

HOUSE BILL No. 5548

May 7, 2014, Introduced by Reps. Kesto, Daley, Graves, Kosowski, Kurtz and Rendon 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 2013 PA 237.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 531. (1) A public license shall not be granted for the
2 sale of alcoholic liquor for consumption on the premises in excess
3 of 1 license for each 1,500 of population or major fraction
4 thereof. An on-premises escrowed license issued under this
5 subsection may be transferred, subject to local legislative
6 approval under section 501(2), to an applicant whose proposed
7 operation is located within any local governmental unit in a county
8 in which the escrowed license was located. If the local
9 governmental unit within which the former licensee's premises were
10 located spans more than 1 county, an escrowed license may be

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

16 (2) In a resort area, the commission may issue no more than
17 550 licenses for a period not to exceed 12 months without regard to
18 a limitation because of population and with respect to the resort
19 license the commission, by rule, shall define and classify resort
20 seasons by months and may issue 1 or more licenses for resort
21 seasons without regard to the calendar year or licensing year.

22 (3) In addition to the resort licenses authorized in
23 subsection (2), the commission may issue not more than 5 additional
24 licenses per year to establishments whose business and operation,
25 as determined by the commission, is designed to attract and
26 accommodate tourists and visitors to the resort area, whose primary
27 purpose is not for the sale of alcoholic liquor, and whose capital

1 investment in real property, leasehold improvement, and fixtures
2 for the premises to be licensed is \$75,000.00 or more. Further, the
3 commission shall issue 1 license under this subsection per year to
4 an applicant located in a rural area that has a poverty rate, as
5 defined by the latest decennial census, greater than the statewide
6 average, or that is located in a rural area that has an
7 unemployment rate higher than the statewide average for 3 of the 5
8 preceding years. In counties having a population of less than
9 50,000, as determined by the last federal decennial census or as
10 determined under subsection (11) and subject to subsection (16) in
11 the case of a class A hotel or a class B hotel, the commission
12 shall not require the establishments to have dining facilities to
13 seat more than 50 persons. The commission may cancel the license if
14 the resort is no longer active or no longer qualifies for the
15 license. Before January 16 of each year the commission shall
16 transmit to the legislature a report giving details as to all of
17 the following:

18 (a) The number of applications received under this subsection.

19 (b) The number of licenses granted and to whom.

20 (c) The number of applications rejected and the reasons they
21 were rejected.

22 (d) The number of the licenses revoked, suspended, or other
23 disciplinary action taken and against whom and the grounds for
24 revocation, suspension, or disciplinary action.

25 (4) In addition to any licenses for the sale of alcoholic
26 liquor for consumption on the premises that may be available in the
27 local governmental unit under subsection (1) and the resort

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

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

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

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

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

17 (5) In governmental units having a population of 50,000 or
18 less, as determined by the last federal decennial census or as
19 determined under subsection (11), in which the quota of specially
20 designated distributor licenses, as provided by section 533, has
21 been exhausted, the commission may issue not more than a total of
22 15 additional specially designated distributor licenses per year to
23 established merchants whose business and operation, as determined
24 by the commission, is designed to attract and accommodate tourists
25 and visitors to the resort area. A specially designated distributor
26 license issued under this subsection may be issued at a location
27 within 2,640 feet of existing specially designated distributor

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

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

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

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

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

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

12 (7) Notwithstanding the local legislative body approval
13 provision of section 501(2) and notwithstanding the provisions of
14 section 519, the commission may issue, without regard to the quota
15 provisions of subsection (1) and with the approval of the governing
16 board of the university, either a tavern or class C license which
17 may be used only for regularly scheduled events at a public
18 university's established outdoor program or festival at a facility
19 on the campus of a public university having a head count enrollment
20 of 10,000 students or more. A license issued under this subsection
21 may only be issued to the governing board of a public university, a
22 person that is the lessee or concessionaire of the governing board
23 of the university, or both. A license issued under this subsection
24 is not transferable as to ownership or location. Except as
25 otherwise provided in this subsection, a license issued under this
26 subsection may not be issued at an outdoor stadium customarily used
27 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 if the concessionaire has entered into an agreement
8 granting it control of the licensed premises for the purposes of
9 complying with this act and rules promulgated under this act
10 regarding the sale of alcoholic liquor. A nationally televised game
11 between 2 professional hockey teams played outdoors is considered
12 an established outdoor program for the purposes of this subsection.
13 Notwithstanding any provision of this act or any rule promulgated
14 under this act, a concessionaire obtaining a license under this
15 subsection may share the profits generated from that license with
16 an unincorporated not-for-profit association that operates a major
17 professional ice hockey league consisting of teams located in
18 Canada and in the United States or an affiliated entity under a
19 written contract reviewed by the commission. If the established
20 outdoor program is a nationally televised game between 2
21 professional hockey teams, the commission may allow the promotion
22 and advertising of alcoholic liquor brands on the campus of a
23 public university where a concessionaire has been issued a license
24 under this subsection for the duration of the license.

25 (8) In issuing a resort or resort economic development license
26 under subsection (3), (4), or (5), the commission shall consider
27 economic development factors of the area in issuing licenses to

1 establishments designed to stimulate and promote the resort and
2 tourist industry. The commission shall not transfer a resort or
3 resort economic development license issued under subsection (3),
4 (4), or (5) to another location. If the licensee goes out of
5 business the license shall be surrendered to the commission.

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

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

22 (11) For purposes of implementing this section a special state
23 census of a local governmental unit may be taken at the expense of
24 the local governmental unit by the federal bureau of census or the
25 secretary of state under section 6 of the home rule city act, 1909
26 PA 279, MCL 117.6. The special census shall be initiated by
27 resolution of the governing body of the local governmental unit

1 involved. The secretary of state may promulgate additional rules
2 necessary for implementing this section pursuant to the
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
4 24.328.

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

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

21 (14) The commission shall not issue an on-premises resort or
22 resort economic development license if the county within which the
23 resort or resort economic development license applicant proposes to
24 operate has not issued all on-premises licenses available under
25 subsection (1) or if an on-premises escrowed license exists and is
26 readily available within the local governmental unit in which the
27 applicant for the on-premises resort or resort economic development

1 license proposes to operate. The commission may waive the
2 provisions of this subsection upon a showing of good cause.

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

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

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

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

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

6 (19) Subsection (8) of R 436.1135 of the Michigan
7 administrative code does not apply to a transfer under subsection
8 (18).

9 (20) NOTWITHSTANDING R 436.1133 OF THE MICHIGAN ADMINISTRATIVE
10 CODE AND EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, THE
11 COMMISSION SHALL NOT APPROVE AN APPLICATION FOR A NEW SPECIALLY
12 DESIGNATED DISTRIBUTOR LICENSE OR FOR THE TRANSFER OF LOCATION OF
13 AN EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSE IF THERE IS AN
14 EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSE LOCATED WITHIN
15 2,640 FEET OF THE ADDRESS WHERE THE APPLICANT PROPOSES TO OPERATE.
16 FOR PURPOSES OF THIS SUBSECTION, THE MEASUREMENT OF DISTANCE SHALL
17 BE DETERMINED AS PROVIDED IN SECTION 503. THE COMMISSION MAY
18 APPROVE AN APPLICATION FOR A NEW SPECIALLY DESIGNATED DISTRIBUTOR
19 LICENSE OR FOR THE TRANSFER OF LOCATION OF AN EXISTING SPECIALLY
20 DESIGNATED DISTRIBUTOR LICENSE EVEN IF THERE IS AN EXISTING
21 SPECIALLY DESIGNATED DISTRIBUTOR LICENSE LOCATED WITHIN 2,640 FEET
22 OF THE ADDRESS WHERE THE APPLICANT PROPOSES TO OPERATE IF ANY OF
23 THE FOLLOWING CONDITIONS EXIST:

24 (A) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSEE HAS
25 PURCHASED LESS THAN \$52,000.00 IN SPIRITS FROM THE COMMISSION
26 DURING THE LAST FULL CALENDAR YEAR. THE THRESHOLD AMOUNT UNDER THIS
27 SUBDIVISION SHALL BE INCREASED ANNUALLY BY 3%.

1 (B) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR HAS A CLASS
2 B HOTEL OR A CLASS A HOTEL LICENSE.

3 (C) THE APPLICANT'S PROPOSED LOCATION AND THE EXISTING
4 SPECIALLY DESIGNATED DISTRIBUTOR'S ESTABLISHMENT ARE SEPARATED BY A
5 MAJOR THOROUGHFARE OF NOT LESS THAN 4 MARKED LANES FOR VEHICLE
6 TRAFFIC, INCLUSIVE OF DESIGNATED TURN LANES.

7 (D) THE APPLICANT'S PROPOSED LICENSED ESTABLISHMENT MEETS ALL
8 OF THE FOLLOWING REQUIREMENTS:

9 (i) IS LARGER THAN 20,000 SQUARE FEET.

10 (ii) IS LOCATED IN A NEIGHBORHOOD SHOPPING CENTER.

11 (iii) IS AN EXISTING LICENSED SPECIALLY DESIGNATED MERCHANT
12 ESTABLISHMENT.

13 (iv) IS A RETAIL FOOD STORE.

14 (21) SUBSECTION (20) DOES NOT APPLY TO RETAILERS THAT ARE
15 LICENSED AS SPECIALLY DESIGNATED DISTRIBUTORS ON THE EFFECTIVE DATE
16 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND THOSE LICENSES
17 ARE VALID FOR PURPOSES OF THIS SECTION.

18 (22) ~~(20)~~As used in this section:

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

24 (B) "NEIGHBORHOOD SHOPPING CENTER" MEANS 1 COMMERCIAL
25 ESTABLISHMENT OR A GROUP OF COMMERCIAL ESTABLISHMENTS, ORGANIZED OR
26 OPERATED AS A UNIT THAT ARE RELATED IN LOCATION, SIZE, AND TYPE OF
27 SHOP TO THE TRADE AREA THAT THE UNIT SERVES, THAT PROVIDES NOT LESS

1 THAN 50,000 SQUARE FEET OF GROSS LEASABLE RETAIL SPACE, AND THAT
2 PROVIDES AT LEAST 5 PRIVATE OFF-STREET PARKING SPACES FOR EACH
3 1,000 SQUARE FEET OF GROSS LEASABLE RETAIL SPACE.

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

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

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

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

12 (D) "RETAIL FOOD STORE" MEANS THAT TERM AS DEFINED IN 7 USC
13 2012.