SENATE BILL No. 1519

December 6, 2006, Introduced by Senator THOMAS and referred to the Committee on Economic Development, Small Business and 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 2005 PA 97.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 531. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. On-premises escrowed licenses issued under this subsection may be transferred subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in a county in which the escrowed license was located. However, beginning July 8, 2004, and until July 1, 2009, if the on-premises escrowed license was issued

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to a location within a city with a population of over 190,000 but under 300,000, the on-premises escrowed license shall not be transferred to an applicant whose proposed operation is located within any other local governmental unit in the county in which that city is located and, in addition, an escrowed license located within any local governmental unit in that county is not transferable into the city with a population of over 190,000 but under 300,000. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license is available subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of an on-premise licensee of any class to reclassify to another class of on-premises license in a manner not in violation of law or this act, subject to the consent of the commission. The upgrading of a license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue 1 or more licenses for a period not to exceed 12 months without regard to a limitation because of population, but not in excess of 550, and

with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in 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 pursuant to subsection ~~(11)~~ **(12)** and subject to subsection ~~(16)~~ **(17)** in the case of 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 the number of applications received under this

subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

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

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

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

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

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

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection ~~(11)~~ **(12)**, in which the

quota of specially designated distributor licenses, as provided by section 533, has been exhausted, the commission may issue not more than a total of 10 additional specially designated distributor licenses per year to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location. A specially designated distributor license issued pursuant to section 533 may be located within 2,640 feet of a specially designated distributor license issued pursuant to this subsection.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment

of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be $50.00. A special purpose license may be issued only to a corporation which is all of the following:

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

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

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

(7) IN ADDITION TO ANY LICENSES FOR THE SALE OF ALCOHOLIC LIQUOR ON THE PREMISES THAT MAY BE AVAILABLE IN THE LOCAL GOVERNMENTAL UNIT UNDER SUBSECTION (1), AND THE RESORT OR RESORT ECONOMIC DEVELOPMENT LICENSES AUTHORIZED UNDER SUBSECTIONS (2), (3), (4), AND (6), AND NOTWITHSTANDING SECTION 519, THE COMMISSION MAY ISSUE NOT MORE THAN 60 SPECIAL PURPOSE ARTS AND CULTURAL LICENSES, IN ANY FISCAL YEAR, TO THE ARTS AND CULTURE CLIENTS OF THE MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS FOR THE PURPOSES OF BEER AND WINE CONSUMPTION ON THE LICENSED PREMISES. AN ARTS AND CULTURAL LICENSE SHALL BE ISSUED ONLY FOR EVENTS THAT ARE CONSIDERED BY THE COMMISSION TO BE ARTISTIC IN NATURE AND ARE HELD ON THE PREMISES OF A RECOGNIZED AND ELIGIBLE NONPROFIT CLIENT OF THE MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS. THE COMMISSION SHALL CHARGE A LICENSE FEE OF $300.00. THE LICENSE IS VALID FOR NOT MORE THAN 24 2-DAY EVENTS. TO BE CONSIDERED ELIGIBLE, AN APPLICANT

SHALL MEET THE FOLLOWING CONDITIONS AS DETERMINED BY THE COMMISSION:

(A) IS A FUNDED CLIENT OF THE MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS DURING THE FISCAL YEAR WITHIN WHICH THE LICENSE IS TO BE ISSUED.

(B) IS A NONPROFIT CORPORATION UNDER THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192.

(C) HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST 2 YEARS, AS DETERMINED BY THE COMMISSION.

(8) ~~(7)~~ Notwithstanding the local legislative body approval provision of section 501(2) and notwithstanding the provisions of section 519, the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. A license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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