

HOUSE BILL No. 5140

November 7, 2013, Introduced by Rep. Walsh 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 2012 PA 212.

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. An on-premises escrowed license 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 county
8 in which the escrowed license was located. If the local
9 governmental unit within which the former licensee's premises were
10 located spans more than 1 county, an escrowed license may be

1 transferred, subject to local legislative approval under section
2 501(2), to an applicant whose proposed operation is located within
3 any local governmental unit in either county. If an escrowed
4 license is activated within a local governmental unit other than
5 that local governmental unit within which the escrowed license was
6 originally issued, the commission shall count that activated
7 license against the local governmental unit originally issuing the
8 license. This quota does not bar the right of an existing licensee
9 to renew a license or transfer the license and does not bar the
10 right of an on-premises licensee of any class to reclassify to
11 another class of on-premises license in a manner not in violation
12 of law or this act, subject to the consent of the commission. The
13 upgrading of a license resulting from a request under this
14 subsection is subject to approval by the local governmental unit
15 having jurisdiction.

16 (2) In a resort area, the commission may issue no more than
17 550 licenses for a period not to exceed 12 months without regard to
18 a limitation because of population and with respect to the resort
19 license the commission, by rule, shall define and classify resort
20 seasons by months and may issue 1 or more licenses for resort
21 seasons without regard to the calendar year or licensing year.

22 (3) In addition to the resort licenses authorized in
23 subsection (2), the commission may issue not more than 5 additional
24 licenses per year to establishments whose business and operation,
25 as determined by the commission, is designed to attract and
26 accommodate tourists and visitors to the resort area, whose primary
27 purpose is not for the sale of alcoholic liquor, and whose capital

1 investment in real property, leasehold improvement, and fixtures
2 for the premises to be licensed is \$75,000.00 or more. Further, the
3 commission shall issue 1 license under this subsection per year to
4 an applicant located in a rural area that has a poverty rate, as
5 defined by the latest decennial census, greater than the statewide
6 average, or that is located in a rural area that has an
7 unemployment rate higher than the statewide average for 3 of the 5
8 preceding years. In counties having a population of less than
9 50,000, as determined by the last federal decennial census or as
10 determined under subsection (11) and subject to subsection (16) in
11 the case of a class A hotel or a class B hotel, the commission
12 shall not require the establishments to have dining facilities to
13 seat more than 50 persons. The commission may cancel the license if
14 the resort is no longer active or no longer qualifies for the
15 license. Before January 16 of each year the commission shall
16 transmit to the legislature a report giving details as to all of
17 the following:

18 (a) The number of applications received under this subsection.

19 (b) The number of licenses granted and to whom.

20 (c) The number of applications rejected and the reasons they
21 were rejected.

22 (d) The number of the licenses revoked, suspended, or other
23 disciplinary action taken and against whom and the grounds for
24 revocation, suspension, or disciplinary action.

25 (4) In addition to any licenses for the sale of alcoholic
26 liquor for consumption on the premises that may be available in the
27 local governmental unit under subsection (1) and the resort

1 licenses authorized in subsections (2) and (3), the commission may
2 issue not more than 15 resort economic development licenses per
3 year. A person is eligible to apply for a resort economic
4 development license under this subsection upon submitting an
5 application to the commission and demonstrating all of the
6 following:

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

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

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

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

17 (5) In governmental units having a population of 50,000 or
18 less, as determined by the last federal decennial census or as
19 determined under subsection (11), in which the quota of specially
20 designated distributor licenses, as provided by section 533, has
21 been exhausted, the commission may issue not more than a total of
22 10 additional specially designated distributor licenses per year to
23 established merchants whose business and operation, as determined
24 by the commission, is designed to attract and accommodate tourists
25 and visitors to the resort area. A specially designated distributor
26 license issued under this subsection may be issued at a location
27 within 2,640 feet of existing specially designated distributor

1 license locations. A specially designated distributor license
2 issued under this subsection shall not bar another specially
3 designated distributor licensee from transferring location to
4 within 2,640 feet of that licensed location. A specially designated
5 distributor license issued under section 533 may be located within
6 2,640 feet of a specially designated distributor license issued
7 under this subsection.

8 (6) 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 or
11 resort economic development licenses authorized in subsections (2),
12 (3), and (4), and notwithstanding section 519, the commission may
13 issue not more than 5 additional special purpose licenses in any
14 calendar year for the sale of beer and wine for consumption on the
15 premises. A special purpose license issued under this subsection
16 shall be issued only for events that are to be held from May 1 to
17 September 30, are artistic in nature, and that are to be held on
18 the campus of a public university with an enrollment of 30,000 or
19 more students. A special purpose license is valid for 30 days or
20 for the duration of the event for which it is issued, whichever is
21 less. The fee for a special purpose license is \$50.00. A special
22 purpose license may be issued only to a corporation that meets all
23 of the following requirements:

24 (a) Is a nonprofit corporation organized under the nonprofit
25 corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

26 (b) Has a board of directors constituted of members of whom
27 half are elected by the public university at which the event is

1 scheduled and half are elected by the local governmental unit.

2 (c) Has been in continuous existence for not less than 6
3 years.

4 (7) Notwithstanding the local legislative body approval
5 provision of section 501(2) and notwithstanding the provisions of
6 section 519, the commission may issue, without regard to the quota
7 provisions of subsection (1) and with the approval of the governing
8 board of the university, either a tavern or class C license which
9 may be used only for regularly scheduled events at a public
10 university's established outdoor program or festival at a facility
11 on the campus of a public university having a head count enrollment
12 of 10,000 students or more. A license issued under this subsection
13 may only be issued to the governing board of a public university, a
14 person that is the lessee or concessionaire of the governing board
15 of the university, or both. A license issued under this subsection
16 is not transferable as to ownership or location. Except as
17 otherwise provided in this subsection, a license issued under this
18 subsection may not be issued at an outdoor stadium customarily used
19 for intercollegiate athletic events. A license may be issued at an
20 outdoor stadium customarily used for intercollegiate athletic
21 events for not more than 30 consecutive days to a concessionaire of
22 an entity granted exclusive use of a public university's property
23 in conjunction with a hockey game sanctioned by an unincorporated
24 not-for-profit association that operates a major professional ice
25 hockey league consisting of teams located in Canada and in the
26 United States if the concessionaire has entered into an agreement
27 granting it control of the licensed premises for the purposes of

1 complying with this act and rules promulgated under this act
2 regarding the sale of alcoholic liquor. A nationally televised game
3 between 2 professional hockey teams played outdoors is considered
4 an established outdoor program for the purposes of this subsection.
5 Notwithstanding any provision of this act or any rule promulgated
6 under this act, a concessionaire obtaining a license under this
7 subsection may share the profits generated from that license with
8 an unincorporated not-for-profit association that operates a major
9 professional ice hockey league consisting of teams located in
10 Canada and in the United States or an affiliated entity under a
11 written contract reviewed by the commission. If the established
12 outdoor program is a nationally televised game between 2
13 professional hockey teams, the commission may allow the promotion
14 and advertising of alcoholic liquor brands on the campus of a
15 public university where a concessionaire has been issued a license
16 under this subsection for the duration of the license.

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

25 (9) The limitations and quotas of this section are not
26 applicable to issuing a new license to a veteran of the armed
27 forces of the United States who was honorably discharged or

1 released under honorable conditions from the armed forces of the
2 United States and who had by forced sale disposed of a similar
3 license within 90 days before or after entering or while serving in
4 the armed forces of the United States, as a part of the person's
5 preparation for that service if the application for a new license
6 is submitted for the same governmental unit in which the previous
7 license was issued and within 60 days after the discharge of the
8 applicant from the armed forces of the United States.

9 (10) The limitations and quotas of this section are not
10 applicable to issuing a new license or renewing an existing license
11 where the property or establishment to be licensed is situated in
12 or on land on which an airport owned by a county or in which a
13 county has an interest is situated.

14 (11) For purposes of implementing this section a special state
15 census of a local governmental unit may be taken at the expense of
16 the local governmental unit by the federal bureau of census or the
17 secretary of state under section 6 of the home rule city act, 1909
18 PA 279, MCL 117.6. The special census shall be initiated by
19 resolution of the governing body of the local governmental unit
20 involved. The secretary of state may promulgate additional rules
21 necessary for implementing this section pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 (12) Before granting an approval as required in section 501(2)
25 for a license to be issued under subsection (2), (3), or (4), a
26 local legislative body shall disclose the availability of
27 transferable licenses held in escrow for more than 1 licensing year

1 within that respective local governmental unit. The local
2 governmental unit shall provide public notice of the meeting to
3 consider the granting of the license by the local governmental unit
4 2 weeks before the meeting.

5 (13) The person signing the application for an on-premises
6 resort or resort economic development license shall state and
7 verify that he or she attempted to secure an on-premises escrowed
8 license or quota license and that, to the best of his or her
9 knowledge, an on-premises escrowed license or quota license is not
10 readily available within the county in which the applicant for the
11 on-premises resort or resort economic development license proposes
12 to operate.

13 (14) The commission shall not issue an on-premises resort or
14 resort economic development license if the county within which the
15 resort or resort economic development license applicant proposes to
16 operate has not issued all on-premises licenses available under
17 subsection (1) or if an on-premises escrowed license exists and is
18 readily available within the local governmental unit in which the
19 applicant for the on-premises resort or resort economic development
20 license proposes to operate. The commission may waive the
21 provisions of this subsection upon a showing of good cause.

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

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

1 (17) Subject to the limitation and quotas of subsection (1)
2 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 (18) NOTWITHSTANDING R 436.1133 OF THE MICHIGAN ADMINISTRATIVE
12 CODE OR ANY OTHER RULE PROMULGATED UNDER THIS ACT, A SPECIALLY
13 DESIGNATED DISTRIBUTOR LICENSE MAY BE TRANSFERRED, WITH THE CONSENT
14 OF THE COMMISSION AND SUBJECT TO LOCAL LEGISLATIVE APPROVAL UNDER
15 SECTION 501(2) AND THE LIMITATIONS PROVIDED IN THIS SUBSECTION, TO
16 AN APPLICANT WHOSE PROPOSED OPERATION IS LOCATED WITHIN ANY LOCAL
17 GOVERNMENTAL UNIT IN A COUNTY IN WHICH THE SPECIALLY DESIGNATED
18 DISTRIBUTOR LICENSE WAS LOCATED. IF THE LOCAL GOVERNMENTAL UNIT
19 WITHIN WHICH THE FORMER LICENSEE'S PREMISES WERE LOCATED SPANS MORE
20 THAN 1 COUNTY, THE LICENSE MAY BE TRANSFERRED, SUBJECT TO LOCAL
21 LEGISLATIVE APPROVAL UNDER SECTION 501(2) AND THE LIMITATIONS
22 PROVIDED IN THIS SUBSECTION, TO AN APPLICANT WHOSE PROPOSED
23 OPERATION IS LOCATED WITHIN ANY LOCAL GOVERNMENTAL UNIT IN EITHER
24 COUNTY. IF THE SPECIALLY DESIGNATED DISTRIBUTOR LICENSE IS
25 ACTIVATED WITHIN A LOCAL GOVERNMENTAL UNIT OTHER THAN THAT LOCAL
26 GOVERNMENTAL UNIT WITHIN WHICH THE SPECIALLY DESIGNATED DISTRIBUTOR
27 LICENSE WAS ORIGINALLY ISSUED, THE COMMISSION SHALL COUNT THAT

1 ACTIVATED LICENSE AGAINST THE LOCAL GOVERNMENTAL UNIT ORIGINALLY
2 ISSUING THE SPECIALLY DESIGNATED DISTRIBUTOR LICENSE. THE NUMBER OF
3 SPECIALLY DESIGNATED DISTRIBUTOR LICENSES THAT MAY BE TRANSFERRED
4 WITHIN A COUNTY PURSUANT TO THIS SUBSECTION DURING THE FIRST 3
5 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
6 THIS SUBSECTION SHALL NOT EXCEED THE FOLLOWING:

7 (A) FOR THE FIRST YEAR, 10.

8 (B) FOR THE SECOND YEAR, 20.

9 (C) FOR THE THIRD YEAR, 30.

10 (19) ~~(18)~~—As used in this section:

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

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

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

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

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