

SENATE BILL No. 920

April 26, 2016, Introduced by Senators MARLEAU, JONES and KOWALL and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 531 and 533 (MCL 436.1531 and 436.1533), section 531 as amended by 2014 PA 135 and section 533 as amended by 1998 PA 416.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) ~~A~~ **THE COMMISSION SHALL NOT ISSUE A** public
 2 license ~~shall not be granted~~ for the sale of alcoholic liquor for
 3 consumption on the premises **IF THE ISSUANCE WOULD RESULT** in excess
 4 ~~of~~ **MORE THAN** 1 license for each 1,500 of population or major
 5 fraction ~~thereof~~. **OF 1,500 OF POPULATION.** An on-premises escrowed
 6 license issued under this subsection may be transferred, subject to
 7 local legislative approval under section 501(2), to an applicant
 8 whose proposed operation is located within any local governmental
 9 unit in a county in which the escrowed license was located. If the

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

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

24 (3) In addition to the resort licenses authorized in
25 subsection (2), the commission may issue not more than 5 additional
26 licenses per year to establishments whose business and operation,
27 as determined by the commission, is designed to attract and

1 accommodate tourists and visitors to the resort area, whose primary
2 purpose is not for the sale of alcoholic liquor, and whose capital
3 investment in real property, leasehold improvement, and fixtures
4 for the premises to be licensed is \$75,000.00 or more. Further, the
5 commission shall issue 1 license under this subsection per year to
6 an applicant located in a rural area that has a poverty rate, as
7 defined by the latest decennial census, greater than the statewide
8 average, or that is located in a rural area that has an
9 unemployment rate higher than the statewide average for 3 of the 5
10 preceding years. In counties having a population of less than
11 50,000, as determined by the last federal decennial census or as
12 determined under subsection (11) and subject to subsection (16) ~~in~~
13 ~~the case of~~ **FOR** a class A hotel or a class B hotel, the commission
14 shall not require the establishments to have dining facilities to
15 seat more than 50 persons. The commission may cancel the license if
16 the resort is no longer active or no longer qualifies for the
17 license. Before January 16 of each year the commission shall
18 transmit to the legislature a report ~~giving details as to~~ **THAT**
19 **INCLUDES** all of the following:
20 (a) The number of applications received under this subsection.
21 (b) The number of licenses granted and to whom.
22 (c) The number of applications rejected and the reasons they
23 were rejected.
24 (d) The number of the licenses revoked, suspended, or **AS TO**
25 **WHICH** other disciplinary action **WAS** taken, ~~and against whom~~ **THE**
26 **NAMES OF THE LICENSEES**, and the grounds for revocation, suspension,
27 or disciplinary action.

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

10 (a) The establishment's business and operation, as determined
11 by the commission, is designed to attract and accommodate tourists
12 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 gambling
19 on the premises.

20 (5) In governmental units having a population of 50,000 or
21 less, as determined by the last federal decennial census or as
22 determined under subsection (11), in which the quota of specially
23 designated distributor licenses, as provided by section 533, has
24 been exhausted, the commission may issue not more than a total of
25 15 additional specially designated distributor licenses per year to
26 established merchants whose business and operation, as determined
27 by the commission, is designed to attract and accommodate tourists

1 and visitors to the resort area. ~~A—SUBJECT TO A WAIVER BY THE~~
2 **COMMISSION UNDER SECTION 533(3),** A specially designated distributor
3 license issued under this subsection **BEFORE THE EFFECTIVE DATE OF**
4 **THE AMENDATORY ACT THAT ADDED SECTION 533(3)** may be issued at a
5 location within 2,640 feet of existing specially designated
6 distributor license locations. ~~A—SUBJECT TO A WAIVER BY THE~~
7 **COMMISSION UNDER SECTION 533(3),** A specially designated distributor
8 license issued under this subsection ~~shall—~~**DOES** not bar another
9 specially designated distributor licensee from transferring **THE**
10 **LICENSED** location **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT**
11 **THAT ADDED SECTION 533(3)** to within 2,640 feet of that licensed
12 location. A specially designated distributor license issued under
13 section 533 may be located within 2,640 feet of a specially
14 designated distributor license issued under this subsection **BEFORE**
15 **THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 533(3).**
16 The person signing the application for a specially designated
17 distributor license under this subsection shall state that he or
18 she attempted to secure an escrowed specially designated
19 distributor license or quota license and that, to the best of his
20 or her knowledge, an escrowed specially designated distributor
21 license or quota license is not readily available within the county
22 in which the applicant for the specially designated distributor
23 license under this subsection proposes to operate.

24 (6) In addition to any licenses for the sale of alcoholic
25 liquor for consumption on the premises that may be available in the
26 local governmental unit under subsection (1), and the resort or
27 resort economic development licenses authorized in subsections (2),

1 (3), and (4), and notwithstanding section 519, the commission may
2 issue not more than 5 additional special purpose licenses in any
3 calendar year for the sale of beer and wine for consumption on the
4 premises. ~~A THE COMMISSION MAY ONLY ISSUE A~~ special purpose license
5 ~~issued~~ under this subsection ~~shall be issued only~~ for events that
6 are to be held from May 1 to September 30, are artistic in nature,
7 and ~~that~~ are to be held on the campus of a public university with
8 an enrollment of 30,000 or more students. A special purpose license
9 is valid for 30 days or for the duration of the event for which it
10 is issued, whichever is less. The fee for a special purpose license
11 is \$50.00. A special purpose license may be issued only to a
12 corporation that meets all of the following requirements:

13 (a) ~~Is~~ **THE CORPORATION IS** a nonprofit corporation organized
14 under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
15 450.3192.

16 (b) ~~Has~~ **THE CORPORATION HAS** a board of directors constituted
17 of members of whom half are elected by the public university at
18 which the event is scheduled and half are elected by the local
19 governmental unit.

20 (c) ~~Has~~ **THE CORPORATION HAS** been in continuous existence for
21 not less than 6 years.

22 (7) Notwithstanding the local legislative body approval
23 provision of section 501(2) and notwithstanding ~~the provisions of~~
24 section 519, the commission may issue, without regard to the quota
25 provisions of subsection (1) and with the approval of the governing
26 board of the university, either a tavern or class C license ~~which~~
27 **THAT** may be used only for regularly scheduled events at a public

1 university's established outdoor program or festival at a facility
2 on the campus of a public university having a head count enrollment
3 of 10,000 students or more. ~~A~~ **THE COMMISSION MAY ONLY ISSUE A**
4 ~~license issued under this subsection may only be issued to the~~
5 governing board of a public university, a person that is the lessee
6 or concessionaire of the governing board of the university, or
7 both. A license issued under this subsection is not transferable as
8 to ownership or location. Except as otherwise provided in this
9 subsection, a license issued under this subsection may not be
10 issued at an outdoor stadium customarily used for intercollegiate
11 athletic events. A license may be issued at an outdoor stadium
12 customarily used for intercollegiate athletic events for not more
13 than 30 consecutive days to a concessionaire of an entity granted
14 exclusive use of a public university's property in conjunction with
15 a hockey game sanctioned by an unincorporated not-for-profit
16 association that operates a major professional ice hockey league
17 consisting of teams located in Canada and in the United States or
18 in conjunction with a professional international soccer match
19 between 2 international soccer clubs as part of a tournament
20 sanctioned by a not-for-profit association that is the governing
21 body for soccer in the United States and organized and promoted by
22 a match agent that is licensed by the international governing body
23 for soccer if the concessionaire has entered into an agreement
24 granting it control of the licensed premises for the purposes of
25 complying with this act and rules promulgated under this act
26 regarding the sale of alcoholic liquor. A nationally televised game
27 between 2 professional hockey teams or 2 professional international

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

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

26 (9) The limitations and quotas of this section are not
27 applicable to issuing a new license to a veteran of the armed

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

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

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

25 (12) Before granting an approval as required in section 501(2)
26 for a license to be issued under subsection (2), (3), or (4), a
27 local legislative body shall disclose the availability of

1 transferable licenses held in escrow for more than 1 licensing year
2 within that ~~respective~~ local governmental unit. The local
3 governmental unit shall provide public notice of the meeting to
4 consider the granting of the license by the local governmental unit
5 2 weeks before the meeting.

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

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

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

26 (16) The commission shall not require a class A hotel or a
27 class B hotel licensed under subsection (2), (3), or (4) to provide

1 food service to registered guests or to the public.

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

12 (18) An escrowed specially designated distributor license may
13 be transferred, with the consent of the commission, to an applicant
14 whose proposed operation is located within any local governmental
15 unit in a county in which the specially designated distributor
16 license is located. If the local governmental unit within which the
17 escrowed specially designated distributor license is located spans
18 more than 1 county, the license may be transferred to an applicant
19 whose proposed operation is located within any local governmental
20 unit in either county. If the specially designated distributor
21 license is activated within a local governmental unit other than
22 that local governmental unit within which the specially designated
23 distributor license was originally issued, the commission shall
24 count that activated license against the local governmental unit
25 originally issuing the specially designated distributor license.

26 (19) Subsection (8) of R 436.1135 of the Michigan
27 ~~administrative code~~ **ADMINISTRATIVE CODE** does not apply to a

1 transfer under subsection (18).

2 (20) As used in this section:

3 (a) "Escrowed license" means a license ~~in~~**AS TO** which the
4 rights of the licensee in the license or to the renewal of the
5 license are still in existence and are subject to renewal and
6 activation in the manner provided for in R 436.1107 of the Michigan
7 ~~administrative code.~~**ADMINISTRATIVE CODE.**

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

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

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

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

15 Sec. 533. (1) A retail vendor licensed under this act to sell
16 for consumption on the premises may apply for a license as a
17 specially designated merchant.

18 (2) A specially designated distributor may apply for a license
19 as a specially designated merchant. In cities, incorporated
20 villages, or townships, the commission shall issue only 1 specially
21 designated distributor license for each 3,000 of population, or
22 fraction of 3,000 **OF POPULATION**. The **COMMISSION MAY WAIVE THE** quota
23 requirement ~~may be waived at the discretion of the commission~~**UNDER**
24 **THIS SUBSECTION** if there is no existing specially designated
25 distributor licensee **LICENSED ESTABLISHMENT** within 2 miles of the
26 applicant, measured along the nearest traffic route.

27 (3) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE**

1 COMMISSION SHALL NOT APPROVE AN APPLICATION FOR A NEW SPECIALLY
2 DESIGNATED DISTRIBUTOR LICENSE OR THE TRANSFER OF LOCATION OF AN
3 EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSE IF THERE IS AN
4 EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSED ESTABLISHMENT
5 LOCATED WITHIN 2,640 FEET OF THE PROPOSED LICENSED ESTABLISHMENT.
6 THE DISTANCE BETWEEN THE EXISTING SPECIALLY DESIGNATED
7 DISTRIBUTOR'S LICENSED ESTABLISHMENT AND THE PROPOSED LICENSED
8 ESTABLISHMENT MUST BE MEASURED ALONG THE CENTER LINE OF THE STREET
9 OR STREETS OF ADDRESS BETWEEN 2 FIXED POINTS ON THE CENTER LINE
10 DETERMINED BY PROJECTING STRAIGHT LINES, AT RIGHT ANGLES TO THE
11 CENTER LINE, FROM THE PART OF THE EXISTING SPECIALLY DESIGNATED
12 DISTRIBUTOR'S LICENSED ESTABLISHMENT NEAREST TO THE PROPOSED
13 LICENSED ESTABLISHMENT AND FROM THE PART OF THE PROPOSED LICENSED
14 ESTABLISHMENT TO THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR'S
15 LICENSED ESTABLISHMENT. THE COMMISSION MAY WAIVE THE DISTANCE
16 RESTRICTION DESCRIBED IN THIS SUBSECTION FOR ANY OF THE FOLLOWING
17 REASONS:

18 (A) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR HAS
19 PURCHASED LESS THAN \$50,000.00 IN SPIRITS FROM THE COMMISSION
20 DURING THE LAST FULL CALENDAR YEAR.

21 (B) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR HAS A CLASS
22 A HOTEL LICENSE OR CLASS B HOTEL LICENSE.

23 (C) THE PROPOSED LICENSED ESTABLISHMENT AND THE EXISTING
24 SPECIALLY DESIGNATED DISTRIBUTOR'S LICENSED ESTABLISHMENT ARE
25 SEPARATED BY A MAJOR THOROUGHFARE OF NOT LESS THAN 4 LANES OF
26 TRAFFIC.

27 (D) THE PROPOSED LICENSED ESTABLISHMENT IS LOCATED IN A

1 NEIGHBORHOOD SHOPPING CENTER THAT DOES NOT HAVE AN EXISTING
2 SPECIALLY DESIGNATED DISTRIBUTOR LICENSED ESTABLISHMENT AND THE
3 PROPOSED LICENSED ESTABLISHMENT IS LOCATED NOT LESS THAN 1,000 FEET
4 FROM AN EXISTING SPECIALLY DESIGNATED DISTRIBUTOR'S LICENSED
5 ESTABLISHMENT. THE DISTANCE BETWEEN THE EXISTING SPECIALLY
6 DESIGNATED DISTRIBUTOR'S LICENSED ESTABLISHMENT AND THE PROPOSED
7 LICENSED ESTABLISHMENT MUST BE MEASURED ALONG THE CENTER LINE OF
8 THE STREET OR STREETS OF ADDRESS BETWEEN 2 FIXED POINTS ON THE
9 CENTER LINE DETERMINED BY PROJECTING STRAIGHT LINES, AT RIGHT
10 ANGLES TO THE CENTER LINE, FROM THE PART OF THE EXISTING SPECIALLY
11 DESIGNATED DISTRIBUTOR'S LICENSED ESTABLISHMENT NEAREST TO THE
12 PROPOSED LICENSED ESTABLISHMENT AND FROM THE PART OF THE PROPOSED
13 LICENSED ESTABLISHMENT TO THE EXISTING SPECIALLY DESIGNATED
14 DISTRIBUTOR'S LICENSED ESTABLISHMENT. AS USED IN THIS SUBDIVISION,
15 "NEIGHBORHOOD SHOPPING CENTER" MEANS 1 COMMERCIAL ESTABLISHMENT, OR
16 A GROUP OF COMMERCIAL ESTABLISHMENTS ORGANIZED OR OPERATED AS A
17 UNIT, THAT IS RELATED IN LOCATION, SIZE, AND TYPE OF SHOP TO THE
18 TRADE AREA THAT THE UNIT SERVES, AND CONSISTS OF NOT LESS THAN
19 50,000 SQUARE FEET OF LEASABLE RETAIL SPACE, AND HAS ACCESS TO OFF-
20 STREET PARKING SPACES.

21 (E) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR'S LICENSED
22 ESTABLISHMENT IS LOCATED WITHIN 2,640 FEET OF ANOTHER EXISTING
23 SPECIALLY DESIGNATED DISTRIBUTOR'S LICENSED ESTABLISHMENT AND THE
24 EXISTING SPECIALLY DESIGNATED DISTRIBUTOR REQUESTS A TRANSFER OF
25 LOCATION THAT IS WITHIN 2,640 FEET OF THE OTHER EXISTING SPECIALLY
26 DESIGNATED DISTRIBUTOR'S LICENSED ESTABLISHMENT, ON SHOWING OF GOOD
27 CAUSE BY THE LICENSEE THAT IS REQUESTING THE TRANSFER OF LOCATION.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.