

HOUSE BILL NO. 6289

June 30, 2022, Introduced by Reps. Filler and Tate 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 2014 PA 135.

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 population.** An on-premises escrowed

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

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

28 (3) In addition to the resort licenses authorized in
29 subsection (2), the commission may issue not more than 5 additional

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

- (a) The number of applications received under this subsection.
- (b) The number of licenses granted and to whom.
- (c) The number of applications rejected and the reasons they were rejected.
- (d) The number of the licenses revoked, suspended, or **as to which** other disciplinary action **was** taken, ~~and against whom the names of the licensees,~~ and the grounds for revocation, suspension, 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)~~**(12)**, in which the quota of
23 specially designated distributor licenses, as provided by section
24 533, has been exhausted, the commission may issue not more than a
25 total of 15 additional specially designated distributor licenses
26 per year to established merchants whose business and operation, as
27 determined by the commission, is designed to attract and
28 accommodate tourists and visitors to the resort area. A specially
29 designated distributor license issued under this subsection may be

1 issued at a location within 2,640 feet of existing specially
2 designated distributor license locations. A specially designated
3 distributor license issued under this subsection ~~shall~~**does** not bar
4 another specially designated distributor licensee from transferring
5 location to within 2,640 feet of that licensed location. A
6 specially designated distributor license issued under section 533
7 may be located within 2,640 feet of a specially designated
8 distributor license issued under this subsection. The person
9 signing the application for a specially designated distributor
10 license under this subsection shall state that he or she attempted
11 to secure an escrowed specially designated distributor license or
12 quota license and that, to the best of his or her knowledge, an
13 escrowed specially designated distributor license or quota license
14 is not readily available within the county in which the applicant
15 for the specially designated distributor license under this
16 subsection proposes to operate.

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

1 is issued, whichever is less. The fee for a special purpose license
 2 is \$50.00. A special purpose license may be issued only to a
 3 corporation that meets all of the following requirements:

4 (a) ~~Is~~**The corporation is** a nonprofit corporation organized
 5 under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
 6 450.3192.

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

11 (c) ~~Has~~**The corporation has** been in continuous existence for
 12 not less than 6 years.

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

1 outdoor stadium customarily used for intercollegiate athletic
2 events for not more than 30 consecutive days to a concessionaire of
3 an entity granted exclusive use of a public university's property
4 in conjunction with a hockey game sanctioned by an unincorporated
5 not-for-profit association that operates a major professional ice
6 hockey league consisting of teams located in Canada and in the
7 United States or in conjunction with a professional international
8 soccer match between 2 international soccer clubs as part of a
9 tournament sanctioned by a not-for-profit association that is the
10 governing body for soccer in the United States and organized and
11 promoted by a match agent that is licensed by the international
12 governing body for soccer if the concessionaire has entered into an
13 agreement granting it control of the licensed premises for the
14 purposes of complying with this act and rules promulgated under
15 this act regarding the sale of alcoholic liquor. A nationally
16 televised game between 2 professional hockey teams or 2
17 professional international soccer clubs played outdoors is
18 considered an established outdoor program for the purposes of this
19 subsection. Notwithstanding any provision of this act or any rule
20 promulgated under this act, a concessionaire obtaining a license
21 under this subsection may share the profits generated from that
22 license with an unincorporated not-for-profit association that
23 operates a major professional ice hockey league consisting of teams
24 located in Canada and in the United States or an affiliated entity
25 under a written contract reviewed by the commission or with a
26 licensed match agent and a promoter that organizes and promotes
27 international soccer matches under a written contract reviewed by
28 the commission. If the established outdoor program is a nationally
29 televised game between 2 professional hockey teams or 2

1 professional international soccer clubs, the commission may allow
2 the promotion and advertising of alcoholic liquor brands on the
3 campus of a public university where a concessionaire has been
4 issued a license under this subsection for the duration of the
5 license.

6 (8) Notwithstanding the local legislative body approval
7 requirement of section 501(2) and notwithstanding section 519, the
8 commission may issue, without regard to the quota requirement of
9 subsection (1) and with the approval of the governing board of the
10 university, not more than 3 tavern licenses or 3 class C licenses
11 that may be used only for events within the public area of the
12 university's indoor basketball arena, indoor hockey arena, or
13 outdoor football stadium if all of the following conditions are
14 met:

15 (a) The public area is customarily used for intercollegiate
16 athletic events at the public university.

17 (b) The sales of alcoholic liquor conducted under the licenses
18 are conducted by individuals who have successfully completed a
19 server training program as provided for in section 906.

20 (c) The sales of alcoholic liquor are limited to 2 hours
21 before the event, while the event is occurring, and 2 hours after
22 the event.

23 (d) The commission issues a separate license for each indoor
24 basketball arena, indoor hockey arena, or outdoor football stadium.

25 (e) If applicable, the commission issues a bar, Sunday sales,
26 or entertainment permit for the event.

27 (f) A license issued under this section is not used for more
28 than 25 days per year within the indoor basketball arena or indoor
29 hockey arena, and not more than 10 days at the outdoor football

1 stadium.

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

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

23 (11) ~~(10)~~—The limitations and quotas of this section are not
24 applicable to issuing a new license or renewing an existing license
25 where the property or establishment to be licensed is situated in
26 or on land on which an airport owned by a county or in which a
27 county has an interest is situated.

28 (12) ~~(11)~~—For purposes of implementing this section a special
29 state census of a local governmental unit may be taken at the

1 expense of the local governmental unit by the ~~federal bureau of~~
 2 ~~census~~ **Federal Bureau of Census** or the secretary of state under
 3 section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The
 4 special census ~~shall~~ **must** be initiated by resolution of the
 5 governing body of the local governmental unit involved. The
 6 secretary of state may promulgate additional rules necessary for
 7 implementing this section ~~pursuant to~~ **under** the administrative
 8 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

9 **(13)** ~~(12)~~ Before granting an approval as required in section
 10 501(2) for a license to be issued under subsection (2), (3), or
 11 (4), a local legislative body shall disclose the availability of
 12 transferable licenses held in escrow for more than 1 licensing year
 13 within that respective local governmental unit. The local
 14 governmental unit shall provide public notice of the meeting to
 15 consider the granting of the license by the local governmental unit
 16 2 weeks before the meeting.

17 **(14)** ~~(13)~~ The person signing the application for an on-
 18 premises resort or resort economic development license shall state
 19 and verify that he or she attempted to secure an on-premises
 20 escrowed license or quota license and that, to the best of his or
 21 her knowledge, an on-premises escrowed license or quota license is
 22 not readily available within the county in which the applicant for
 23 the on-premises resort or resort economic development license
 24 proposes to operate.

25 **(15)** ~~(14)~~ The commission shall not issue an on-premises resort
 26 or resort economic development license if the county within which
 27 the resort or resort economic development license applicant
 28 proposes to operate has not issued all on-premises licenses
 29 available under subsection (1) or if an on-premises escrowed

1 license exists and is readily available within the local
2 governmental unit in which the applicant for the on-premises resort
3 or resort economic development license proposes to operate. The
4 commission may waive the provisions of this subsection ~~upon~~**on** a
5 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 under 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~~**in**
13 subsection (1) and to local legislative approval under section
14 501(2), the commission may approve the transfer of ownership and
15 location of an on-premises escrowed license within the same county
16 to a class G-1 or class G-2 license or may approve the
17 reclassification of an existing on-premises license at the location
18 to be licensed to a class G-1 license or to a class G-2 license,
19 subject to subsection (1). Resort or economic development on-
20 premises licenses created under subsection (3) or (4) may not be
21 issued as, or reclassified to, a class G-1 or class G-2 license.

22 **(19)** ~~(18)~~—An escrowed specially designated distributor license
23 may be transferred, with the consent of the commission, to an
24 applicant whose proposed operation is located within any local
25 governmental unit in a county in which the specially designated
26 distributor license is located. If the local governmental unit
27 within which the escrowed specially designated distributor license
28 is located spans more than 1 county, the license may be transferred
29 to an applicant whose proposed operation is located within any

1 local governmental unit in either county. If the specially
 2 designated distributor license is activated within a local
 3 governmental unit other than that local governmental unit within
 4 which the specially designated distributor license was originally
 5 issued, the commission shall count that activated license against
 6 the local governmental unit originally issuing the specially
 7 designated distributor license.

8 **(20)** ~~(19) Subsection~~ **Subrule** (8) of R 436.1135 of the Michigan
 9 ~~administrative code~~ **Administrative Code** does not apply to a
 10 transfer under subsection (18).

11 **(21)** ~~(20)~~ 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~~ **Administrative Code**.

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

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

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

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