



HOUSE BILL No. 5649

February 28, 1996, Introduced by Rep. Bodem and referred to the Committee on Regulatory Affairs.

A bill to amend section 19c of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," as amended by Act No. 2 of the Public Acts of 1996, being section 436.19c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 19c of Act No. 8 of the Public Acts of
2 the Extra Session of 1933, as amended by Act No. 2 of the Public
3 Acts of 1996, being section 436.19c of the Michigan Compiled
4 Laws, is amended to read as follows:

5 Sec. 19c. (1) A public license shall not be granted for the
6 sale of alcoholic liquor for consumption on the premises in
7 excess of 1 license for each 1,500 of population or major
8 fraction thereof. ON-PREMISE ESCROWED LICENSES ISSUED UNDER THIS
9 SUBSECTION ARE AVAILABLE SUBJECT TO SECTION 17(3) TO AN APPLICANT

1 WHOSE PROPOSED OPERATION IS LOCATED WITHIN ANY LOCAL GOVERNMENTAL
2 UNIT IN THE COUNTY IN WHICH THE ESCROWED LICENSE WAS LOCATED. IF
3 THE LOCAL GOVERNMENTAL UNIT WITHIN WHICH THE FORMER LICENSEE'S
4 PREMISES WERE LOCATED SPANS MORE THAN 1 COUNTY, AN ESCROWED
5 LICENSE IS AVAILABLE SUBJECT TO SECTION 17(3) TO AN APPLICANT
6 WHOSE PROPOSED OPERATION IS LOCATED WITHIN ANY LOCAL GOVERNMENTAL
7 UNIT IN EITHER COUNTY. IF AN ESCROWED LICENSE IS ACTIVATED
8 WITHIN A LOCAL GOVERNMENTAL UNIT OTHER THAN THAT LOCAL GOVERNMENTAL
9 UNIT WITHIN WHICH THE ESCROWED LICENSE WAS ORIGINALLY ISSUED,
10 THE COMMISSION SHALL COUNT THAT ACTIVATED LICENSE AGAINST THE
11 LOCAL GOVERNMENTAL UNIT ORIGINALLY ISSUING THE LICENSE. This
12 quota does not bar the right of an existing licensee to renew a
13 license or transfer the license and does not bar the right of a
14 tavern or class A hotel from requesting reclassification of a
15 license to class C, unless local option laws prevent the sale of
16 spirits and mixed spirit drinks by those licensed premises,
17 subject to the consent of the commission. The upgrading of a
18 license resulting from a request under this subsection shall be
19 approved by the local governmental unit having jurisdiction.

20 (2) In a resort area, the commission may issue 1 or more
21 licenses for a period not to exceed 12 months without regard to a
22 limitation because of population, but not in excess of 550, and
23 with respect to the resort license the commission, by rule, shall
24 define and classify resort seasons by months and may issue 1 or
25 more licenses for resort seasons without regard to the calendar
26 year or licensing year.

1 (3) In addition to the resort licenses authorized in
2 subsection (2), the commission may issue not more than 10
3 additional licenses per year for the years 1996 and 1997 to
4 establishments whose business and operation, as determined by the
5 commission, is designed to attract and accommodate tourists and
6 visitors to the resort area, and whose primary purpose is not for
7 the sale of alcoholic liquor. In counties having a population of
8 less than 50,000, as determined by the last federal decennial
9 census or as determined pursuant to subsection (11), the commis-
10 sion shall not require the establishments to have dining facili-
11 ties to seat more than 50 persons. The commission may cancel the
12 license if the resort is no longer active or no longer qualifies
13 for the license. Before January 16 of each year the commission
14 shall transmit to the legislature a report giving details as to
15 the number of applications received under this subsection; the
16 number of licenses granted and to whom; the number of applica-
17 tions rejected and the reasons; and the number of the licenses
18 revoked, suspended, or other disciplinary action taken and
19 against whom and the grounds for revocation, suspension, or dis-
20 ciplinary action.

21 (4) In addition to any licenses for the sale of alcoholic
22 liquor for consumption on the premises that may be available in
23 the local governmental unit under subsection (1) and the resort
24 licenses authorized in subsections (2) and (3), the commission
25 may issue not more than 25 additional resort licenses per year
26 for the years 1996 and 1997 if all of the following conditions
27 are met:

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

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

6 (c) The capital investment in real property, leasehold
7 improvement, fixtures, and inventory for the premises to be
8 licensed is in excess of \$1,000,000.00.

9 (5) In governmental units having a population of 50,000 per-
10 sons or less, as determined by the last federal decennial census
11 or as determined pursuant to subsection (11), in which the quota
12 of specially designated distributor licenses, as provided by com-
13 mission rule, has been exhausted, the commission may issue not
14 more than 10 additional specially designated distributor licenses
15 per year for the years 1996 and 1997 to established merchants
16 whose business and operation, as determined by the commission, is
17 designed to attract and accommodate tourists and visitors to the
18 resort area. A specially designated distributor license issued
19 pursuant to this subsection may be issued at a location within
20 2,640 feet of existing specially designated distributor license
21 locations. A specially designated distributor license issued
22 pursuant to this subsection shall not bar another specially des-
23 igned distributor licensee from transferring location to within
24 2,640 feet of said licensed location.

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

1 licenses authorized in subsections (2), (3), and (4), and
2 notwithstanding section 17(4), the commission may issue not more
3 than 5 additional special purpose licenses in any calendar year
4 for the sale of beer and wine for consumption on the premises. A
5 special purpose license issued pursuant to this subsection shall
6 be issued only for events which are to be held from May 1 to
7 September 30, are artistic in nature, and which are to be held on
8 the campus of a public university with an enrollment of 30,000 or
9 more students. A special purpose license shall be valid for 30
10 days or for the duration of the event for which it is issued,
11 whichever is less. The fee for a special purpose license shall
12 be \$50.00. A special purpose license may be issued only to a
13 corporation which is all of the following:

14 (a) Is a nonprofit corporation organized pursuant to the
15 nonprofit corporation act, Act No. 162 of the Public Acts of
16 1982, being sections 450.2101 to 450.3192 of the Michigan
17 Compiled Laws.

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

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

23 (7) Notwithstanding the local legislative body approval pro-
24 vision of section 17(3) and notwithstanding the provisions of
25 section 17(5), the commission may issue, without regard to the
26 quota provisions of subsection (1) and with the approval of the
27 governing board of the university, either a tavern or class C

1 license which may be used only for regularly scheduled events at
2 a public university's established outdoor program or festival at
3 a facility on the campus of a public university having a head
4 count enrollment of 10,000 students or more. A license issued
5 under this subsection may only be issued to the governing board
6 of a public university, a person that is the lessee or conces-
7 sionaire of the governing board of the university, or both. A
8 license issued under this subsection is not transferable as to
9 ownership or location. A license issued under this subsection
10 may not be issued at an outdoor stadium customarily used for
11 intercollegiate athletic events.

12 (8) In issuing a resort license under subsection (3), (4),
13 or (5) the commission shall consider economic development factors
14 of the area in the issuance of licenses to establishments
15 designed to stimulate and promote the resort and tourist
16 industry. The commission shall not transfer a resort license
17 issued under subsection (3), (4), or (5) to another location, and
18 if the licensee goes out of business the license shall be surren-
19 dered to the commission.

20 (9) The limitations and quotas of this section ~~shall~~ ARE
21 not ~~be~~ applicable to the issuance of a new license to a veteran
22 of the armed forces of the United States who was honorably dis-
23 charged or released under honorable conditions from the armed
24 forces of the United States and who had by forced sale disposed
25 of a similar license within 90 days before or after entering or
26 while serving in the armed forces of the United States, as a part
27 of the person's preparation for that service if the application

1 for a new license is made for the same governmental unit in which
2 the previous license was issued and within 60 days after the dis-
3 charge of the applicant from the armed forces of the United
4 States.

5 (10) The limitations and quotas of this section ~~shall~~ ARE
6 not ~~be~~ applicable to the issuance of a new license or the
7 renewal of an existing license where the property or establish-
8 ment to be licensed is situated in or on land on which an airport
9 owned by a county or in which a county has an interest is
10 situated.

11 (11) For purposes of implementing this section a special
12 state census of a local governmental unit may be taken at the
13 expense of the local governmental unit by the federal bureau of
14 census or the secretary of state under section 6 of Act No. 279
15 of the Public Acts of 1909, ~~as amended,~~ being section 117.6 of
16 the Michigan Compiled Laws. The special census shall be initi-
17 ated by resolution of the governing body of the local governmen-
18 tal unit involved. The secretary of state may promulgate addi-
19 tional rules necessary for implementing this section pursuant to
20 the administrative procedures act of 1969, Act No. 306 of the
21 Public Acts of 1969, being sections 24.201 to 24.328 of the
22 Michigan Compiled Laws.

23 (12) The limitations and quotas of this section ~~shall~~ ARE
24 not ~~be~~ applicable to the issuance of a new license to the gov-
25 erning board of a college or university pursuant to section 17h.

1 (13) The limitations and quotas of this section ~~shall~~ ARE
2 not ~~be~~ applicable to the issuance of a national sporting event
3 license pursuant to section 17b.

4 (14) Before granting an approval as required in
5 section 17(3) for a license to be issued under subsection (2),
6 (3), or (4), a local legislative body shall disclose the avail-
7 ability of transferable licenses held in escrow for more than 1
8 licensing year within that respective local governmental unit.
9 Public notice of the meeting to consider the granting of the
10 license by the local governmental unit shall be made 2 weeks
11 before the meeting.

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

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

1 (17) As used in this section:

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

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

- 11 (i) The fair market value of the license, if determinable.
12 (ii) The size and scope of the proposed operation.
13 (iii) The existence of mandatory contractual restrictions or
14 inclusions attached to the sale of the license.