

SENATE BILL No. 142

January 31, 2007, Introduced by Senators McMANUS, ALLEN and KAHN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending sections 531 and 537 (MCL 436.1531 and 436.1537),
section 531 as amended by 2005 PA 97 and section 537 as amended by
2005 PA 269.

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

1 escrowed license was located. However, beginning July 8, 2004, and
2 until July 1, 2009, if the on-premises escrowed license was issued
3 to a location within a city with a population of over 190,000 but
4 under 300,000, the on-premises escrowed license shall not be
5 transferred to an applicant whose proposed operation is located
6 within any other local governmental unit in the county in which
7 that city is located and, in addition, an escrowed license located
8 within any local governmental unit in that county is not
9 transferable into the city with a population of over 190,000 but
10 under 300,000. If the local governmental unit within which the
11 former licensee's premises were located spans more than 1 county,
12 an escrowed license is available subject to local legislative
13 approval under section 501(2) to an applicant whose proposed
14 operation is located within any local governmental unit in either
15 county. If an escrowed license is activated within a local
16 governmental unit other than that local governmental unit within
17 which the escrowed license was originally issued, the commission
18 shall count that activated license against the local governmental
19 unit originally issuing the license. This quota does not bar the
20 right of an existing licensee to renew a license or transfer the
21 license and does not bar the right of an on-premise licensee of any
22 class to reclassify to another class of on-premises license in a
23 manner not in violation of law or this act, subject to the consent
24 of the commission. The upgrading of a license resulting from a
25 request under this subsection shall be approved by the local
26 governmental unit having jurisdiction.

27 (2) In a resort area, the commission may issue 1 or more

1 licenses for a period not to exceed 12 months without regard to a
2 limitation because of population, but not in excess of 550, and
3 with respect to the resort license the commission, by rule, shall
4 define and classify resort seasons by months and may issue 1 or
5 more licenses for resort seasons without regard to the calendar
6 year or licensing year.

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

1 commission shall transmit to the legislature a report giving
2 details as to the number of applications received under this
3 subsection; the number of licenses granted and to whom; the number
4 of applications rejected and the reasons; and the number of the
5 licenses revoked, suspended, or other disciplinary action taken and
6 against whom and the grounds for revocation, suspension, or
7 disciplinary action.

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

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

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

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

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

27 (5) In governmental units having a population of 50,000

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

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

1 from May 1 to September 30, are artistic in nature, and which are
 2 to be held on the campus of a public university with an enrollment
 3 of 30,000 or more students. A special purpose license shall be
 4 valid for 30 days or for the duration of the event for which it is
 5 issued, whichever is less. The fee for a special purpose license
 6 shall be \$50.00. A special purpose license may be issued only to a
 7 corporation which is all of the following:

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

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

13 (c) Has been in continuous existence for not less than 6
 14 years.

15 (7) IN ADDITION TO ANY LICENSES FOR THE SALE OF ALCOHOLIC
 16 LIQUOR ON THE PREMISES THAT MAY BE AVAILABLE IN THE LOCAL
 17 GOVERNMENTAL UNIT UNDER SUBSECTION (1), AND THE RESORT OR RESORT
 18 ECONOMIC DEVELOPMENT LICENSES AUTHORIZED UNDER SUBSECTIONS (2),
 19 (3), (4), AND (6), AND NOTWITHSTANDING SECTION 519, THE COMMISSION
 20 MAY ISSUE SPECIAL PURPOSE LICENSES TO WINEMAKERS FOR THE PURPOSES
 21 OF WINE TASTING AND THE SALE OF WINE FOR CONSUMPTION OFF THE
 22 LICENSED PREMISES AT FARMERS' MARKETS. THE COMMISSION SHALL CHARGE
 23 A LICENSE FEE OF \$300.00. THE LICENSE IS VALID FOR NOT MORE THAN 5
 24 2-DAY EVENTS.

25 (8) ~~(7)~~ Notwithstanding the local legislative body approval
 26 provision of section 501(2) and notwithstanding the provisions of
 27 section 519, the commission may issue, without regard to the quota

1 provisions of subsection (1) and with the approval of the governing
2 board of the university, either a tavern or class C license which
3 may be used only for regularly scheduled events at a public
4 university's established outdoor program or festival at a facility
5 on the campus of a public university having a head count enrollment
6 of 10,000 students or more. A license issued under this subsection
7 may only be issued to the governing board of a public university, a
8 person that is the lessee or concessionaire of the governing board
9 of the university, or both. A license issued under this subsection
10 is not transferable as to ownership or location. A license issued
11 under this subsection may not be issued at an outdoor stadium
12 customarily used for intercollegiate athletic events.

13 (9) ~~(8)~~—In issuing a resort or resort economic development
14 license under subsection (3), (4), or (5), the commission shall
15 consider economic development factors of the area in the issuance
16 of licenses to establishments designed to stimulate and promote the
17 resort and tourist industry. The commission shall not transfer a
18 resort or resort economic development license issued under
19 subsection (3), (4), or (5) to another location. If the licensee
20 goes out of business the license shall be surrendered to the
21 commission.

22 (10) ~~(9)~~—The limitations and quotas of this section are not
23 applicable to the issuance of a new license to a veteran of the
24 armed forces of the United States who was honorably discharged or
25 released under honorable conditions from the armed forces of the
26 United States and who had by forced sale disposed of a similar
27 license within 90 days before or after entering or while serving in

1 the armed forces of the United States, as a part of the person's
2 preparation for that service if the application for a new license
3 is submitted for the same governmental unit in which the previous
4 license was issued and within 60 days after the discharge of the
5 applicant from the armed forces of the United States.

6 (11) ~~(10)~~—The limitations and quotas of this section shall not
7 be applicable to the issuance of a new license or the renewal of an
8 existing license where the property or establishment to be licensed
9 is situated in or on land on which an airport owned by a county or
10 in which a county has an interest is situated.

11 (12) ~~(11)~~—For purposes of implementing this section a special
12 state census of a local governmental unit may be taken at the
13 expense of the local governmental unit by the federal bureau of
14 census or the secretary of state under section 6 of the home rule
15 city act, 1909 PA 279, MCL 117.6. The special census shall be
16 initiated by resolution of the governing body of the local
17 governmental unit involved. The secretary of state may promulgate
18 additional rules necessary for implementing this section pursuant
19 to the administrative procedures act of 1969, 1969 PA 306, MCL
20 24.201 to 24.328.

21 (13) ~~(12)~~—Before granting an approval as required in section
22 501(2) for a license to be issued under subsection (2), (3), or
23 (4), a local legislative body shall disclose the availability of
24 transferable licenses held in escrow for more than 1 licensing year
25 within that respective local governmental unit. Public notice of
26 the meeting to consider the granting of the license by the local
27 governmental unit shall be made 2 weeks before the meeting.

1 (14) ~~(13)~~—The person signing the application for an on-premise
2 resort or resort economic development license shall state and
3 verify that he or she attempted to secure an on-premise escrowed
4 license or quota license and that, to the best of his or her
5 knowledge, an on-premise escrowed license or quota license is not
6 readily available within the county in which the applicant for the
7 on-premise resort or resort economic development license proposes
8 to operate, except that until July 1, 2009, and in the case
9 involving a city with a population of over 190,000 but under
10 300,000 that verification is not required.

11 (15) ~~(14)~~—The commission shall not issue an on-premise resort
12 or resort economic development license if the county within which
13 the resort or resort economic development license applicant
14 proposes to operate has not issued all on-premise licenses
15 available under subsection (1) or if an on-premise escrowed license
16 exists and is readily available within the local governmental unit
17 in which the applicant for the on-premise resort or resort economic
18 development license proposes to operate, except until July 1, 2009,
19 in the case involving a city with a population of over 190,000 but
20 under 300,000. The commission may waive the provisions of this
21 subsection upon a showing of good cause.

22 (16) ~~(15)~~—The commission shall annually report to the
23 legislature the names of the businesses issued licenses under this
24 section and their locations.

25 (17) ~~(16)~~—The commission shall not require a class A hotel or
26 a class B hotel licensed pursuant to subsection (2), (3), or (4) to
27 provide food service to registered guests or to the public.

1 **(18)** ~~(17)~~ Subject to the limitation and quotas of subsection
 2 (1) and to local legislative approval under section 501(2), the
 3 commission may approve the transfer of ownership and location of an
 4 on-premises escrowed license within the same county to a class G-1
 5 or class G-2 license or may approve the reclassification of an
 6 existing on-premises license at the location to be licensed to a
 7 class G-1 license or to a class G-2 license, subject to subsection
 8 (1). Resort or economic development on-premises licenses created
 9 under subsection (3) or (4) may not be issued as, or reclassified
 10 to, a class G-1 or class G-2 license.

11 **(19)** ~~(18)~~ As used in this section:

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

17 **(B) "FARMERS' MARKET" MEANS A GROUP OF FARMERS WHO ASSEMBLE AT**
 18 **A DEFINED COMMUNITY OR MUNICIPALLY SPONSORED LOCATION FOR THE**
 19 **PURPOSE OF SELLING THEIR PRODUCE DIRECTLY TO CONSUMERS.**

20 **(C)** ~~(b)~~ "Readily available" means available under a standard
 21 of economic feasibility, as applied to the specific circumstances
 22 of the applicant, that includes, but is not limited to, the
 23 following:

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

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

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

1 Sec. 537. (1) The following classes of vendors may sell
2 alcoholic liquors at retail as provided in this section:

3 (a) Taverns where beer and wine may be sold for consumption on
4 the premises only.

5 (b) Class C license where beer, wine, mixed spirit drink, and
6 spirits may be sold for consumption on the premises.

7 (c) Clubs where beer, wine, mixed spirit drink, and spirits
8 may be sold for consumption on the premises only to bona fide
9 members where consumption is limited to these members and their
10 bona fide guests, who have attained the age of 21 years.

11 (d) Direct shippers where wine may be sold and shipped
12 directly to the consumer.

13 (e) Hotels of class A where beer and wine may be sold for
14 consumption on the premises and in the rooms of bona fide
15 registered guests. Hotels of class B where beer, wine, mixed spirit
16 drink, and spirits may be sold for consumption on the premises and
17 in the rooms of bona fide registered guests.

18 (f) Specially designated merchants, where beer and wine may be
19 sold for consumption off the premises only .

20 (g) Specially designated distributors where spirits and mixed
21 spirit drink may be sold for consumption off the premises only.

22 (h) Special licenses where beer and wine or beer, wine, mixed
23 spirit drink, and spirits may be sold for consumption on the
24 premises ~~only~~**OR OFF THE LICENSED PREMISES IN THE CASE OF A SPECIAL**
25 **LICENSE ISSUED UNDER SECTION 531(7).**

26 (i) Dining cars or other railroad or Pullman cars, watercraft,
27 or aircraft, where alcoholic liquor may be sold for consumption on

1 the premises only, subject to rules promulgated by the commission.

2 (j) Brewpubs where beer manufactured on the premises by the
3 licensee may be sold for consumption on or off the premises by any
4 of the following licensees:

5 (i) Class C.

6 (ii) Tavern.

7 (iii) Class A hotel.

8 (iv) Class B hotel.

9 (k) Micro brewers and brewers selling less than 200,000
10 barrels of beer per year where beer produced by the micro brewer or
11 brewer may be sold to a consumer for consumption on or off the
12 brewery premises.

13 (l) Class G-1 license where beer, wine, mixed spirit drink, and
14 spirits may be sold for consumption on the premises only to members
15 required to pay an annual membership fee and consumption is limited
16 to these members and their bona fide guests.

17 (m) Class G-2 license where beer and wine may be sold for
18 consumption on the premises only to members required to pay an
19 annual membership fee and consumption is limited to these members
20 and their bona fide guests.

21 (n) Motorsports event license where beer and wine may be sold
22 for consumption on the premises during sanctioned motorsports
23 events only.

24 (o) Wine maker where wine may be sold by direct shipment, at
25 retail on the licensed premises, and as provided for in subsections
26 (2) and (3).

27 (2) A wine maker may sell wine made by that wine maker in a

1 restaurant for consumption on or off the premises if the restaurant
2 is owned by the wine maker or operated by another person under an
3 agreement approved by the commission and located on the premises
4 where the wine maker is licensed.

5 (3) A wine maker, with the prior written approval of the
6 commission, may conduct wine tastings of wines made by that wine
7 maker and may sell the wine made by that wine maker for consumption
8 off the premises at a location other than the premises where the
9 wine maker is licensed to manufacture wine, under the following
10 conditions:

11 (a) The premises upon which the wine tasting occurs conforms
12 to local and state sanitation requirements.

13 (b) Payment of a \$100.00 fee per location is made to the
14 commission.

15 (c) The wine tasting locations shall be considered licensed
16 premises.

17 (d) Wine tasting does not take place between the hours of 2
18 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and 12
19 noon on Sunday.

20 (e) The premises and the licensee comply with and are subject
21 to all applicable rules promulgated by the commission.