

SENATE BILL No. 339

March 20, 2001, Introduced by Senator KOIVISTO and referred to the Committee on Gaming and Casino Oversight.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 217, 903, and 1023 (MCL 436.1217, 436.1903, and 436.2023), section 903 as amended by 2000 PA 431.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 217. (1) The commission may make investigations that
2 it considers proper in the administration of this act and the
3 rules promulgated under this act concerning alcoholic liquor,
4 ~~or~~ the manufacture, distribution, or sale of alcoholic liquor,
5 ~~or~~ the collection of taxes on alcoholic liquor, OR VIDEO LOT-
6 TERY VIOLATIONS UNDER THE MICHIGAN VIDEO GAMING ACT OR RULES
7 PROMULGATED UNDER THAT ACT.

8 (2) A licensee shall make the licensed premises available
9 for inspection and search by a commission investigator or law
10 enforcement officer empowered to enforce the commission's rules

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1 and this act OR THE MICHIGAN VIDEO GAMING ACT AND RULES UNDER
2 THAT ACT during regular business hours or when the licensed
3 premises are occupied by the licensee or a clerk, servant, agent,
4 or employee of the licensee. Evidence of a violation ~~of this~~
5 ~~act or rules promulgated under this act~~ discovered under this
6 subsection may be seized and used in an administrative or court
7 proceeding.

8 (3) The commission or ~~a duly~~ AN authorized agent of the
9 commission may examine or copy the books, records, or papers of a
10 person relative to a requirement pertaining to this act, access
11 to which has been obtained pursuant to this section.

12 (4) A member of the commission or ~~a duly~~ AN authorized
13 agent of the commission may issue a subpoena requiring a person
14 to appear before the commission or its ~~duly~~ authorized agent at
15 any reasonable time and place, to be examined with reference to
16 any matter within the scope of the inquiry or investigation being
17 conducted by the commission, and to produce any books, records,
18 or papers pertaining to the question involved.

19 (5) A member of the commission or ~~a duly~~ AN authorized
20 agent of the commission may administer an oath or affirmation to
21 a witness in any matter before the commission, certify to offi-
22 cial acts, and take depositions.

23 (6) In case of disobedience of a subpoena, the commission or
24 its ~~duly~~ authorized agent may invoke the aid of ~~any~~ A circuit
25 court of the state to compel the attendance and testimony of wit-
26 nesses and the production of books, records, and papers
27 pertaining to the question involved. A circuit court of this

1 state within the jurisdiction of which the inquiry is conducted
2 may, in case of contumacy or refusal to obey a subpoena, issue an
3 order requiring the person to appear before the commission or
4 ~~its duly~~ AN authorized agent OF THE COMMISSION, to produce
5 books, records, and papers if so ordered, and to give evidence
6 regarding the matter in question. Failure to obey the order of
7 the court may be punished by the court as a contempt of court.

8 (7) The fees of witnesses required to appear before the com-
9 mission shall be the same as those allowed to witnesses in the
10 circuit courts and shall be paid by the commission.

11 (8) A sheriff's department or police department, ~~shall,~~
12 upon request of the commission, SHALL cause to be served a sub-
13 poena that is directed to a person located within the jurisdic-
14 tion of the sheriff's department or police department. A fee
15 shall not be charged for this service by the sheriff's department
16 or police department. Subpoenas may also be served by an inves-
17 tigator of the commission.

18 (9) The commission shall adopt a suitable seal, of which all
19 courts of the state shall take judicial notice, and all proceed-
20 ings, orders, licenses, and official acts of the commission shall
21 be authenticated by that seal. Certified copies of the orders
22 and records of the commission shall be prima facie evidence of
23 the acts of the commission in any court of this state.

24 Sec. 903. (1) The commission or any commissioner or ~~duly~~
25 authorized agent of the commission designated by the chairperson
26 of the commission, upon due notice and proper hearing, may
27 suspend or revoke any license upon a violation of this act or any

1 of the rules promulgated by the commission under this act. IN
2 THE CASE OF A LICENSEE HOLDING A VIDEO LOTTERY ESTABLISHMENT
3 LICENSE UNDER THE MICHIGAN VIDEO GAMING ACT, THE COMMISSION MAY
4 SUSPEND OR REVOKE A LICENSEE'S LICENSE FOR A VIOLATION OF THE
5 MICHIGAN VIDEO GAMING ACT OR ANY RULES PROMULGATED UNDER THAT
6 ACT. The commission or any commissioner or ~~duly~~ authorized
7 agent of the commission designated by the chairperson of the com-
8 mission ~~,~~ may assess a penalty of not more than \$300.00 for
9 each violation, ~~of this act or rules promulgated under this~~
10 ~~act,~~ or not more than \$1,000.00 for each violation of
11 section 801(2), in addition to or ~~in lieu~~ INSTEAD of revocation
12 or suspension of the license, which penalty shall be paid to the
13 commission and deposited with the state treasurer and shall be
14 credited to the general fund of the state. The commission shall
15 hold a hearing and order the suspension or revocation of a
16 license if the licensee has been found liable for 3 or more sepa-
17 rate violations of section 801(2) which violations occurred on
18 different occasions within a 24-month period unless such viola-
19 tions for the sale, furnishing, or giving OF alcoholic liquor to
20 a minor were discovered by the licensee and disclosed to an
21 appropriate law enforcement agency immediately upon discovery.

22 (2) The commission shall provide a procedure by which a
23 licensee who is aggrieved by any penalty imposed under subsection
24 (1) ~~and~~ OR any suspension or revocation of a license ordered by
25 the commission, a commissioner, or ~~a duly~~ AN authorized agent
26 of the commission may request a hearing for the purpose of
27 presenting any facts or reasons to the commission as to why the

1 penalty, suspension, or revocation should be modified or
2 rescinded. ~~Any such~~ A request FOR A HEARING UNDER THIS
3 SUBSECTION shall be in writing and accompanied by a fee of
4 \$25.00. The commission, after reviewing the record made before a
5 commissioner or ~~a duly~~ AN authorized agent of the commission,
6 may allow or refuse to allow the hearing in accordance with the
7 commission's rules. The right to a hearing provided in this sub-
8 section, however, shall not be interpreted by any court as cur-
9 tailing, removing, or annulling the right of the commission to
10 suspend or revoke licenses as provided for in this act. A
11 licensee does not have a right of appeal from the final determi-
12 nation of the commission, except by leave of the circuit court.
13 Notice of the order of suspension or revocation of a license or
14 of the assessment of a penalty, or both, shall be given in the
15 manner prescribed by the commission. The suspension or revoca-
16 tion of a license or the assessment of a penalty, or both, by the
17 commission or ~~a duly~~ AN authorized agent of the commission does
18 not prohibit the institution of a criminal prosecution for a vio-
19 lation of this act. The institution of a criminal prosecution
20 for a violation of this act or the acquittal or conviction of a
21 person for a violation of this act does not prevent the suspen-
22 sion or revocation of a license or the assessment of a penalty,
23 or both, by the commission. In a hearing for the suspension or
24 revocation of a license issued under this act, proof that the
25 defendant licensee or an agent or employee of the licensee
26 demanded and was shown, before furnishing any alcoholic liquor to
27 a minor, a motor vehicle operator or chauffeur license or a

1 registration certificate issued by the federal selective service,
2 or other bona fide documentary evidence of majority and identity
3 of the person, may be offered as evidence in a defense to a pro-
4 ceeding for the suspension or revocation of a license issued
5 under this act. A licensee who has reason to believe that a
6 minor has used fraudulent identification to purchase alcoholic
7 liquor in violation of section 703 shall file a police report
8 concerning the violation with a local law enforcement agency and
9 shall also present the alleged fraudulent identification to the
10 local law enforcement agency at the time of filing the report if
11 the identification is in the possession of the licensee. The
12 commission may promulgate rules pursuant to the administrative
13 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328,
14 regarding the utilization by licensees of equipment designed to
15 detect altered or forged driver licenses, state identification
16 cards, and other forms of identification.

17 (3) In addition to the hearing commissioners provided for in
18 section 209, the chairperson of the commission may designate not
19 more than 2 ~~duly~~ authorized agents to hear violation cases. A
20 person appointed under this subsection shall be a member in good
21 standing of the state bar of Michigan.

22 (4) ~~A duly~~ AN authorized agent who has been designated by
23 the chairperson ~~pursuant to~~ UNDER subsection (3) shall have, in
24 the hearing of violation cases, the same authority and responsi-
25 bility as does a hearing commissioner under this act and the
26 rules promulgated under this act.

1 (5) ~~A duly~~ AN authorized agent who has been designated by
2 the chairperson ~~pursuant to~~ UNDER subsection (3) shall be
3 ineligible for appointment to the commission for a period of
4 1 year after the person ceases to serve as ~~a duly~~ AN authorized
5 agent.

6 Sec. 1023. (1) The commission shall not prohibit licensees
7 from allowing pinball machines on the premises for the purpose of
8 amusement.

9 (2) THE COMMISSION SHALL NOT PROHIBIT A LICENSEE FROM
10 OBTAINING A VIDEO LOTTERY ESTABLISHMENT LICENSE UNDER THE
11 MICHIGAN VIDEO GAMING ACT. THE REVENUE GENERATED BY A LICENSEE
12 THROUGH THE CONDUCT OF A VIDEO LOTTERY IS SUBJECT TO THE REGULA-
13 TION AND ALLOCATION FORMULA PROVIDED FOR IN THE MICHIGAN VIDEO
14 GAMING ACT.

15 Enacting section 1. This amendatory act does not take
16 effect unless all of the following bills of the 91st Legislature
17 are enacted into law:

18 (a) Senate Bill No. 338.

19

20 (b) Senate Bill No. 340.

21