

HOUSE BILL No. 4438

March 8, 2007, Introduced by Rep. Scott 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 2005 PA 97.

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 excess
3 of 1 license for each 1,500 of population or major fraction
4 thereof. On-premises escrowed licenses issued under this subsection
5 may be transferred subject to local legislative approval under
6 section 501(2) to an applicant whose proposed operation is located
7 within any local governmental unit in a county in which the
8 escrowed license was located. However, beginning July 8, 2004, and
9 until July 1, 2009, if the on-premises escrowed license was issued
10 to a location within a city with a population of over 190,000 but

1 under 300,000, the on-premises escrowed license shall not be
2 transferred to an applicant whose proposed operation is located
3 within any other local governmental unit in the county in which
4 that city is located and, in addition, an escrowed license located
5 within any local governmental unit in that county is not
6 transferable into the city with a population of over 190,000 but
7 under 300,000. If the local governmental unit within which the
8 former licensee's premises were located spans more than 1 county,
9 an escrowed license is available subject to local legislative
10 approval under section 501(2) to an applicant whose proposed
11 operation is located within any local governmental unit in either
12 county. If an escrowed license is activated within a local
13 governmental unit other than that local governmental unit within
14 which the escrowed license was originally issued, the commission
15 shall count that activated license against the local governmental
16 unit originally issuing the license. This quota does not bar the
17 right of an existing licensee to renew a license or transfer the
18 license and does not bar the right of an on-premise licensee of any
19 class to reclassify to another class of on-premises license in a
20 manner not in violation of law or this act, subject to the consent
21 of the commission. The upgrading of a license resulting from a
22 request under this subsection shall be approved by the local
23 governmental unit having jurisdiction.

24 (2) In a resort area, the commission may issue 1 or more
25 licenses for a period not to exceed 12 months without regard to a
26 limitation because of population, but not in excess of 550, and
27 with respect to the resort license the commission, by rule, shall

1 define and classify resort seasons by months and may issue 1 or
2 more licenses for resort seasons without regard to the calendar
3 year or licensing year.

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

1 of applications rejected and the reasons; and the number of the
2 licenses revoked, suspended, or other disciplinary action taken and
3 against whom and the grounds for revocation, suspension, or
4 disciplinary action.

5 (4) In addition to any licenses for the sale of alcoholic
6 liquor for consumption on the premises that may be available in the
7 local governmental unit under subsection (1) and the resort
8 licenses authorized in subsections (2) and (3), the commission may
9 issue not more than 15 resort economic development licenses per
10 year. A person is eligible to apply for a resort economic
11 development license under this subsection upon submitting an
12 application to the commission and demonstrating all of the
13 following:

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

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

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

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

24 (5) In governmental units having a population of 50,000
25 persons or less, as determined by the last federal decennial census
26 or as determined pursuant to subsection ~~(11)~~—(12), in which the
27 quota of specially designated distributor licenses, as provided by

1 section 533, has been exhausted, the commission may issue not more
2 than a total of 10 additional specially designated distributor
3 licenses per year to established merchants whose business and
4 operation, as determined by the commission, is designed to attract
5 and accommodate tourists and visitors to the resort area. A
6 specially designated distributor license issued pursuant to this
7 subsection may be issued at a location within 2,640 feet of
8 existing specially designated distributor license locations. A
9 specially designated distributor license issued pursuant to this
10 subsection shall not bar another specially designated distributor
11 licensee from transferring location to within 2,640 feet of said
12 licensed location. A specially designated distributor license
13 issued pursuant to section 533 may be located within 2,640 feet of
14 a specially designated distributor license issued pursuant to this
15 subsection.

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

1 valid for 30 days or for the duration of the event for which it is
2 issued, whichever is less. The fee for a special purpose license
3 shall be \$50.00. A special purpose license may be issued only to a
4 corporation which is all of the following:

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

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

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

12 (7) IN ADDITION TO ANY LICENSES FOR THE SALE OF ALCOHOLIC
13 LIQUOR ON THE PREMISES THAT MAY BE AVAILABLE IN THE LOCAL
14 GOVERNMENTAL UNIT UNDER SUBSECTION (1), AND THE RESORT OR RESORT
15 ECONOMIC DEVELOPMENT LICENSES AUTHORIZED UNDER SUBSECTIONS (2),
16 (3), (4), AND (6), AND NOTWITHSTANDING SECTION 519, THE COMMISSION
17 MAY ISSUE NOT MORE THAN 60 SPECIAL PURPOSE ARTS AND CULTURAL
18 LICENSES, IN ANY FISCAL YEAR, TO THE ARTS AND CULTURE CLIENTS OF
19 THE MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS FOR THE PURPOSES
20 OF BEER AND WINE CONSUMPTION ON THE LICENSED PREMISES. AN ARTS AND
21 CULTURAL LICENSE SHALL BE ISSUED ONLY FOR EVENTS THAT ARE
22 CONSIDERED BY THE COMMISSION TO BE ARTISTIC IN NATURE AND ARE HELD
23 ON THE PREMISES OF A RECOGNIZED AND ELIGIBLE NONPROFIT CLIENT OF
24 THE MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS. THE COMMISSION
25 SHALL CHARGE A LICENSE FEE OF \$300.00. THE LICENSE IS VALID FOR NOT
26 MORE THAN 24 2-DAY EVENTS. TO BE CONSIDERED ELIGIBLE, AN APPLICANT
27 SHALL MEET THE FOLLOWING CONDITIONS AS DETERMINED BY THE

1 COMMISSION:

2 (A) IS A FUNDED CLIENT OF THE MICHIGAN COUNCIL FOR ARTS AND
3 CULTURAL AFFAIRS DURING THE FISCAL YEAR WITHIN WHICH THE LICENSE IS
4 TO BE ISSUED.

5 (B) IS A NONPROFIT CORPORATION UNDER THE NONPROFIT CORPORATION
6 ACT, 1982 PA 162, MCL 450.2101 TO 450.3192.

7 (C) HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST 2 YEARS, AS
8 DETERMINED BY THE COMMISSION.

9 (8) ~~(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 quota
12 provisions of subsection (1) and with the approval of the governing
13 board of the university, either a tavern or class C license which
14 may be used only for regularly scheduled events at a public
15 university's established outdoor program or festival at a facility
16 on the campus of a public university having a head count enrollment
17 of 10,000 students or more. A license issued under this subsection
18 may only be issued to the governing board of a public university, a
19 person that is the lessee or concessionaire of the governing board
20 of the university, or both. A license issued under this subsection
21 is not transferable as to ownership or location. A license issued
22 under this subsection may not be issued at an outdoor stadium
23 customarily used for intercollegiate athletic events.

24 (9) ~~(8)~~—In issuing a resort or resort economic development
25 license under subsection (3), (4), or (5), the commission shall
26 consider economic development factors of the area in the issuance
27 of licenses to establishments designed to stimulate and promote the

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

6 (10) ~~(9)~~—The limitations and quotas of this section are not
7 applicable to the issuance of a new license to a veteran of the
8 armed forces of the United States who was honorably discharged or
9 released under honorable conditions from the armed forces of the
10 United States and who had by forced sale disposed of a similar
11 license within 90 days before or after entering or while serving in
12 the armed forces of the United States, as a part of the person's
13 preparation for that service if the application for a new license
14 is submitted for the same governmental unit in which the previous
15 license was issued and within 60 days after the discharge of the
16 applicant from the armed forces of the United States.

17 (11) ~~(10)~~—The limitations and quotas of this section shall not
18 be applicable to the issuance of a new license or the renewal of an
19 existing license where the property or establishment to be licensed
20 is situated in or on land on which an airport owned by a county or
21 in which a county has an interest is situated.

22 (12) ~~(11)~~—For purposes of implementing this section a special
23 state census of a local governmental unit may be taken at the
24 expense of the local governmental unit by the federal bureau of
25 census or the secretary of state under section 6 of the home rule
26 city act, 1909 PA 279, MCL 117.6. The special census shall be
27 initiated by resolution of the governing body of the local

1 governmental unit involved. The secretary of state may promulgate
2 additional rules necessary for implementing this section pursuant
3 to the administrative procedures act of 1969, 1969 PA 306, MCL
4 24.201 to 24.328.

5 (13) ~~(12)~~—Before granting an approval as required in section
6 501(2) for a license to be issued under subsection (2), (3), or
7 (4), a local legislative body shall disclose the availability of
8 transferable licenses held in escrow for more than 1 licensing year
9 within that respective local governmental unit. Public notice of
10 the meeting to consider the granting of the license by the local
11 governmental unit shall be made 2 weeks before the meeting.

12 (14) ~~(13)~~—The person signing the application for an on-premise
13 resort or resort economic development license shall state and
14 verify that he or she attempted to secure an on-premise escrowed
15 license or quota license and that, to the best of his or her
16 knowledge, an on-premise escrowed license or quota license is not
17 readily available within the county in which the applicant for the
18 on-premise resort or resort economic development license proposes
19 to operate, except that until July 1, 2009, and in the case
20 involving a city with a population of over 190,000 but under
21 300,000 that verification is not required.

22 (15) ~~(14)~~—The commission shall not issue an on-premise resort
23 or resort economic development license if the county within which
24 the resort or resort economic development license applicant
25 proposes to operate has not issued all on-premise licenses
26 available under subsection (1) or if an on-premise escrowed license
27 exists and is readily available within the local governmental unit

1 in which the applicant for the on-premise resort or resort economic
2 development license proposes to operate, except until July 1, 2009,
3 in the case involving a city with a population of over 190,000 but
4 under 300,000. The commission may waive the provisions of this
5 subsection upon a showing of good cause.

6 (16) ~~(15)~~—The commission shall annually report to the
7 legislature the names of the businesses issued licenses under this
8 section and their locations.

9 (17) ~~(16)~~—The commission shall not require a class A hotel or
10 a class B hotel licensed pursuant to subsection (2), (3), or (4) to
11 provide food service to registered guests or to the public.

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

22 (19) ~~(18)~~—As used in this section:

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

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

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

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