

HOUSE BILL No. 4542

April 11, 2013, Introduced by Reps. Nesbitt, Bumstead and Kelly 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 2012 PA 212 and section 533 as amended by
1998 PA 416.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) ~~A—EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION~~
2 (18), A public license shall not be granted for the sale of
3 alcoholic liquor for consumption on the premises in excess of 1
4 license for each 1,500 of population or major fraction thereof. An
5 on-premises escrowed license issued under this subsection may be
6 transferred, subject to local legislative approval under section
7 501(2), to an applicant whose proposed operation is located within
8 any local governmental unit in a county in which the escrowed

1 license was located. If the local governmental unit within which
2 the former licensee's premises were located spans more than 1
3 county, an escrowed license may be transferred, subject to local
4 legislative approval under section 501(2), to an applicant whose
5 proposed operation is located within any local governmental unit in
6 either county. If an escrowed license is activated within a local
7 governmental unit other than that local governmental unit within
8 which the escrowed license was originally issued, the commission
9 shall count that activated license against the local governmental
10 unit originally issuing the license. This quota 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 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 all of
19 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 other
25 disciplinary action taken and against whom and the grounds for
26 revocation, suspension, or disciplinary action.

27 (4) In addition to any licenses for the sale of alcoholic

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

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

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

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

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

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

1 license issued under this subsection may be issued at a location
2 within 2,640 feet of existing specially designated distributor
3 license locations. A specially designated distributor license
4 issued under this subsection shall not bar another specially
5 designated distributor licensee from transferring location to
6 within 2,640 feet of that licensed location. A specially designated
7 distributor license issued under section 533 may be located within
8 2,640 feet of a specially designated distributor license issued
9 under this subsection.

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

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

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

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

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

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

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

27 (9) The limitations and quotas of this section are not

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

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

16 (11) For purposes of implementing this section a special state
17 census of a local governmental unit may be taken at the expense of
18 the local governmental unit by the federal bureau of census or the
19 secretary of state under section 6 of the home rule city act, 1909
20 PA 279, MCL 117.6. The special census shall be initiated by
21 resolution of the governing body of the local governmental unit
22 involved. The secretary of state may promulgate additional rules
23 necessary for implementing this section pursuant to the
24 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
25 24.328.

26 (12) Before granting an approval as required in section 501(2)
27 for a license to be issued under subsection (2), (3), or (4), a

1 local legislative body shall disclose the availability of
2 transferable licenses held in escrow for more than 1 licensing year
3 within that respective local governmental unit. The local
4 governmental unit shall provide public notice of the meeting to
5 consider the granting of the license by the local governmental unit
6 2 weeks before the meeting.

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

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

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

27 (16) The commission shall not require a class A hotel or a

1 class B hotel licensed under subsection (2), (3), or (4) to provide
2 food service to registered guests or to the public.

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

13 (18) IF THE QUOTA OF LICENSES UNDER SUBSECTION (1) HAS BEEN
14 EXHAUSTED IN A CITY OR VILLAGE, AN APPLICANT LOCATED WITHIN THAT
15 CITY OR VILLAGE MAY APPLY FOR ANY AVAILABLE LICENSE UNDER THIS
16 SUBSECTION FROM THE NEAREST TOWNSHIP IF ALL OF THE FOLLOWING
17 CONDITIONS ARE MET:

18 (A) THE CITY OR VILLAGE IN WHICH THE APPLICANT PROPOSES TO
19 OPERATE IS LOCATED COMPLETELY WITHIN THE TOWNSHIP.

20 (B) THE POPULATION OF THE TOWNSHIP IS NOT MORE THAN 4,500.

21 (19) SUBJECT TO LOCAL LEGISLATIVE APPROVAL UNDER SECTION
22 501(2) OF BOTH THE CITY OR VILLAGE IN WHICH THE APPLICANT PROPOSES
23 TO OPERATE AND OF THE TOWNSHIP, THE COMMISSION MAY APPROVE THE
24 APPLICATION SUBMITTED UNDER SUBSECTION (18) AND TRANSFER THE
25 LICENSE FROM THE TOWNSHIP TO THAT CITY OR VILLAGE. THE LICENSE
26 ISSUED UNDER THIS SUBSECTION SHALL COUNT AGAINST THE QUOTA FOR THE
27 TOWNSHIP; HOWEVER, THE LICENSE FEES AND RENEWAL FEES SHALL, IN

1 ACCORDANCE WITH SECTION 543, BE DISTRIBUTED TO THE CITY OR VILLAGE
2 IN WHICH THE APPLICANT PROPOSES TO OPERATE.

3 (20) ~~(18)~~—As used in this section:

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

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

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

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

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

16 Sec. 533. (1) A retail vendor licensed under this act to sell
17 for consumption on the premises may apply for a license as a
18 specially designated merchant. A specially designated distributor
19 may apply for a license as a specially designated merchant. ~~In~~
20 **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN** cities,
21 ~~incorporated~~ villages, or townships, the commission shall issue
22 only 1 specially designated distributor license for each 3,000 of
23 population, or fraction of 3,000. The **COMMISSION MAY WAIVE THE**
24 quota requirement ~~may be waived at the discretion of the commission~~
25 **OF THIS SECTION** if there is no existing specially designated
26 distributor licensee within 2 miles of the applicant, measured
27 along the nearest traffic route.

1 (2) IF THE QUOTA OF SPECIALLY DESIGNATED DISTRIBUTOR LICENSES
2 UNDER THIS SECTION HAS BEEN EXHAUSTED IN A CITY OR VILLAGE, AN
3 APPLICANT LOCATED WITHIN THAT CITY OR VILLAGE MAY APPLY FOR ANY
4 AVAILABLE SPECIALLY DESIGNATED DISTRIBUTOR LICENSE FROM THE NEAREST
5 TOWNSHIP IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

6 (A) THE CITY OR VILLAGE IN WHICH THE APPLICANT PROPOSES TO
7 OPERATE IS LOCATED COMPLETELY WITHIN THE TOWNSHIP.

8 (B) THE POPULATION OF THE TOWNSHIP IS NOT MORE THAN 4,500.

9 (3) SUBJECT TO LOCAL LEGISLATIVE APPROVAL UNDER SECTION 501(2)
10 OF BOTH THE CITY OR VILLAGE IN WHICH THE APPLICANT PROPOSES TO
11 OPERATE AND OF THE TOWNSHIP, THE COMMISSION MAY APPROVE THE
12 APPLICATION SUBMITTED UNDER SUBSECTION (2) AND TRANSFER THE LICENSE
13 FROM THE TOWNSHIP TO THAT CITY OR VILLAGE. THE LICENSE ISSUED UNDER
14 THIS SUBSECTION SHALL COUNT AGAINST THE QUOTA FOR THE TOWNSHIP;
15 HOWEVER, THE LICENSE FEES AND RENEWAL FEES SHALL, IN ACCORDANCE
16 WITH SECTION 543, BE DISTRIBUTED TO THE CITY OR VILLAGE IN WHICH
17 THE APPLICANT PROPOSES TO OPERATE.