

Act No. 259  
Public Acts of 2005  
Approved by the Governor  
December 14, 2005  
Filed with the Secretary of State  
December 16, 2005  
EFFECTIVE DATE: December 16, 2005

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2005**

**Introduced by Reps. Kooiman, Accavitti, Tobocman, Sak, Brandenburg, Elsenheimer, Hildenbrand, Kahn, Walker, Moolenaar, Vander Veen, Baxter, Garfield, Nitz, Pavlov, Bieda, Huizenga, David Law, Pearce, Green, Gaffney, Nofs, Farhat, Jones and Palsrok**

# **ENROLLED HOUSE BILL No. 4706**

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 916 (MCL 436.1916).

*The People of the State of Michigan enact:*

Sec. 916. (1) An on-premises licensee shall not allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises unless the licensee has applied for and been granted an entertainment permit by the commission. Issuance of an entertainment permit under this subsection does not allow topless activity on the licensed premises.

(2) An on-premises licensee shall not allow dancing by customers on the licensed premises unless the licensee has applied for and been granted a dance permit by the commission. Issuance of a dance permit under this subsection does not allow topless activity on the licensed premises.

(3) An on-premises licensee shall not allow topless activity on the licensed premises unless the licensee has applied for and been granted a topless activity permit by the commission. This section is not intended to prevent a local unit of government from enacting an ordinance prohibiting topless activity or nudity on a licensed premises located within that local unit of government. This subsection applies only to topless activity permits issued by the commission to on-premises licensees located in counties with a population of 95,000 or less.

(4) The commission may issue to an on-premises licensee a combination dance-entertainment permit or topless activity-entertainment permit after application requesting a permit for both types of activities.

(5) An on-premises licensee shall not allow the activities allowed by a permit issued under this section at any time other than the legal hours for sale and consumption of alcoholic liquor.

(6) An extended hours permit is required for an on-premises licensee to engage in any of the following activities on the licensed premises at any time other than the legal hours for the sale and consumption of alcoholic liquor:

(a) Monologues, dialogues, motion pictures, still slides, closed circuit television, contests, other performances for public viewing on the licensed premises, if holding a permit for those activities.

(b) Patron dancing, if holding a permit for that activity.

(c) The performance or playing of an orchestra, piano, or other types of musical instruments or singing or the viewing of any publicly broadcast television transmission from a federally licensed station.

(7) The commission may issue an extended hours permit to either of the following:

(a) A licensee not holding an entertainment, dance, or combination dance-entertainment permit, who desires to conduct activities described under subsection (11).

(b) A licensee who already holds, or submits an application for, an entertainment, dance, or combination dance-entertainment permit in order to conduct activities allowed by the permit.

(8) The applicant for only an extended hours permit shall obtain the local approval for the extended hours permit under subsection (10). An applicant for an extended hours permit who holds an entertainment, dance, or combination dance-entertainment permit shall obtain the local approval for the entertainment, dance, or combination dance-entertainment permit under subsection (10) as well as local approval for the extended hours permit under subsection (10). The commission shall waive the conditions contained in R 436.1437(1) of the Michigan administrative code relative to the application for an extended hours permit.

(9) An on-premises licensee issued an extended hours permit shall not allow customers on the licensed premises during the time period provided by the extended hours permit unless the activity, and only that activity, allowed by the extended hours permit is occurring. The issuance of an extended hours permit does not authorize any of the following:

(a) Topless activity.

(b) Except as otherwise provided under this subdivision, gaming as that term is defined in section 2 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.202. A licensee holding a casino license issued under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, may conduct gaming pursuant to the casino license only.

(c) Keno or other gaming authorized under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(d) The extension of hours for the serving of alcoholic liquor.

(e) The extension of hours for the consumption of alcoholic liquor as provided for in R 436.1403 of the Michigan administrative code.

(10) Before the issuance of any permit under this section, the on-premises licensee shall obtain the approval of all of the following:

(a) The commission.

(b) Except in cities with a population of 1,000,000 or more, the local legislative body of the jurisdiction within which the premises are located.

(c) The chief law enforcement officer of the jurisdiction within which the premises are located or the entity contractually designated to enforce the law in that jurisdiction.

(11) The following activities are allowed without the granting of a permit under this section:

(a) The performance or playing of an orchestra, piano, or other types of musical instruments, or singing.

(b) Any publicly broadcast television transmission from a federally licensed station.

(12) In the case of a licensee granted an entertainment or dance permit under R 436.1407 of the Michigan administrative code who, after January 1, 1998, extended the activities conducted under that permit to regular or full-time topless activity, that licensee shall apply to the commission for a topless activity permit under this section within 60 days after April 14, 1998 in order to continue topless activity. Except as otherwise provided for in this subsection, this section applies only to entertainment or dance permits issued after April 14, 1998.

(13) The fees imposed by the commission for a permit under this section remain the same as the fees imposed under a permit issued under R 436.1407 of the Michigan administrative code.

(14) Except as otherwise provided, this section does not change the renewal or application process for a license under section 501 or the renewal process for permits issued under R 436.1407 of the Michigan administrative code.

(15) As used in this section:

(a) "Nudity" means exposure to public view of the whole or part of the pubic region; the whole or part of the anus; the whole or part of the buttocks; the whole or part of the genitals; or the breast area including the nipple or more than 1/2 of the area of the breast.

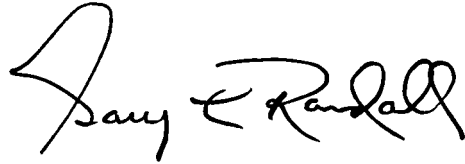
(b) "Topless activity" means activity that includes, but is not limited to, entertainment or work-related activity performed by any of the following persons on the licensed premises in which the female breast area, including the nipple, or more than 1/2 of the area of the breast, is directly exposed or exposed by means of see-through clothing or a body stocking:

(i) A licensee.


(ii) An employee, agent, or contractor of the licensee.

(iii) A person acting under the control of or with the permission of the licensee.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor