

HOUSE BILL No. 4146

February 2, 2005, Introduced by Reps. Farhat and Accavitti 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 1201 (MCL 436.2201) and by adding section 521a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 521A. (1) IN ADDITION TO ANY LICENSES FOR THE SALE OF
2 ALCOHOLIC LIQUOR FOR CONSUMPTION ON THE PREMISES THAT MAY BE
3 AVAILABLE IN THE LOCAL GOVERNMENTAL UNIT UNDER SECTION 531(1), AND
4 THE RESORT AND RESORT ECONOMIC DEVELOPMENT LICENSES AUTHORIZED IN
5 SECTION 531(2), (3), AND (4), THE COMMISSION MAY ISSUE NOT MORE
6 THAN 10 TAVERN OR CLASS C LICENSES TO PERSONS WHO OPERATE
7 BUSINESSES THAT MEET ALL OF THE FOLLOWING CONDITIONS:

8 (A) THE BUSINESS IS A FULL SERVICE RESTAURANT, IS OPEN TO THE
9 PUBLIC, AND PREPARES FOOD ON THE PREMISES.

1 (B) THE BUSINESS IS OPEN FOR FOOD SERVICE NOT LESS THAN 10
2 HOURS PER DAY AND AT LEAST 6 DAYS PER WEEK.

3 (C) AT LEAST 60% OF THE GROSS RECEIPTS OF THE BUSINESS ARE
4 DERIVED FROM THE SALE OF FOOD FOR CONSUMPTION ON THE PREMISES. FOR
5 PURPOSES OF THIS SUBDIVISION, FOOD DOES NOT INCLUDE BEER AND WINE.

6 (D) THE BUSINESS HAS DINING FACILITIES TO SEAT NOT FEWER THAN
7 25 PERSONS.

8 (E) THE BUSINESS IS LOCATED IN A CITY IN AN ENTERTAINMENT ZONE
9 OR OTHER AREA DESIGNATED BY THE CITY OF NOT MORE THAN 1 SQUARE MILE
10 IN SIZE THAT WOULD ACCOMMODATE AT LEAST 20 ESTABLISHMENTS THAT ARE
11 FULL-SERVICE RESTAURANTS SERVING ALCOHOLIC LIQUOR ON-PREMISES, AS
12 DETERMINED BY THE COMMISSIONER.

13 (2) THE INDIVIDUAL SIGNING THE APPLICATION FOR A LICENSE UNDER
14 SUBSECTION (1) SHALL STATE AND DEMONSTRATE THAT THE APPLICANT
15 ATTEMPTED TO SECURE AN APPROPRIATE ON-PREMISE ESCROWED LICENSE OR
16 QUOTA LICENSE ISSUED UNDER SECTION 531 AND THAT, TO THE BEST OF HIS
17 OR HER KNOWLEDGE, AN ON-PREMISE ESCROWED LICENSE OR QUOTA LICENSE
18 ISSUED UNDER SECTION 531 IS NOT READILY AVAILABLE WITHIN THE CITY
19 IN WHICH THE ENTERTAINMENT ZONE IS LOCATED.

20 (3) IF IN ANY LICENSING YEAR THE SALE OF FOOD FOR CONSUMPTION
21 ON THE PREMISES OF A PERSON THAT HOLDS A LICENSE UNDER THIS SECTION
22 REPRESENTS LESS THAN 60% OF THE GROSS RECEIPTS FOR THE BUSINESS,
23 THE COMMISSION, AFTER NOTICE AND OPPORTUNITY FOR AN ADMINISTRATIVE
24 HEARING, SHALL PROHIBIT THE LICENSEE FROM OPERATING LATER THAN 2
25 A.M. AS ALLOWED UNDER SUBSECTION (7).

26 (4) NOT MORE THAN 1 LICENSE SHALL BE ISSUED UNDER SUBSECTION
27 (1) TO ANY INDIVIDUAL, PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED

1 LIABILITY COMPANY, CORPORATION, OR ANY COMBINATION OF ANY OF THE
2 ABOVE, INCLUDING STOCKHOLDERS, GENERAL PARTNERS, OR LIMITED
3 PARTNERS. A LICENSE ISSUED UNDER THIS SECTION IS TRANSFERABLE AS TO
4 OWNERSHIP OR LOCATION ONLY WITHIN THE ENTERTAINMENT ZONE OR OTHER
5 DESIGNATED AREA.

6 (5) THE COMMISSION SHALL NOT ISSUE A SPECIALLY DESIGNATED
7 MERCHANT LICENSE, SPECIALLY DESIGNATED DISTRIBUTOR LICENSE, OR ANY
8 OTHER LICENSE THAT ALLOWS THE SALE OF ALCOHOLIC LIQUOR FOR
9 CONSUMPTION OFF THE PREMISES IN CONJUNCTION WITH A LICENSE ISSUED
10 UNDER SUBSECTION (1) OR AT THE PREMISES FOR WHICH A LICENSE HAS
11 BEEN ISSUED UNDER SUBSECTION (1).

12 (6) THE COMMISSION SHALL NOT ISSUE TO AN ESTABLISHMENT
13 LICENSED PURSUANT TO THIS SECTION A TOPLESS ACTIVITY PERMIT UNDER
14 SECTION 916.

15 (7) NOTWITHSTANDING SECTIONS 1113 AND 1114, HOURS OF OPERATION
16 FOR A LICENSEE UNDER THIS SECTION ARE EXTENDED TO 4 A.M. PURSUANT
17 TO A RESOLUTION ADOPTED BY THE GOVERNING BODY OF THE CITY, HOURS OF
18 OPERATION MAY BE FURTHER EXTENDED TO 5 A.M.

19 (8) THE COMMISSION SHALL ANNUALLY REPORT TO THE LEGISLATURE
20 THE NAMES OF THE BUSINESSES ISSUED LICENSES UNDER THIS SECTION AND
21 THEIR LOCATIONS.

22 (9) AS USED IN THIS SECTION:

23 (A) "CITY" MEANS A CITY ESTABLISHED UNDER EITHER OF THE
24 FOLLOWING:

25 (i) THE HOME RULE CITY ACT, 1909 PA 279, MCL 117.1 TO 117.38.

26 (ii) THE FOURTH CLASS CITY ACT, 1895 PA 215, MCL 81.1 TO
27 113.20.

1 (B) "ESCROWED LICENSE" MEANS A LICENSE FOR WHICH THE LICENSEE
2 FEE IS CURRENT AND IN WHICH THE RIGHTS OF THE LICENSEE IN THE
3 LICENSE OR TO THE RENEWAL OF THE LICENSE ARE STILL IN EXISTENCE AND
4 ARE SUBJECT TO RENEWAL AND ACTIVATION IN THE MANNER PROVIDED FOR IN
5 R 436.1107 OF THE MICHIGAN ADMINISTRATIVE CODE.

6 (C) "READILY AVAILABLE" MEANS AVAILABLE UNDER A STANDARD OF
7 ECONOMIC FEASIBILITY, AS APPLIED TO THE SPECIFIC CIRCUMSTANCES OF
8 THE APPLICANT, THAT INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING:

9 (i) THE FAIR MARKET VALUE OF THE LICENSE, IF DETERMINABLE.

10 (ii) THE SIZE AND SCOPE OF THE PROPOSED OPERATION.

11 (iii) THE EXISTENCE OF MANDATORY CONTRACTUAL RESTRICTIONS OR
12 INCLUSIONS ATTACHED TO THE SALE OF THE LICENSE.

13 Sec. 1201. (1) In addition to any and all taxes imposed by
14 law, there is imposed and levied upon and collected a specific tax
15 equal to 4% of the retail selling price of spirits. The tax shall
16 be collected by the commission at the time of sale by the
17 commission. In the case of sales to licensees, the tax shall be
18 computed on the retail selling price established by the commission
19 without allowance of discount.

20 (2) Upon collection **AND EXCEPT AS OTHERWISE PROVIDED FOR IN**
21 **THIS SECTION**, the commission shall deposit the ~~entire~~ proceeds in
22 the state treasury ~~—~~ to the credit of the general fund.

23 (3) **IN THE CASE OF THE SALE OF SPIRITS TO A LICENSEE HOLDING A**
24 **LICENSE ISSUED TO AN ESTABLISHMENT LOCATED IN AN ENTERTAINMENT ZONE**
25 **OR OTHER DESIGNATED AREA DESCRIBED IN SECTION 521A, 5% OF THE TAX**
26 **COLLECTED SHALL BE APPROPRIATED FROM THE GENERAL FUND TO CITIES**
27 **WITHIN WHICH THE ENTERTAINMENT ZONES ARE LOCATED FOR THE PURPOSE OF**

1 **POLICE AND FIRE PROTECTION.**

2 (4) ~~-(3)-~~ If **THIS** section ~~-1201-~~ is repealed, every licensee,
3 who has on hand any spirits on the effective date of the repeal,
4 shall file a complete inventory of those spirits with the
5 commission within 20 days after the repeal. The commission shall
6 credit to such a licensee an amount equal to 4% of the retail
7 selling price of those spirits on future purchases of spirits from
8 the commission.