

HOUSE BILL No. 4221

February 8, 2005, Introduced by Reps. Vagnozzi, Plakas, Gonzales and Condino 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 521 (MCL 436.1521), as amended by 1998 PA 282.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 521. (1) ~~In addition to any licenses for the sale of~~
 2 ~~alcoholic liquor for consumption on the premises that may be~~
 3 ~~available in the local governmental unit under section 531(1), and~~
 4 ~~the resort and resort economic development licenses authorized in~~
 5 ~~section 531(2), (3), and (4)~~ **BEGINNING THE EFFECTIVE DATE OF THE**
 6 **AMENDATORY ACT THAT ADDED SECTION 521A,** the commission ~~may~~ **SHALL**
 7 **NOT** issue ~~not more than 50~~ **ANY** tavern or class C licenses ~~to~~
 8 **UNDER THIS SECTION. HOWEVER, THOSE LICENSES ISSUED UNDER THIS**
 9 **SECTION ON OR BEFORE THE EFFECTIVE DATE OF SECTION 521A SHALL**

1 **REMAIN VALID AND MAY BE RENEWED IF IN COMPLIANCE WITH THIS SECTION.**
2 **THE COMMISSION SHALL RENEW LICENSES ISSUED UNDER THIS SECTION**
3 **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION**
4 **521A FOR** persons who operate businesses that meet all of the
5 following conditions:

6 (a) The business is a full service restaurant, is open to the
7 public, and prepares food on the premises.

8 (b) The business is open for food service not less than 10
9 hours per day, 5 days a week.

10 (c) At least 50% of the gross receipts of the business are
11 derived from the sale of food for consumption on the premises. For
12 purposes of this subdivision, food does not include beer and wine.

13 (d) The business has dining facilities to seat not less than
14 25 persons.

15 (e) The business is located in a development district with a
16 population of not more than 50,000, in which the ~~authority~~
17 **DEVELOPMENT DISTRICT**, after a public hearing, has found that the
18 issuance of the license would prevent further deterioration within
19 the development district and promote economic growth within the
20 development district. ~~The commission shall not issue the license~~
21 ~~unless the local unit of government within which the authority is~~
22 ~~located, after holding a public hearing, passes a resolution~~
23 ~~concurring in the findings of the authority.~~

24 ~~(2) The individual signing the application for the license~~
25 ~~shall state and demonstrate that the applicant attempted to secure~~
26 ~~an appropriate on-premise escrowed license or quota license issued~~
27 ~~under section 531 and that, to the best of his or her knowledge, an~~

1 ~~on-premise license or quota license issued under section 531 is not~~
2 ~~readily available within the local unit of government in which the~~
3 ~~applicant proposes to operate.~~

4 (2) ~~-(3)-~~ If in any licensing year the sale of food for
5 consumption on the premises of the business represents less than
6 50% of the gross receipts for the business, the commission, after
7 due notice and proper hearing, shall revoke the license issued
8 under subsection (1).

9 ~~————-(4) Not more than 1 license shall be issued under subsection~~
10 ~~(1) to any individual, partnership, limited partnership, limited~~
11 ~~liability company, corporation, or any combination of any of the~~
12 ~~above, including stockholders, general partners, or limited~~
13 ~~partners.~~

14 (3) A license issued under this section is transferable as to
15 ownership or location only within the development district.

16 (4) ~~-(5)-~~ The commission shall not issue a specially
17 designated merchant license, specially designated distributor
18 license, or any other license that allows the sale of alcoholic
19 liquor for consumption off the premises in conjunction with a
20 license issued under ~~subsection (1)~~ **THIS SECTION** or at the
21 premises for which a license has been issued under ~~subsection (1)~~
22 **THIS SECTION**.

23 ~~————-(6) The commission shall not issue a license under this~~
24 ~~section if the local governmental unit within which the development~~
25 ~~district is located has not issued all appropriate on-premise~~
26 ~~licenses available under section 531(1) or if an appropriate on-~~
27 ~~premise escrowed license is readily available in any local unit of~~

1 ~~government in which the development district is located. The~~
 2 ~~commission shall not issue more than 2 licenses authorized under~~
 3 ~~this section in any city or municipality with a population greater~~
 4 ~~than 50,000. If an applicant's proposed location is within more~~
 5 ~~than 1 development district, the applicant shall obtain the~~
 6 ~~approval of both or all of the applicable local units of government~~
 7 ~~or development districts.~~

8 ~~—— (7) The commission may issue the licenses under this section~~
 9 ~~without regard to the order in which the applications for the~~
 10 ~~licenses are received.~~

11 ~~—— (8) The commission shall annually report to the legislature~~
 12 ~~the names of the businesses issued licenses under this section and~~
 13 ~~their locations.~~

14 (5) ~~—(9)—~~ As used in this section, ~~—(a)—~~ "Development
 15 **"DEVELOPMENT** district" means any of the following:

16 (A) ~~—(i)—~~ An authority district established under the tax
 17 increment finance authority act, 1980 PA 450, MCL 125.1801 to
 18 125.1830.

19 (B) ~~—(ii)—~~ An authority district established under the local
 20 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

21 (C) ~~—(iii)—~~ A downtown district established under 1975 PA 197,
 22 MCL 125.1651 to 125.1681.

23 (D) ~~—(iv)—~~ A principal shopping district established under
 24 1961 PA 120, MCL 125.981 to ~~125.987~~ **125.990M**, before January 1,
 25 1996.

26 ~~—— (b) "Escrowed license" means a license in which the rights of~~
 27 ~~the licensee in the license or to the renewal of the license are~~

1 ~~still in existence and are subject to renewal and activation in the~~
2 ~~manner provided for in R 436.1107 of the Michigan administrative~~
3 ~~code.~~

4 ~~—— (c) "Readily available" means available under a standard of~~
5 ~~economic feasibility, as applied to the specific circumstances of~~
6 ~~the applicant, that includes but is not limited to the following:~~

7 ~~—— (i) The fair market value of the license, if determinable.~~

8 ~~—— (ii) The size and scope of the proposed operation.~~

9 ~~—— (iii) The existence of mandatory contractual restrictions or~~
10 ~~inclusions attached to the sale of the license.~~

11 Enacting section 1. This amendatory act does not take effect
12 unless Senate Bill No.____ or House Bill No. 4220(request no.
13 01436'05) of the 93rd Legislature is enacted into law.