

RESORT LIQUOR LICENSES

House Bill 4332 (Substitute H-3) First Analysis (3-25-98)

Sponsor: Rep. Beverly Bodem
Committee: Regulatory Affairs

THE APPARENT PROBLEM:

Under the Liquor Control Act, licenses for the on-premises consumption of alcoholic beverages are generally limited by population; only one such license per 1,500 people can be issued within any governmental unit. There are, however, a number of exceptions. One significant exception is the issuance of "resort licenses" and "development district" licenses above and beyond the quota. Liquor Control Commission (LCC) rules prohibit the issuing of a resort license where an on-premise license remains available under the quota system, but this requirement can be waived. In 1952, 550 resort licenses were made available statewide and a fixed number have been made available each year since 1964. Currently, the LCC may issue 10 additional resort licenses each year to establishments whose business and operation, as determined by the commission, are designed to attract and accommodate tourists and visitors to the resort area, and whose primary purpose is not the sale of alcoholic beverages. Additionally, the commission may issue another 25 resort licenses to businesses with a capital investment of over \$1 million and whose primary purpose is not the sale of alcoholic beverages. The LCC may also issue 10 package liquor licenses in local governmental units with a population under 50,000 people. In addition to the exception from the population quota restriction for resort licenses, Public Act 440 of 1996 authorized the commission to issue up to a total of 50 additional on-premise licenses for establishments located in development districts and whose primary business would not be the sale of alcohol. These additional licenses have been made available partly in recognition of the fact that the fixed population of an area does not always accurately reflect the volume of economic activity, particularly in areas where there are sizable seasonal populations. The commission's authority to issue additional resort licenses expires this year. Legislation has been introduced to extend this authority, and to amend the requirements regarding the availability of development district licenses to more closely parallel similar provisions affecting resort licenses.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Liquor Control Act to extend through 1998 the authority of the Liquor Control Commission (LCC) to issue a limited number of resort licenses each year. The bill contains the following provisions regarding resort licenses for 1998:

** Up to 10 licenses would be available for establishments whose business and operation are designed to attract and accommodate tourists to a resort area, and whose primary business is not the sale of liquor. The bill would create a one-time initial issuance fee of \$5,000. (Currently, the fee for an on-premise resort liquor license is \$600.)

** Up to 25 licenses could be issued for businesses with a capital investment of over \$1.5 million (increased from the current \$1 million investment), whose primary business is not the sale of alcohol, and whose operation is designed to attract and accommodate visitors to a resort area. The bill would also rename the license as a "resort economic development license" and would establish an initial issuance fee of \$10,000.

** Up to 10 specially-designated distributor (SDD) licenses for the sale of package liquor, including spirits, would be available in local units of governments with populations under 50,000 in which the package liquor license quota has been exhausted. The licenses could only be issued to established merchants whose business and operation are designed to attract and accommodate tourists and visitors to a resort area. Currently, commission rules restrict one SDD license for every 3,000 population in cities, incorporated villages, or townships, and also require that SDD licensed establishments be located at least a half mile from each other. (An exception is made in the act for resort SDDs to be located within half a mile of existing SDDs.) The bill would allow an SDD license issued under the population rule to be located within half a mile of a resort SDD license.

Further, the bill would amend provisions pertaining to the fifty development district on-premises licenses established by PA 440 of 1996. The bill would specify that these licenses are not transferable either to a new owner or to a new location. In addition, if licenses were available through the quota provision or if escrowed licenses were readily available in the municipality in which the development district was located, the commission would be prohibited from issuing a development district license. Also, the commission could only issue up to two development district licenses in any municipality. If an establishment was located in more than one development district, an applicant for licensure would have to obtain the approval of each of the applicable municipalities or development districts. The commission could waive any of these requirements upon a showing of good cause.

MCL 436.17k and 436.19c

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Continuing the practice of issuing resort liquor licenses would help boost the tourism and recreation industries throughout the state, particularly in northern Michigan, and thus create jobs for Michigan people. Without these licenses being available, the quota system would inhibit business expansion in some areas where all the quota licenses have been allocated. Both large and small businesses could benefit by the bill. At the same time, the bill creates a new one-time issuance fee for a resort license that is substantially higher than the regular resort licence fee of \$600. This should serve to encourage the transfer and active use of licenses currently in escrow, eventually reducing the demand for resort licenses in some areas of the state. (It will also enhance the value of the escrowed licenses.)

Response:

In some parts of the state, it is reported that escrowed licenses are going for \$100,000 or more. For those areas, a new resort license would be a better deal.

For:

Commission rules prohibit specially designated distributor (SDD) licenses (package stores) from being

closer than half a mile to each other, yet, under the act, a resort SDD may locate within half a mile of an existing package store. The bill would allow a package store issued under the population quota system to locate near an existing resort SDD. Without such an amendment, the law would unfairly favor resort SDDs over those going through the traditional process for licensure.

Against:

Some persons believe that increasing the availability of alcohol leads to an increase in alcohol-related problems. The bill represents a further erosion of the liquor law's restrictions on the availability of on-premises licenses and runs contrary to the public policy that lies behind a population quota system for liquor licenses. In the past, moreover, some people have expressed concern that continuing to allow additional resort licenses will harm existing businesses.

Response:

It may be that the population-based restriction no longer serves any useful purpose, except perhaps to protect existing licensees. There are quite a few exceptions to the quota in statute that render it less than fully effective or consistent. It might be best to revisit the issue of retail liquor licensing in its entirety.

On the other hand, the bill could be seen, at least in part, as serving to slow down the expansion of new licenses. As mentioned above, some see the new issuance fees for resort licenses as being an incentive for business owners to seek out and utilize existing licenses that are currently in escrow. Secondly, the bill clearly specifies that a development district license could not be issued for a geographic region that had not used up all available licenses under the population quota system or available escrow licenses. In addition, the bill would prohibit a development district license from being transferable. That means that a licensee could not sell the liquor license to another business, nor could a licensee move the business to a new location. If for any reason the licensee went out of business, the license would revert to the commission. Since the establishment of the 50 development district licenses by Public Act 440 of 1996, only nine businesses have completed the approval phase of the licensing procedure. The bill would further serve to slow down the issuance of new licenses if applicants had to first apply for and receive existing licenses, and were prohibited from selling the license or moving to a new location.

Against:

Public Act 440 of 1996 allowed escrowed licenses to be transferred to any municipality within the county that it was issued in. However, the four largest counties in the state -- Wayne, Macomb, Oakland, and Kent -- were excluded from this provision and so operate under the old system whereby a license must remain in the local governmental unit where it was issued. Some people would like to see the county-wide portability of liquor licenses be extended to include these four counties.

POSITIONS:

The Michigan Hotel, Motel, and Resort Association supports the bill. (3-23-98)

The Spartan Stores support the bill. (3-23-98)

The Michigan Grocers Association supports the bill. (3-23-98)

The Michigan Licensed Beverage Association (MLBA) supports the bill. (3-24-98)

The Michigan Restaurant Association supports the bill, but would like to see the county-wide portability of liquor licenses extended to all counties.

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.