

Act No. 191
Public Acts of 1987
Approved by the Governor
December 1, 1987
Filed with the Secretary of State
December 2, 1987

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1987**

Introduced by Rep. Keith

ENROLLED HOUSE BILL No. 4628

AN ACT to amend section 17 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "An act to create a liquor control commission for the control of the alcoholic beverage traffic within the state of Michigan, and to prescribe its powers, duties and limitations; to provide for the control of the alcoholic liquor traffic within the state of Michigan and the establishment of 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 thereto; to provide for the licensing and taxation thereof, and the disposition of the moneys received under this act; to prescribe liability for retail licensees under certain circumstances; 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 the confiscation and disposition of property seized under the provisions of this act; to provide a referendum in certain cases; and to repeal certain acts and parts of acts," as amended by Act No. 7 of the Public Acts of 1986, being section 436.17 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 17 of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended by Act No. 7 of the Public Acts of 1986, being section 436.17 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 17. (1) The commission may issue licenses, as provided in this act, upon the payment of the fees provided in section 19 and the filing of the bonds required in section 22, or liability insurance as provided in section 22a.

(2) The commission shall issue licenses to manufacturers only when 25% or more of the capital stock is owned by residents of this state, except that these limitations shall not apply to manufacturers of wine or beer or malt beverages or to distillers or rectifiers.

(3) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act shall be construed to be a contract between the commission and the licensee and shall be signed by both parties. When a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by the proper court, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a proper court to operate the licensed establishment of a licensee of the commission. The commission may grant a part-year license for a proportionate part of the license fee specified in section 19. In a resort area the commission shall grant a license for as short a period as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated

distributor license obtained other than by transfer shall not be transferred within 3 years after its issuance except if the licensee clearly and convincingly shows that unusual hardship will result if the transfer is not consented to by the commission. Except as provided in section 17b, an application for a license to sell beer and wine or spirits for consumption on the premises, except in a city having a population of 1,000,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body shall not be required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications called for in this subsection. Upon request of the local legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell beer, wine, or spirits for consumption on the premises, or the commission shall revoke any permit issued by the commission which is held in conjunction with a license to sell beer, wine, or spirits for consumption on the premises.

(4) A local legislative body, by resolution, may request that the commission revoke the license of a licensee granted a license to sell beer, wine, or spirits for consumption off the premises whose place of business is located within the local legislative body's jurisdiction and who has been determined pursuant to commission violation hearings to have sold or furnished alcoholic liquor, on at least 3 separate occasions in a single calendar year, to a person who is less than 21 years of age, provided said violations did not involve the use of falsified or fraudulent identification by the person who is less than 21 years of age. If the commission verifies that the licensee who is the subject of the resolution has been found to have committed the violations as prescribed in this subsection, the commission may suspend or revoke the licensee's license, and any permit held in conjunction with the license.

(5) Except as otherwise provided in this act, a license other than a special license which has been approved by the governing authority of such state owned land shall not be issued by the commission to sell alcoholic liquor, either on or off the premises, if the property or establishment to be covered by the license is situated in or on state owned land. However, this prohibition shall not apply to the following land:

(a) The Michigan state fairgrounds.

(b) The Upper Peninsula state fairgrounds.

(c) Armories, air bases, and naval installations owned or leased by the state or provided by the federal government by either lease, license, or use permit and used by outside parties of a nonmilitary or state governmental nature.

(d) Land which was under lease to a person licensed in the calendar year 1954 and on which a licensed establishment is presently located.

(e) Land which was owned or leased by the federal government, used as a military installation, and transferred to this state before January 1, 1980 pursuant to Act No. 151 of the Public Acts of 1978, being sections 3.551 to 3.561 of the Michigan Compiled Laws. Two additional licenses may be issued pursuant to this subdivision for establishments located on this state land without regard to or effect on the quota provisions of section 19c in the local governmental unit in which the license will be issued. A person issued a license pursuant to this subdivision may renew the license and transfer ownership of the license, without regard to or effect on the quota provisions of section 19c, if title to the property covered by the license is transferred from the state to another person or to another governmental unit. The commission shall not transfer a license issued under this subdivision to another location. Before the issuance of a license, and annually thereafter before the issuance of a license for a new licensing period, the applicant for a license shall submit to the commission a certificate from the department or agency charged with control of the land setting forth that the issuance of a license is not incompatible with the objects and purposes entrusted to that department or agency under the law establishing control of the land in the department or agency. This subsection shall not prohibit the issuance of a license pursuant to section 17h.

(6) This act shall not prohibit a hotel, which is or was the holder of a license authorizing the retail sale of alcoholic liquor for consumption on the premises, from applying for and receiving, under this act, any other and different type of license authorizing the retail sale of alcoholic liquor for consumption on the premises, nor shall the application for the license be considered a new application for a license, so long as the total number of public licenses for consumption on the premises shall not exceed the authorized total established in this act and the sale of alcoholic liquor is approved by the electors. The commission may divide the state into 3 zones and establish for each zone an anniversary date for renewal of full-year retail licenses in the licensing year. The commission shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, for the effective administration of the renewal of licenses.

(7) The commission, with the written approval of the department of natural resources in the case of the Michigan state fairgrounds and the department of agriculture, in the case of the Upper Peninsula state fairgrounds, may issue without regard to the quota provision of section 19c a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds, or both, to service the licensed area in use for recreational or exhibition purposes, other than at the time of the annual state fair, under section 6 of the Michigan exposition and fairgrounds act, Act No. 361 of the Public Acts of 1978, being section 285.166 of the Michigan Compiled Laws, and the annual Upper Peninsula state fair, under section 2 of Act No. 89 of the Public Acts of 1927, as amended, being section 285.142 of the Michigan Compiled Laws. A license issued under this subsection is not transferable.

(8) Notwithstanding section 3, a collector, who is 21 years of age or older, of ceramic commemorative bottles containing alcoholic liquor and which bear an unbroken federal tax stamp or seal may sell or trade the bottles to other such collectors of the bottles without obtaining a license pursuant to this act. All sales conducted pursuant to this subsection shall be for the purpose of exchanging ceramic commemorative bottles between private collectors of the bottles and shall not be for the purpose of selling alcoholic liquor for personal consumption. A sale or exchange conducted pursuant to this subsection shall not occur in any of the following ways:

- (a) In connection with the business of a holder of an alcoholic liquor license.
- (b) In connection with any other business.

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.