$75,000.00 or more. Further, the commission shall
7 issue 1 license under this subsection for the years ~~1999~~ and
8 ~~2000~~ 2001 AND 2002 to an applicant located in a rural area that
9 has a poverty rate, as defined by the latest decennial census,
10 greater than the statewide average, or that is located in a rural
11 area that has an unemployment rate higher than the statewide
12 average for 3 of the 5 preceding years. In counties having a
13 population of less than 50,000, as determined by the last federal
14 decennial census or as determined pursuant to subsection (11) and
15 subject to subsection (16) in the case of a class A hotel or a
16 class B hotel, the commission shall not require the establish-
17 ments to have dining facilities to seat more than 50 persons.
18 The commission may cancel the license if the resort is no longer
19 active or no longer qualifies for the license. Before January 16
20 of each year the commission shall transmit to the legislature a
21 report giving details as to the number of applications received
22 under this subsection; the number of licenses granted and to
23 whom; the number of applications rejected and the reasons; and
24 the number of the licenses revoked, suspended, or other disci-
25 plinary action taken and against whom and the grounds for revoca-
26 tion, suspension, or disciplinary action.

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1 (4) In addition to any licenses for the sale of alcoholic
2 liquor for consumption on the premises that may be available in
3 the local governmental unit under subsection (1) and the resort
4 licenses authorized in subsections (2) and (3), the commission
5 may issue not more than 20 resort economic development licenses
6 per year for the years ~~1999 and 2000~~ 2001 AND 2002. A person
7 is eligible to apply for a resort economic development license
8 under this subsection upon submitting an application to the com-
9 mission and demonstrating all of the following:

10 (a) The establishment's business and operation, as deter-
11 mined by the commission, is designed to attract and accommodate
12 tourists and visitors to the resort area.

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

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

18 (d) The establishment does not allow or permit casino gambl-
19 ing on the premises.

20 (5) In governmental units having a population of 50,000 per-
21 sons or less, as determined by the last federal decennial census
22 or as determined pursuant to subsection (11), in which the quota
23 of specially designated distributor licenses, as provided by com-
24 mission rule, has been exhausted, the commission may issue not
25 more than a total of 10 additional specially designated distribu-
26 tor licenses per year for the years ~~1999 and 2000~~ 2001 AND 2002
27 to established merchants whose business and operation, as

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1 determined by the commission, is designed to attract and
2 accommodate tourists and visitors to the resort area. A spe-
3 cially designated distributor license issued pursuant to this
4 subsection may be issued at a location within 2,640 feet of
5 existing specially designated distributor license locations. A
6 specially designated distributor license issued pursuant to this
7 subsection shall not bar another specially designated distributor
8 licensee from transferring location to within 2,640 feet of said
9 licensed location. A specially designated distributor license
10 issued pursuant to R 436.1141 of the Michigan administrative code
11 may be located within 2,640 feet of a specially designated dis-
12 tributor license issued pursuant to this subsection.

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

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1 license may be issued only to a corporation which is all of the
2 following:

3 (a) Is a nonprofit corporation organized pursuant to the
4 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
5 450.3192.

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

9 (c) Has been in continuous existence for not less than 6
10 years.

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

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1 (8) In issuing a resort or resort economic development
2 license under subsection (3), (4), or (5), the commission shall
3 consider economic development factors of the area in the issuance
4 of licenses to establishments designed to stimulate and promote
5 the resort and tourist industry. The commission shall not trans-
6 fer a resort or resort economic development license issued under
7 subsection (3), (4), or (5) to another location. If the licensee
8 goes out of business the license shall be surrendered to the
9 commission.

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

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

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1 (11) For purposes of implementing this section a special
2 state census of a local governmental unit may be taken at the
3 expense of the local governmental unit by the federal bureau of
4 census or the secretary of state under section 6 of THE HOME RULE
5 CITY ACT, 1909 PA 279, MCL 117.6. The special census shall be
6 initiated by resolution of the governing body of the local gov-
7 ernmental unit involved. The secretary of state may promulgate
8 additional rules necessary for implementing this section pursuant
9 to the administrative procedures act of 1969, 1969 PA 306, MCL
10 24.201 to 24.328.

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

19 (13) The person signing the application for an on-premise
20 resort or resort economic development license shall state and
21 verify that he or she attempted to secure an on-premise escrowed
22 or quota license and that, to the best of his or her knowledge,
23 an on-premise escrowed or quota license is not readily available
24 within the local governmental unit in which the applicant for the
25 on-premise resort or resort economic development license proposes
26 to operate.

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

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

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

17 (17) As used in this section:

18 (a) "Escrowed license" means a license in which the rights
19 of the licensee in the license or to the renewal of the license
20 are still in existence and are subject to renewal and activation
21 in the manner provided for in R 436.1107 of the Michigan adminis-
22 trative code.

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

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