

SENATE BILL No. 147

February 2, 2005, Introduced by Senator CLARKE and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 113 and 525 (MCL 436.1113 and 436.1525), section 525 as amended by 2004 PA 266, and by adding sections 309 and 311.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 113. (1) "Tavern" means any place licensed to sell at
2 retail beer and wine for consumption on the premises only.

3 (2) "Vehicle" means any means of transportation by land, by
4 water, or by air.

5 (3) "Vendor" means a person licensed by the commission to sell
6 alcoholic liquor.

7 (4) "Vendor of spirits" means a person selling spirits to the

1 commission.

2 (5) "Warehouse" means a premises or place primarily
3 constructed, used, or provided with facilities for the storage in
4 transit or other temporary storage of perishable goods or for the
5 conduct of a warehousing business, or for both.

6 (6) "Warehouser" means a licensee authorized by the commission
7 to store alcoholic ~~beverages~~ **LIQUOR**, but prohibited from making
8 sales or deliveries to retailers unless the licensee is also the
9 holder of a wholesaler or manufacturer license issued by the
10 commission.

11 (7) "Wholesaler" means a person who sells beer, wine, or mixed
12 spirit drink only to retailers or other licensees, and who sells
13 sacramental wine as provided in section 301.

14 (8) "Wine" means the product made by the normal alcoholic
15 fermentation of the juice of sound, ripe grapes, or any other fruit
16 with the usual cellar treatment, and containing not more than 21%
17 of alcohol by volume, including fermented fruit juices other than
18 grapes and mixed wine drinks.

19 (9) "Wine maker" means any person licensed by the commission
20 to manufacture wine and sell, at wholesale or retail, wine
21 manufactured by that person.

22 (10) **"WINE PUB" MEANS A LICENSE ISSUED IN CONJUNCTION WITH A**
23 **CLASS C, TAVERN, CLASS A HOTEL, OR CLASS B HOTEL LICENSE THAT**
24 **AUTHORIZES THE PERSON LICENSED WITH THE CLASS C, TAVERN, CLASS A**
25 **HOTEL, OR CLASS B HOTEL TO MANUFACTURE WINE AND SELL AT THOSE**
26 **LICENSED PREMISES THE WINE PRODUCED FOR CONSUMPTION ON OR OFF THE**
27 **LICENSED PREMISES IN THE MANNER PROVIDED FOR IN SECTIONS 309 AND**

1 311.

2 SEC. 309. (1) SUBJECT TO SECTION 311, THE COMMISSION SHALL
3 ISSUE A WINE PUB LICENSE TO A PERSON WHO IS LICENSED AS A FOOD
4 SERVICE ESTABLISHMENT UNDER THE FOOD LAW OF 2000, 2000 PA 92, MCL
5 289.1101 TO 289.8111, AND WHO AT THE TIME OF APPLICATION FOR THE
6 WINE PUB LICENSE IS LICENSED AND CONTINUES TO BE LICENSED AS 1 OR
7 MORE OF THE FOLLOWING:

8 (A) CLASS C.

9 (B) TAVERN.

10 (C) CLASS A HOTEL.

11 (D) CLASS B HOTEL.

12 (2) A WINE PUB SHALL POSSESS THE NECESSARY EQUIPMENT FOR A
13 SATISFACTORY OPERATION AND MAINTAIN IT IN GOOD WORKING ORDER AND IN
14 A SANITARY CONDITION.

15 (3) A MANUFACTURER SHALL COMPLY WITH STATE LAW AND WITH RULES
16 PROMULGATED BY THE DEPARTMENT OF AGRICULTURE IN PROCESSING
17 AGRICULTURAL PRODUCTS.

18 (4) A WINE PUB SHALL NOT SELL WINE IN THIS STATE UNLESS IT
19 PROVIDES FOR EACH BRAND OR TYPE OF WINE SOLD A LABEL THAT
20 TRUTHFULLY DESCRIBES THE CONTENT OF EACH CONTAINER.

21 (5) A WINE PUB SHALL APPLY FOR AND OBTAIN A LICENSE FOR EACH
22 LOCATION OF THAT WINE PUB.

23 (6) EACH WINE PUB SHALL SUBMIT TO THE COMMISSION, ON FORMS
24 ACCEPTABLE TO THE COMMISSION AND POSTMARKED NOT LATER THAN JANUARY
25 15, APRIL 15, JULY 15, AND OCTOBER 15 OF EACH YEAR, A WINE TAX
26 REPORT OF ALL WINE SOLD UNDER THEIR WINE PUB LICENSE DURING THE
27 PRECEDING QUARTER.

1 SEC. 311. (1) THE COMMISSION SHALL GRANT A WINE PUB LICENSE TO
2 A PERSON WHO, IN ADDITION TO COMPLYING WITH SECTION 309, DOES ALL
3 OF THE FOLLOWING:

4 (A) PAYS THE FEE AS PRESCRIBED IN SECTION 525.

5 (B) PROVIDES EVIDENCE TO THE COMMISSION THAT NOT LESS THAN 25%
6 OF THE GROSS SALES OF THE RESTAURANT DURING THE 1-YEAR LICENSURE
7 PERIOD ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC BEVERAGES
8 PREPARED FOR CONSUMPTION ON THE PREMISES.

9 (C) COMPLIES WITH SECTION 309(3) THROUGH (6).

10 (2) THE COMMISSION SHALL RENEW A WINE PUB LICENSE OF A PERSON
11 WHO DOES ALL OF THE FOLLOWING:

12 (A) PAYS THE FEE AS PRESCRIBED IN SECTION 525.

13 (B) PROVIDES EVIDENCE TO THE COMMISSION THAT NOT LESS THAN 25%
14 OF THE GROSS SALES OF THE RESTAURANT DURING THE 1-YEAR LICENSURE
15 PERIOD ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC BEVERAGES
16 PREPARED FOR CONSUMPTION ON THE PREMISES.

17 (C) COMPLIES WITH SECTION 309(3) THROUGH (6).

18 (3) THE COMMISSION SHALL REVOKE A WINE PUB LICENSE IF, DURING
19 THE 1-YEAR LICENSURE PERIOD, LESS THAN 25% OF THE GROSS SALES OF
20 THE RESTAURANT ARE DERIVED FROM THE SALE OF FOOD AND NONALCOHOLIC
21 BEVERAGES PREPARED FOR CONSUMPTION ON THE PREMISES.

22 Sec. 525. (1) Except as otherwise provided for in this
23 section, the following license fees shall be paid at the time of
24 filing applications or as otherwise provided in this act:

25 (a) Manufacturers of spirits, but not including makers,
26 blenders, and rectifiers of wines containing 21% or less alcohol by
27 volume, \$1,000.00.

1 (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or
2 fraction of a barrel, production annually with a maximum fee of
3 \$1,000.00, and in addition \$50.00 for each motor vehicle used in
4 delivery to retail licensees. A fee increase does not apply to a
5 manufacturer of less than 15,000 barrels production per year.

6 (c) Outstate seller of beer, delivering or selling beer in
7 this state, \$1,000.00.

8 (d) Wine makers, blenders, and rectifiers of wine, including
9 makers, blenders, and rectifiers of wines containing 21% or less
10 alcohol by volume, \$100.00. The small wine maker license fee is
11 \$25.00.

12 (e) Outstate seller of wine, delivering or selling wine in
13 this state, \$300.00.

14 (f) Outstate seller of mixed spirit drink, delivering or
15 selling mixed spirit drink in this state, \$300.00.

16 (g) Dining cars or other railroad or Pullman cars selling
17 alcoholic liquor, \$100.00 per train.

18 (h) Wholesale vendors other than manufacturers of beer,
19 \$300.00 for the first motor vehicle used in delivery to retail
20 licensees and \$50.00 for each additional motor vehicle used in
21 delivery to retail licensees.

22 (i) Watercraft, licensed to carry passengers, selling
23 alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of
24 \$500.00 per year computed on the basis of \$1.00 per person per
25 passenger capacity.

26 (j) Specially designated merchants, for selling beer or wine
27 for consumption off the premises only but not at wholesale, \$100.00

1 for each location regardless of the fact that the location may be a
2 part of a system or chain of merchandising.

3 (k) Specially designated distributors licensed by the
4 commission to distribute spirits and mixed spirit drink in the
5 original package for the commission for consumption off the
6 premises, \$150.00 per year, and an additional fee of \$3.00 for each
7 \$1,000.00 or major fraction of that amount in excess of \$25,000.00
8 of the total retail value of merchandise purchased under each
9 license from the commission during the previous calendar year.

10 (l) Hotels of class A selling beer and wine, a minimum fee of
11 \$250.00 and, for all bedrooms in excess of 20, \$1.00 for each
12 additional bedroom, but not more than \$500.00.

13 (m) Hotels of class B selling beer, wine, mixed spirit drink,
14 and spirits, a minimum fee of \$600.00 and, for all bedrooms in
15 excess of 20, \$3.00 for each additional bedroom. If a hotel of
16 class B sells beer, wine, mixed spirit drink, and spirits in more
17 than 1 public bar, the fee entitles the hotel to sell in only 1
18 public bar, other than a bedroom, and a license shall be secured
19 for each additional public bar, other than a bedroom, the fee for
20 which is \$350.00.

21 (n) Taverns, selling beer and wine, \$250.00.

22 (o) Class C license selling beer, wine, mixed spirit drink,
23 and spirits, \$600.00. If a class C licensee sells beer, wine, mixed
24 spirit drink, and spirits in more than 1 bar, a fee of \$350.00
25 shall be paid for each additional bar. In municipally owned or
26 supported facilities in which nonprofit organizations operate
27 concession stands, a fee of \$100.00 shall be paid for each

1 additional bar.

2 (p) Clubs selling beer, wine, mixed spirit drink, and spirits,
3 \$300.00 for clubs having 150 or fewer duly accredited members and
4 \$1.00 for each additional member. The membership list for the
5 purpose only of determining the license fees to be paid under this
6 section shall be the accredited list of members as determined by a
7 sworn affidavit 30 days before the closing of the license year.
8 This section does not prevent the commission from checking a
9 membership list and making its own determination from the list or
10 otherwise. The list of members and additional members is not
11 required of a club paying the maximum fee. The maximum fee shall
12 not exceed \$750.00 for any 1 club.

13 (q) Warehousemen, to be fixed by the commission with a minimum
14 fee for each warehouse of \$50.00.

15 (r) Special licenses, a fee of \$50.00 per day, except that the
16 fee for that license or permit issued to any bona fide nonprofit
17 association, duly organized and in continuous existence for 1 year
18 before the filing of its application, is \$25.00. Not more than 5
19 special licenses may be granted to any organization, including an
20 auxiliary of the organization, in a calendar year.

21 (s) Airlines licensed to carry passengers in this state that
22 sell, offer for sale, provide, or transport alcoholic liquor,
23 \$600.00.

24 (t) Brandy manufacturer, \$100.00.

25 (u) Mixed spirit drink manufacturer, \$100.00.

26 (v) Brewpub, \$100.00.

27 **(w) WINE PUB, \$100.00.**

1 (X) ~~—(w)—~~ Class G-1, \$1,000.00.

2 (Y) ~~—(x)—~~ Class G-2, \$500.00.

3 (2) The fees provided in this act for the various types of
4 licenses shall not be prorated for a portion of the effective
5 period of the license.

6 (3) Beginning ~~the effective date of the amendatory act that~~
7 ~~added this subsection~~ **JULY 23, 2004**, and except in the case of any
8 resort or resort economic development license issued under section
9 531(2), (3), (4), and (5) and a license issued under section 521,
10 the commission shall issue an initial or renewal license not later
11 than 90 days after the applicant files a completed application.
12 Receipt of the application is considered the date the application
13 is received by any agency or department of the state of Michigan.
14 If the application is considered incomplete by the commission, the
15 commission shall notify the applicant in writing, or make the
16 information electronically available, within 30 days after receipt
17 of the incomplete application, describing the deficiency and
18 requesting the additional information. The determination of the
19 completeness of an application does not operate as an approval of
20 the application for the license and does not confer eligibility
21 upon an applicant determined otherwise ineligible for issuance of a
22 license. The 90-day period is tolled under any of the following
23 circumstances:

24 (a) Notice sent by the commission of a deficiency in the
25 application until the date all of the requested information is
26 received by the commission.

27 (b) The time period during which actions required by a party

1 other than the applicant or the commission are completed that
2 include, but are not limited to, completion of construction or
3 renovation of the licensed premises; mandated inspections by the
4 commission or by any state, local, or federal agency; approval by
5 the legislative body of a local unit of government; criminal
6 history or criminal record checks; financial or court record
7 checks; or other actions mandated by this act or rule or as
8 otherwise mandated by law or local ordinance.

9 (4) If the commission fails to issue or deny a license within
10 the time required by this section, the commission shall return the
11 license fee and shall reduce the license fee for the applicant's
12 next renewal application, if any, by 15%. The failure to issue a
13 license within the time required under this section does not allow
14 the ~~department~~ **COMMISSION** to otherwise delay the processing of the
15 application, and that application, upon completion, shall be placed
16 in sequence with other completed applications received at that same
17 time. The commission shall not discriminate against an applicant in
18 the processing of the application based upon the fact that the
19 license fee was refunded or discounted under this subsection.

20 (5) Beginning October 1, 2005, the chair of the commission
21 shall submit a report by December 1 of each year to the standing
22 committees and appropriations subcommittees of the senate and house
23 of representatives concerned with liquor license issues. The chair
24 of the commission shall include all of the following information in
25 the report concerning the preceding fiscal year:

26 (a) The number of initial and renewal applications the
27 commission received and completed within the 90-day time period

1 described in subsection (3).

2 (b) The number of applications denied.

3 (c) The number of applicants not issued a license within the
4 90-day time period and the amount of money returned to licensees
5 under subsection (4).

6 (6) As used in this section, "completed application" means an
7 application complete on its face and submitted with any applicable
8 licensing fees as well as any other information, records, approval,
9 security, or similar item required by law or rule from a local unit
10 of government, a federal agency, or a private entity but not from
11 another department or agency of the state of Michigan.